

# States' Support of Non-Highway Modes of Transportation: Investigation and Synthesis

by

Chuck Knowles  
Research Coordinator

Candice Wallace  
Research Associate

Ben Blandford  
Research Associate

Tim Brock  
Research Associate

Andrew Martin  
Research Associate

**Kentucky Transportation Center**  
College of Engineering  
University of Kentucky  
Lexington, Kentucky

KENTUCKIANS FOR BETTER TRANSPORTATION

**KBT**

AIRC HIGHWAY PUBLIC TRANSIT RAIL WATERWAY

**UK** University of Kentucky  
College of Engineering  
Kentucky Transportation Center

The contents of this report reflect the view of the authors who are responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the views or policies of the University of Kentucky.

**November 2011**

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## EXECUTIVE SUMMARY

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The objective of this study was to determine how Kentucky and other selected states support and assist non-highway transportation modes and to identify leading and innovative initiatives. For the purposes of this study, the non-highway modes are aviation, public transportation, rail, and waterways. This summary will briefly discuss the rationale, objectives, and methodology for this study. It also provides an overview of the outcomes of the study and the modal matrices.

### **Rationale for the Study**

As is the case in other states, the highway system in Kentucky serves as the backbone of the Commonwealth's transportation system. Section 230 of the 1891 Kentucky Constitution states that revenues derived from highway uses can only be expended for highway purposes. Thus, the majority of the Kentucky Transportation Cabinet's resources are devoted to the planning, design, construction, operation, and preservation of the highway system. Although the Commonwealth of Kentucky is privileged to have an extensive, multi-modal transportation system, the non-highway modes of this system receive limited state support. There is a growing understanding that the Commonwealth's economic health and vitality is dependent on having an effective, efficient, multi-modal transportation system. In response to this understanding, the transportation advocacy group Kentuckians for Better Transportation (KBT) offered to sponsor a synthesis study to identify and document how other states support these nonhighway modes. KBT agreed to gather funding from stakeholders associated with the various modes and to work with the Kentucky Transportation Center (KTC) at the University of Kentucky, who would gather and synthesize the necessary data. The anticipated key outcome of this synthesis would be a list of other states' leading and innovative ways of supporting the non-highway modes that could be considered by Kentucky. The results of the synthesis study would be shared with KBT and, at KBT's discretion, with key stakeholders and decision-makers.

### **Objective**

The objective of this study was to conduct a synthesis and identify leading and innovative initiatives used by other states to support and assist the four non-highway modes. The outcomes of this study are presented in three forms. First, there are the four, detailed modal reports documenting the synthesized information. Second, a snapshot of the synthesized information for each mode is presented in a comparative matrix that lists Kentucky and the other states and shows information pertaining to each state's governance, ownership, and regulation; financial assistance; and/or technical and marketing assistance. These comparative matrices are presented at the end of each modal report and at the end of the executive summary. Lastly, opportunities for Kentucky are presented in the "Summary and Opportunities" section in each modal chapter and are briefly summarized below.

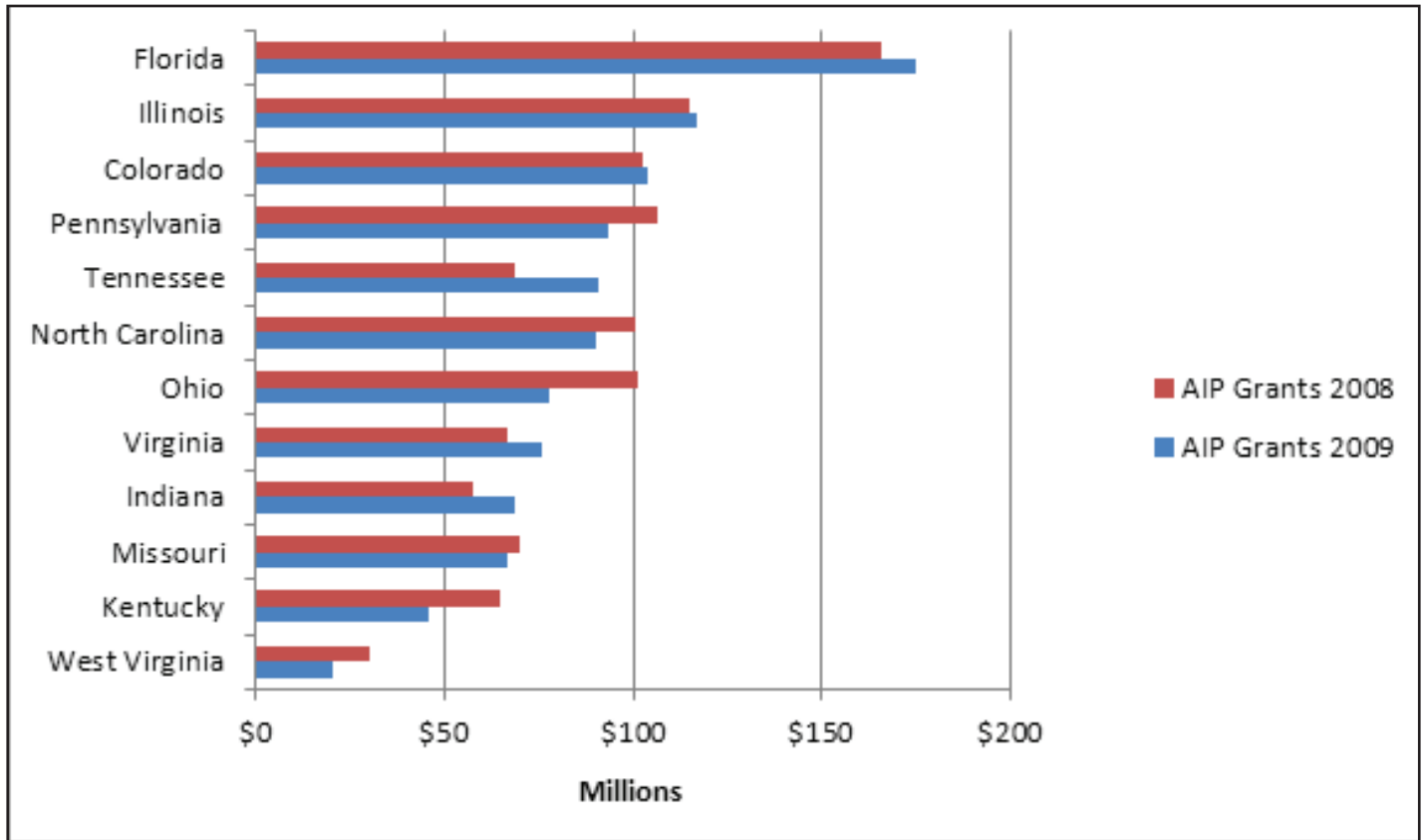
### **Methodology**

The general methodology for this study involved conducting a general background review and investigation on each mode, selecting states for review, and documenting results. After considering several factors, the states selected to review included Kentucky, its seven surrounding states, and a myriad of other states across the country. The states were selected based on their proximity to Kentucky, state economic and demographic similarities, and recommendations from the KBT steering committee. The major activity of this study involved conducting a background review and investigation to determine how the selected states support the non-highway modes in their respective state and, if so, the nature of this support. The background review and investigation focused on three major areas: (1) state governance, ownership, and regulation, (2) financial assistance, and (3) technical and marketing assistance. There were numerous sources and techniques used to conduct the background review and investigation including internet searches of websites; reports on local, regional, and state transportation planning and modal operations; national reports from transportation interest groups; surveys conducted by e-mail; telephone interviews; in-person interviews; and on-site visits to facilities. The results of the investigation have been documented in the form of a comparative analysis matrix, an in-depth modal report for each of the four non-highway modes, and a list of leading and innovative opportunities for state consideration.

## Aviation

There are 57 airports in Kentucky that are open to the public and are eligible to receive financial support from the Kentucky Transportation Cabinet (KYTC) and the Federal Aviation Administration. Aviation in Kentucky is regulated by the Department of Aviation, which is a unit of KYTC.

The federal Airport Improvement Program (AIP) is available for planning and developing public use airports. The AIP funds are used to cover 95 percent of a project's eligible costs, with the remaining 5 percent coming from state and/or local match.<sup>1</sup> Kentucky's ability to maximize AIP grant funding is dependent on the availability of the 5 percent state and/or local match. The chart below provides a pictorial view of monetary differences in AIP grants received across the seven surrounding states and the four additional states selected for review.



FY 2008 and FY 2009 AIP Grants to states surveyed

Clearly, providing additional state funding to match potential AIP grants would position Kentucky to make better use of federal funds.

Of the seven states surrounding Kentucky, only three have a dedicated aviation trust fund. In Kentucky, this trust fund is called the Aviation Economic Development Fund, which is intended to serve as a repository for aviation and jet fuel tax dollars to be spent by KYTC on aviation activities. However, during the 2006-2008 biennium budget, KRS 183.525(5) was suspended and funds accruing in the Aviation Economic Development Fund were transferred to the Kentucky General Fund. The transference of funds has continued through the current budget cycle. For FY 2011 and FY 2012, revenues for the Aviation Economic Development Fund were redirected to the Kentucky General Fund and general obligation bonds were sold to cover Kentucky's aviation program needs.

<sup>1</sup> For the state's largest airports, AIP grants are available for 75 percent of the projects costs, with a local match of 25 percent.

The review of how other states govern, fund, and provide technical and marketing assistance for aviation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Permit funds accrued in the Aviation Economic Development Fund be used to fund aviation activities as set forth in KRS 183.525(5) rather than selling general obligation bonds to cover aviation related costs.
- Allocating all current taxes and fees collected by the state on aviation-related activities (sales, excise, ad valorem, personal property, and aviation and jet fuel, etc.) to the state's dedicated aviation fund.
- Raising or eliminating the per carrier cap on jet fuel taxes to generate additional revenue for the state's dedicated aviation fund.
- Providing comprehensive guides for airport sponsors clearly explaining the various processes for applying for state and federal grant dollars. Tennessee, Virginia, and Missouri all provide excellent guides for their airport sponsors clearly explaining the various processes for applying for state and federal grant dollars, what types of projects are eligible to receive such funding, and where and what the state and federal dollars are funding.
- Establishing a State Infrastructure Bank (SIB) to assist in funding aviation facilities. Colorado, Pennsylvania, and Ohio have each established State Infrastructure Banks (SIBs) to assist in funding aviation facilities in their respective states. SIBs serve as revolving loan funds for states for the purposes of providing direct loan and bond financing to develop transportation facilities.

### Public Transportation

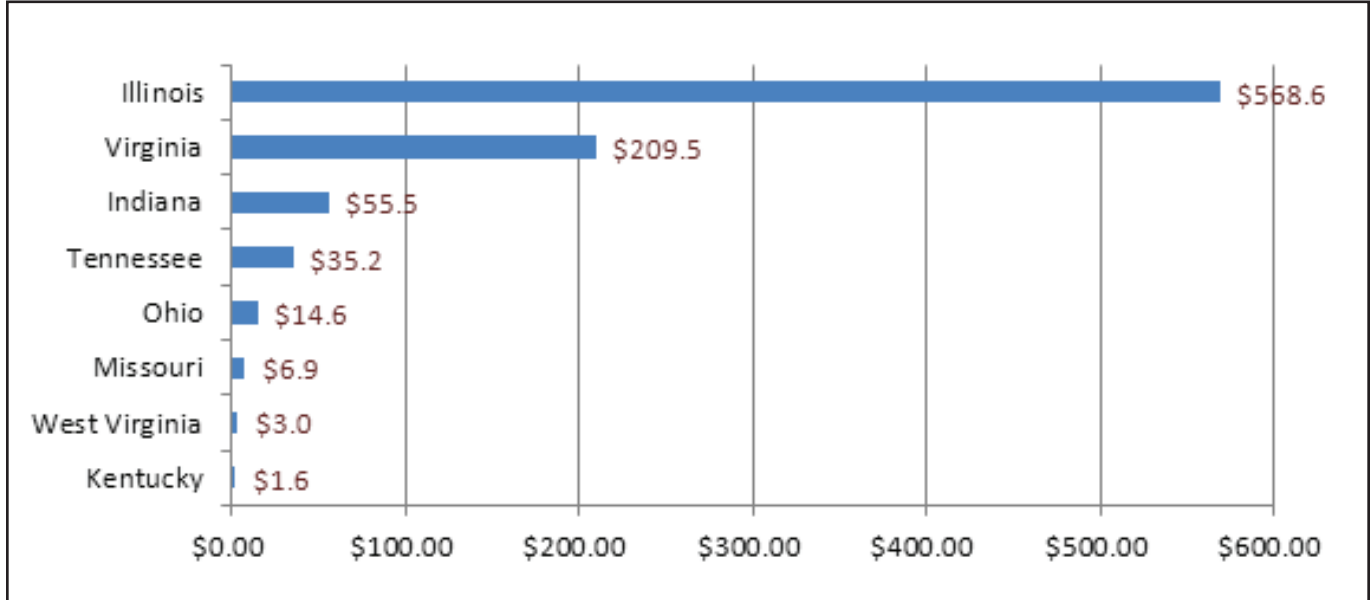
In Kentucky, public transportation is administered by the Office of Transportation Delivery (OTD), a unit within KYTC. Three large urbanized areas (population greater than 200,000) in Kentucky are served by mass transit authorities. In addition to these large urban public transportation systems, Kentucky also has a number of smaller urban bus systems.

When it comes to funding public transportation, Kentucky ranks the lowest when compared to adjacent states in terms of both dollars per capita and total dollars provided. The following chart displays the dollars per capita provided by each state in FY 2009. At \$0.37, Kentucky provided less than one third of the amount provided by the next lowest state, Missouri at \$1.15. Illinois provided the highest funding per capita at \$44.04 per person.



FY 2009 per capita state funding for public transportation

The next chart displays the total dollars provided for public transportation by each state in FY 2009. At \$1.6 million, Kentucky ranked last of the eight states with funding levels slightly higher than half of the next lowest state, West Virginia at \$3 million. Illinois again was the highest, allocating \$568.6 million toward public transportation.



**FY 2009 total state funding for public transportation (in millions)**

In Kentucky, the Non-public School Transportation program receives nearly two-thirds (\$2.95 million) of the total general revenue funds (\$4.57 million) enacted for allocation to public transportation. Public transportation systems receive only the remaining \$1.6 million.

The review of how other states fund public transportation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Providing state funding for operating assistance.
- Distributing some or all state funds by formula.
- Providing reimbursement programs to support reduced or eliminated fares for elderly and/or disabled persons.
- Generating sales taxes revenues for public transportation.
- Dedicating state lottery revenues for public transportation services.
- Establishing transportation financing programs for large capital transit projects.
- Allowing for state issued revenue bonds in order to generate funds for capital transit projects.
- Utilizing innovative federal financing programs, such as the Grant Anticipation Notes (GANS) program and the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, to help secure funding for large capital transit projects.
- Considering various other taxes and fees to secure revenues for public transportation.

## **Rail**

KYTC has three separate work units that deal with freight and passenger rail concerns. These work units fall within the Division of Planning, the Division of Right-of-Way and Utilities, and the Office of Transportation Delivery. The Division of Planning administers the Kentucky Shortline Railroad Assistance Fund. The Division of Right-of-Way administers the federally-funded rail grade crossing safety program and the railroad coordination program that addresses rail involvement on highway projects. The Office of Transportation Delivery addresses passenger rail issues.

Freight rail service in Kentucky is presently provided by five Class I railroads, one regional railroad, and seven local railroads. These railroads operate on over 2,500 miles of track. Passenger rail service in Kentucky is presently provided by Amtrak, which serves four cities in Kentucky.

Railroads operating in Kentucky pay an annual ad valorem property tax. Railroads and railroad car lines also pay corporate income taxes, where applicable. The Kentucky Constitution prohibits using revenues generated from highway use for non-highway purposes. Such a prohibition prevents the use of any fuel tax money for improvements to existing rail structures, facilities or track. There are, however, some capital and maintenance costs undertaken or subsidized by the state government.

The review of how other states govern, fund, and provide technical and marketing assistance for aviation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Securing a dedicated source of revenue for rail.
- Establishing a state infrastructure bank in order to fund transportation projects of all modes.
- Creating a passenger rail trust fund using federal funds for passenger and high-speed rail.
- Offering tax incentives which can be applied to Class I railroads.
- Seeking private-public partnerships with the federal government, other states and privately owned railroads.
- Updating the state rail plan with short-term and long-term plans for the development of rail infrastructure in the state.
- Identifying potential partners for freight rail and passenger rail initiatives by taking a more active role in interstate associations.

## **Waterways**

The U.S. Army Corps of Engineers (USACE) is responsible for constructing, operating, and maintaining the nation's lock and dam infrastructure and the navigation channels that allow transportation on the inland waterways. States that have commercially navigable waterways located within or adjacent to their borders use a variety of mechanisms to support and fund waterway transportation and waterborne commerce.

In 1965, the Kentucky General Assembly authorized local governments to initiate and develop public port authorities. There are currently seven active public port operations in Kentucky. In 2010, the General Assembly established the Kentucky Water Transportation Advisory Board, which provides guidance to the Governor's Office, the General Assembly, the Kentucky Transportation Cabinet, and the Cabinet for Economic Development.

In 2010, the General Assembly also authorized capital improvement and marketing assistance trust funds for public ports. To date, no funding has been appropriated for these trust funds; however, it does establish a mechanism for future funding. Kentucky does collect a commercial watercraft property tax, which in 2009 generated \$11.2 million. Of this total revenue, \$7.6 million was returned to local governments located along the inland waterways and the remaining \$3.6 million was directed to the Kentucky General Fund.



The review of how other states govern, fund, and provide technical and marketing assistance for water transportation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Establishing a dedicated water transportation or maritime unit in the state's transportation agency. Alternatively, one state has opted to situate its state waterways program in the state economic development office.
- Making constitutional or statutory changes to provide support and funding for infrastructure improvements and waterway transport using fuel tax revenues.
- Dedicating state funding for capital, infrastructure improvements, and marketing projects at inland ports.
- Allowing port operational and administrative costs to be funded through a trust fund granting program.
- Offering state tax credits for companies utilizing waterborne transport.

<b>AVIATION MODE</b>							
<b>State</b>	<b>Dedication of Fuel Tax Revenues to Highway Modes</b>	<b>State Agency</b>	<b>Number of Airports Eligible for AIP Funding</b>	<b>AIP Grants 2009</b>	<b>Dedicated Trust Fund for Aviation</b>	<b>Personal Property Tax</b>	<b>Block Grant State</b>
<b>Kentucky</b>	Constitutional	Department of Aviation	57	\$46,048,679	Yes	Yes	No
<b>Illinois</b>	No - Multimodal	Division of Aeronautics	88	\$116,902,131	No	No	Yes
<b>Indiana</b>	Statutory	Office of Aviation— Intermodal Division	67	\$68,872,740	No	No	No
<b>Missouri</b>	Constitutional	Aviation Branch— Multimodal Division	76	\$66,738,082	Yes	Yes	Yes
<b>Ohio</b>	Constitutional	Office of Aviation— Operations Division	100	\$77,996,323	No	No	No
<b>Tennessee</b>	No - Multimodal	Aeronautics Division	69	\$90,493,903	No	Yes	Yes
<b>Virginia</b>	No - Multimodal	Department of Aviation	50	\$75,558,873	Yes	Yes	No
<b>West Virginia</b>	Constitutional	Aeronautics Commission	25	\$20,340,947	Yes	Yes	No
<b>North Carolina</b>	No-Multimodal	Division of Aviation	63	\$90,055,950	No	Yes	Yes
<b>Colorado</b>	Constitutional	Division of Aeronautics	50	\$103,741,661	Yes	No	No
<b>Florida</b>	No-Multimodal	Aviation Office	101	\$174,924,681	No	No	No
<b>Pennsylvania</b>	Constitutional	Bureau of Aviation	72	\$93,465,541	Yes	No	Yes

**PUBLIC TRANSPORTATION MODE**

State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	Financial Support	Bonding Authority	Dedicated Funding	Technical and/or Marketing Support	Operating Assistance	Capital Assistance	Distribution of Funds
<b>Kentucky</b>	Constitutional	KYTC: Office of Transportation Delivery	Yes	Yes	No	Yes	No	Yes	Discretionary
<b>Illinois</b>	No - Multimodal	IDOT: Division of Public and Intermodal Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula
<b>Indiana</b>	Statutory	INDOT: Office of Transit	Yes	Yes	No	Yes	Yes	Yes	Formula
<b>Missouri</b>	Constitutional	MoDOT: Transit Section	Yes	Yes	Yes	Yes	Yes	Yes	Formula
<b>Ohio</b>	Constitutional	ODOT: Office of Transit	Yes	Yes	No	Yes	Yes	Yes	Formula and Discretionary
<b>Tennessee</b>	No - Multimodal	TDOT: Office of Passenger Transportation	Yes	No	Yes	Yes	Yes	Yes	Formula and Discretionary
<b>Virginia</b>	No - Multimodal	Department of Rail and Public Transportation (DRPT)	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary
<b>West Virginia</b>	Constitutional	WV/DOT: Division of Public Transit	Yes	Yes	No	Yes	Yes	Yes	Discretionary
<b>California</b>	No - Multimodal	Caltrans: Division of Mass Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary
<b>Oregon</b>	Constitutional	ODOT: Public Transit Division	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary
<b>Pennsylvania</b>	Constitutional	PennDOT: Bureau of Public Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary

RAIL MODE							
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	State Loans/Grants for Shortline RR (FY 2011 or FY 2012)	State-Supported Passenger Rail Service	State Infrastructure Bank	Most Recent State Rail Plan	Dedicated Trust Fund For Rail <sup>1</sup>
<b>Kentucky</b>	Constitutional	Division of Planning <sup>2</sup>	\$2,000,000	No	No	2002	No
<b>Illinois</b>	No - Multimodal	Department of Public and Intermodal Transportation – Bureau of Railroads <sup>3</sup>	\$3,700,000 <sup>4</sup>	Yes	No	2010	Yes <sup>5</sup>
<b>Indiana</b>	Statutory	INDOT Rail Office	\$1,500,000 <sup>6</sup>	Yes	Yes, not active	2009	No
<b>Missouri</b>	Constitutional	Division of Multimodal Operations – Railroad Section	\$500,000 <sup>7</sup>	Yes	Yes, active	2011 <sup>8</sup>	No
<b>Ohio</b>	Constitutional	Ohio Rail Development Commission <sup>9</sup>	\$4,700,000 <sup>10</sup>	No	Yes, active	2010	No
<b>Tennessee</b>	No - Multimodal	Multimodal Transportation Resources Division – Office of Freight and Rail Transportation <sup>11</sup>	\$11,370,000 <sup>12</sup>	Yes	Yes, not active	2003	Yes <sup>13</sup>
<b>Virginia</b>	No - Multimodal	Department of Rail and Public Transportation	\$3,500,000	Yes	Yes, not active	2008	Yes
<b>West Virginia</b>	Constitutional	Public Service Commission – Rail Division	\$2,400,000	Yes	No	2009	No
<b>North Carolina</b>	No - Multimodal	NCDOT Rail Division	\$1,000,000 <sup>14</sup>	Yes	Yes, not active	2009	Yes
<b>Michigan</b>	No - Multimodal	Intermodal Policy Division <sup>15</sup>	-\$5,700,000 <sup>16</sup>	Yes	Yes, active	2011	Yes
<b>Texas</b>	Other <sup>17</sup>	TxDOT – Rail Division	No data available	Yes	Yes, active	2010	No

WATERWAYS MODE							
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	Financial Support <sup>^</sup>	Bonding Authority#	Dedicated Funding	Technical and/or Marketing Support	Public Port Authority
Kentucky	Constitutional	DOT	Trust Fund Grants*	Yes	No	Trust Fund Grant* Advisory Board	Local
Illinois	No - Multimodal	None	Revolving Loan	Yes	Yes	None	Local
Indiana	Statutory	State Port Authority	Non-Recourse Bonds	Yes	No	Port Authority Marketing	State & Local
Missouri	Constitutional	DOT	Trust Fund Grants** Revolving Loan	Yes	No	Marketing Grants	Local
Ohio	Constitutional	DOT	State Infrastructure Loan	Yes	No	ODOT Technical Staff	Local
Tennessee	No - Multimodal	DOT	Fuel Tax Investment into Grants and Loans	Yes	Yes	Advisory Board	Local
Virginia	No - Multimodal	State Port Authority	Tax Credits	Yes	Yes	Port Authority Technical Studies	State
West Virginia	Constitutional	State Port Authority (Under DOT)	Revolving Loan	Yes	No	State-wide Education Program	State
Alabama	Constitutional	State Port Authority	Special Appropriations	Yes	No	Port Authority Marketing	State
Minnesota	Constitutional	DOT	Revolving Loan	Yes	No	MnDOT Technical Staff	Local
Oklahoma	No - Multimodal	DOT	- - -	Yes	Yes	State-wide Education Program	Local
Oregon	Constitutional	Economic Development	Revolving Loan Trust Fund Grants	Yes	No	Trust Fund Grants	Local

# Bonding Authority Vested in Public Ports

\*Trust Funds are currently unfunded by State Legislature

<sup>^</sup> Infrastructure/Capital Improvements

\*\* Grants allow operational and administrative cost to be funded

# CHAPTER 1: STUDY RATIONALE, OBJECTIVES, AND METHODOLOGY

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## Study Rationale

The United States' ability to successfully compete in the global economy is very dependent on the country's transportation system being able to efficiently and effectively move freight and passengers locally, regionally, nationally, and globally. Specific segments of each of the nation's transportation modes are currently congested with a corresponding decrease in the level of service. As the volume of freight and passenger movements are projected to grow over the long-term, the United States will be challenged to preserve and operate the existing transportation infrastructure while seeking to increase capacity, where needed.

It has been apparent for many years that no one transportation mode or the various transportation modes operating independently from one another can meet the projected demands for freight and passenger movements. The movement of freight or passengers using two or more modes of the transportation system has become a common occurrence. It will take a diverse, interconnected transportation system to meet future transportation demands so as to achieve efficiency, effectiveness and, therefore, competitiveness. Each of the modes comprising this diverse, interconnected transportation system will require the appropriate amount of investment to ensure the current infrastructure's preservation and the future infrastructure's growth and development.

As is the case in other states, the highway system in Kentucky serves as the backbone of the Commonwealth's transportation system. The majority of the Kentucky Transportation Cabinet's resources are devoted to the planning, design, construction, operation, and preservation of this highway system. These resources include substantial levels of federal and state funding. Although the Commonwealth of Kentucky is privileged to have an extensive, multi-modal transportation system, the non-highway elements of this system receive minimal state support. The air, public transportation, and waterway modes have been developed and operated with significant support from the federal government, and the rail mode has relied mainly on private-sector investment.

There is a growing understanding that the Commonwealth's economic health and vitality is dependent on having an effective, efficient, multi-modal transportation system. In response to this growing understanding, the transportation advocacy group, Kentuckians for Better Transportation (KBT), offered to sponsor a synthesis study to identify and document how other states support the non-highway modes (air, public transportation, rail, and waterways). KBT agreed to gather funding from stakeholders associated with the various modes and to work with the Kentucky Transportation Center (KTC) at the University of Kentucky, who will gather and synthesize the necessary data. The anticipated key outcome of this synthesis will be a list of leading and innovative opportunities for supporting the non-highway modes that could be considered for further action in Kentucky. The results of the synthesis study will be shared with KBT and, at KBT's discretion, with key stakeholders and decision-makers.

## Objectives

The objective of this study was to synthesize how Kentucky and other selected states support and assist non-highway transportation modes and to identify leading and innovative initiatives. This report includes a comparative matrix for each of the four non-highway modes detailing how the states compare by relevant categories for each mode. The comparative matrices list Kentucky and the other states reviewed and present a snapshot of each state's administration, funding and support for the respective mode. Kentucky and its seven adjacent states are included in all of the modal comparative matrices. Additionally included for comparison are selected states which present leading, innovative or otherwise noteworthy initiatives. The additional states included vary by mode.

Following the modal comparative matrices are detailed reports for each mode. The modal reports expand upon the comparative matrices and provide a profile of how the four modes are handled in each state. The modal reports are organized around the following criteria:

- *State Governance, Ownership, and Regulation*: This involves identifying the relevant agencies and/or stakeholders and describing their respective roles and responsibilities. Included is a discussion of the relevant state constitutional permissions and prohibitions, statutory authority, and regulatory provisions.
- *Financial Assistance*: This involves identifying the source of state revenues allocated to each of the non-highway modes, such as general revenue funds, dedicated taxes, bond revenues, etc. It also involves detailing the funding programs in place and describing how funds are distributed within the state.
- *Technical and Marketing Assistance*: This involves describing any state funded programs in place which provide assistance in the form of technical training, education, research, and/or marketing strategies and techniques. These may take the form of direct one-on-one assistance or broader programs aimed at reaching larger audiences.

## **Methodology**

The general methodology for this study involved selecting other states to review, conducting a background review, investigation, and documenting results.

In addition to Kentucky, several states with similar population and median family income were identified for review. Also, other states were identified and reviewed because of their known support or interest in a particular non-highway mode. As a result, Kentucky's seven surrounding states and a myriad of other states across the country were selected. Each modal report identifies the states reviewed for that particular mode.

The major activity of this study involved conducting a background review and investigation to determine whether or not the selected states support the non-highway modes in their respective state. If a state was found to be supportive, a more extensive review was conducted to determine the extent to which the state supports the non-highway modes and to identify any leading or innovative approaches. The literature review and qualitative research focused on three major areas of state support:

### (1) State Governance, Ownership, and Regulation

Identify the extent of regulation and rule, if any, by a state over the administration of the mode and that state's influence over its public and private facilities by considering:

- State constitutional permissions and prohibitions
- Statutory authority
- Regulatory provisions
- Agency policies
- Organizational structure and staffing
- Ownership and/or operation of public facilities
- Oversight of private facilities

## (2) Financial Assistance

- Identify capital, operating, maintenance, and any other funding programs established by state statute and specifically formulated to support the mode's public and/or private facilities and activities.

## (3) Technical and Marketing Assistance

- Identify state-funded staffing and any other programs that provide technical assistance to the mode's industry. Also, identify promotion and marketing programs, strategies, and techniques used to raise awareness of the mode and its services. These can take many forms ranging from direct marketing campaigns to providing grants or other ways to help the mode and its individual businesses or entities increase their market share.

There were numerous sources and techniques used to conduct the background review and investigation. These sources and techniques included, but were not limited to:

- Internet searches of government, industry, and academia websites
- Reports on local, regional, and state transportation planning and modal operations
- National reports from American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), National Governors Association (NGA), National Conference of State Legislatures (NCSL)
- Surveys provided to respondents and follow-up communications by e-mail
- Interviews

The results of the background review and investigation were documented in the form of a comparative analysis matrix, which has been prepared for each of the four non-highway modes, and a more in-depth modal report for each of the four non-highway modes, which includes a list of leading and innovative opportunities for state support.



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### KENTUCKY AVIATION OVERVIEW

There are 57 airports in Kentucky that are open to the public and are eligible to receive financial support from the Kentucky Transportation Cabinet (KYTC) and the Federal Aviation Administration. Aviation in Kentucky is regulated by the Department of Aviation, which is a unit of KYTC.

Of the seven states surrounding Kentucky, only three of them have a dedicated aviation trust fund. In Kentucky, this trust fund is called the Aviation Economic Development Fund, which is intended to serve as a repository for aviation and jet fuel tax dollars to be spent by KYTC on aviation activities. However, during the 2006-2008 biennium budget, KRS 183.525(5) was suspended and funds accruing in the Aviation Economic Development Fund were transferred to the Kentucky General Fund. The transference of funds has continued through the current budget cycle. For FY 2011 and FY 2012, revenues for the Aviation Economic Development Fund were redirected to the Kentucky General Fund and general obligation bonds were sold to cover Kentucky's aviation program needs.

Kentucky and three surrounding states permit localities to charge a personal property tax on airplanes. States like Ohio, Indiana, Illinois, and Tennessee do not charge annual personal property taxes for personal use airplanes. Anecdotal evidence suggests that Kentucky residents who own airplanes that live near Kentucky's borders are taking advantage of other states' lack of personal property tax by keeping their airplanes in hangars in those states, using those mechanics, and buying fuel in those localities.

Lastly, the federal Airport Improvement Program (AIP) is available for planning and developing public use airports in Kentucky. AIP funds are used to cover 95 percent of a project's eligible costs with the remaining 5 percent coming from state and/or local match.<sup>2</sup> Kentucky's ability to maximize AIP grant funding is dependent on the availability of the 5 percent state and/or local match.

### Historical Context

#### *Federal Role*

The growth of aviation in the U.S. and its importance to transportation has prompted multiple developments both in terms of federal and state governance and funding. As a relatively newer form of transportation, much of the context by which aviation can be viewed is focused within the last 50 years. In many ways, the U.S. economy has come to depend on air transport which now accounts for 40 percent of commercial aviation activity in the world.<sup>3</sup> Much of the responsibility for aviation in the U.S. falls to the federal government, although states do maintain some autonomy in terms of regulating and funding aeronautics and many seek to promote aviation within their states. The federal government is responsible for maintaining air infrastructure, i.e., the Air Traffic Control System, while states and local governments operate and maintain commercial airports.

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<sup>2</sup> For the state's largest airports, AIP grants are available for 75 percent of the projects costs, with a local match of 25 percent.

<sup>3</sup> National Civil Aviation Review Commission. 1997. "Airport Development Needs and Financing Options." Available at: <http://www.library.unt.edu/gpo/NCARC/airports/Default.htm> (Accessed 6 September 2011).

The Federal Aviation Administration (FAA) was born out of concerns about safety as well as efficiency in governing the nation's airspace.<sup>4</sup> The deregulation of airlines in 1978 changed air travel from a luxury to a service more could afford and utilize, whether for business or pleasure.<sup>5</sup> This development increased the responsibilities of governments at all levels. As aviation continued to grow, the FAA became more involved in environmental issues related to aviation as well as expanding the capacity of the aviation system and its airports. The FAA oversees civil air safety, aviation efficiency, air traffic controllers, and promoting the development of air travel in the U.S. The FAA has multiple departments that conduct varying operations in order to fulfill its mission. Airports are obviously a priority when seeking to develop aviation and the FAA oversees airport planning standards and operations as well as providing leadership in implementing a safe national airport system. Four objectives of federal involvement in airports and their development are improving goals such as safety, assisting with projects of national significance and impact, helping smaller general aviation airports that are more dependent on aid, and funding noise and environmental mitigation projects<sup>6</sup>.

Federal funding plays an important role in airport development and maintenance. The Office of Airports awards \$3.5 billion in grants each year through the Airport Improvement Program (AIP) to further these operations<sup>7</sup>. Nearly 3,300 airports in the U.S. are eligible for AIP grants as part of the National Plan of Integrated Airport Systems (NPIAS). AIP offers both formula based grants and discretionary grants. Air travel is taxed at the federal level with a tax on domestic airline tickets, a tax on each segment flown, and taxes on jet fuel among others. These funds are now deposited in the Airport and Airway Trust Fund which raises more than \$12 billion each year<sup>8</sup>. This fund covers most of the FAA's operating budget, which includes aid to airports. The FAA maintains programs to assist in development and often matches up to 95 percent of a project's costs. The FAA also oversees the nation's air traffic controllers and other support personnel related to aviation. Federal oversight related to safety matters is particularly important as the FAA certifies and monitors the pilots, aircraft, mechanics, and others in positions related to safety. Continued growth of aviation both nationally and internationally will stretch the FAA to meet growing demands as well as integrate new approaches to air travel such as airport privatization. Maintaining the nation's airspace remains a vital priority and the FAA will continue to partner with other levels of government and commercial airlines in order to efficiently manage the nation's airspace.

### *State Role*

Within states, many Departments of Transportation (DOTs) have divisions assigned to similar aviation related matters such as development, environmental, aviation engineering, and promoting aviation education. As many states and localities own and operate airports, the many elements associated with such an undertaking fall under their purview. Many states have regulations regarding airport zoning, the proper development and expansion of aviation facilities, and requirements for pilot and airport certification. In effect, there is often a two-tiered system promoting safety and compliance in aviation. Not only are multiple levels of government involved in aviation, there is also often a public-private partnership between airports and airlines when it comes to financing. Additionally, states often offer engineering and other technical services (free of charge) to airport authorities and municipalities within their jurisdiction in order to promote aviation and its expansion.

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<sup>4</sup> Federal Aviation Administration. 2011. "A Brief History of the FAA." Available at: [http://www.faa.gov/about/history/brief\\_history/](http://www.faa.gov/about/history/brief_history/) (Accessed 12 October 2011).

<sup>5</sup> Poole, R.W., & Edwards, C. 2010. "Airports and Air Traffic Control." Available at: <http://www.downsizinggovernment.org/transportation/airports-atc> (Accessed 6 September 2011).

<sup>6</sup> National Civil Aviation Review Commission. 1997. "Airport Development Needs and Financing Options." Available at: <http://www.library.unt.edu/gpo/NCARC/airports/Default.htm> (Accessed 6 September 2011).

<sup>7</sup> Federal Aviation Administration. 2011. "What is AIP?" Available at: <http://www.faa.gov/airports/aip/overview/> (Accessed 6 September 2011).

<sup>8</sup> Poole, R.W., & Edwards, C. 2010. "Airports and Air Traffic Control." Available at: <http://www.downsizinggovernment.org/transportation/airports-atc> (Accessed 6 September 2011).

In general, traditional sources of funding for airport capital projects come from an airport's cash flow, bonds, AIP grants, passenger facility charges, and state and local grants.<sup>9</sup> However, it is the state and local grants that are of vital importance to most airport and airport authorities. By promoting aviation through financial assistance, states enable local airport authorities to pursue airport capital improvement projects. The collection and allocation of aviation funds specifically toward aviation activities is important to both general aviation and commercial airports. Aviation specific funds serve as a funding source for matching federal dollars that provide 95 percent of funds, but require the state and local areas to provide a 5 percent match. Without the state or local match, it is unlikely an airport can leverage available federal funds. Leveraging as many of these sources as possible helps airports meet growing capital needs. In a majority of states, aviation specific funds are often backed by jet and aviation fuel taxes, aviation sale or use taxes, and or personal property taxes. Taxes specifically collected for aviation purposes may be referred to as "Aviation Economic Development Funds" or "Aviation Trust Funds".

Outside of such traditional means of financing, state and local governments can pursue more innovative strategies to meet their financing needs such as using AIP grants to fund debt payments of bond issues, create an airport loan fund, utilize the AIP's eligibility for bond insurance, and allow federal guarantees of airport loans.<sup>10</sup> As airport capital needs were expected to exceed \$70 billion between 2005 and 2009, state and local airport authorities must continue to maximize funding not only from federal sources but seek out other avenues of innovative capital financing as well. Seeking out nontraditional funding sources and utilizing innovative financing strategies will allow governments to better fund important capital projects and improve the quality of aviation.

### *Economic Development*

The aviation industry plays an important role, both in the national and state economies. Economic impacts emanate from three aviation sources: air transportation, aircraft and parts manufacturing, and travel related expenses by flyers (can also be broken into direct and indirect impacts). In 2007, aviation was responsible for over \$1 trillion in economic gain.<sup>11</sup> It is an industry that employed over 11 million workers and is of vital importance to many states. Kentucky and surrounding states, in many cases, derive up to 6 percent of state GDP from aviation and count nearly 5 percent of total employment in aviation related jobs.<sup>12</sup> Maintaining airports and related facilities can promote not only safe and efficient travel by the populace but can also help boost state and local economies. As an important economic driver, federal and state support of aviation can be an important economic policy tool. Recent studies have shown the following key multiplier effects for return on dollars spent in aviation: (1) every state \$1 spent in aviation generated \$2.93 in economic activity; (2) every state \$1 spent generates \$5.50 in economic activity with Federal matching; and (3) every Federal \$1 spent returns \$11 to the Federal economy.<sup>13</sup>

Supporting aviation can be done not only financially, but also through marketing and education. Raising awareness of aviation and its benefits can increase public support for projects. Producing newsletters, flyers, and other promotional materials is done by the states while the FAA has a communications office to provide this type of support. Educational programs that promote aviation in schools are also utilized as well as art contests and other venues used to raise awareness regarding the importance of aviation.

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<sup>9</sup> National Civil Aviation Review Commission. 1997. "Airport Development Needs and Financing Options." Available at: <http://www.library.unt.edu/gpo/NCARC/airports/Default.htm> (Accessed 6 September 2011).

<sup>10</sup> National Civil Aviation Review Commission. 1997. "Airport Development Needs and Financing Options." Available at: <http://www.library.unt.edu/gpo/NCARC/airports/Default.htm> (Accessed 6 September 2011).

<sup>11</sup> Federal Aviation Administration. 2009. "The Economic Impact of Civil Aviation on the U.S. Economy." Available at: [http://www.faa.gov/air\\_traffic/publications/media/FAA\\_Economic\\_Impact\\_Rpt\\_2009.pdf](http://www.faa.gov/air_traffic/publications/media/FAA_Economic_Impact_Rpt_2009.pdf) (Accessed 6 September 2011).

<sup>12</sup> Ibid

<sup>13</sup> Virginia Department of Aviation. 2010. Aviation in Virginia. Available at: <http://sfc.virginia.gov/pdf/transportation/2010/020310%20Aviation.pdf> (Accessed 12 September 2011).

## KENTUCKY

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The Commonwealth of Kentucky has a long history of providing aviation transportation to its citizens. There are 57 airports in Kentucky that are open to the public and are eligible to receive financial support from the Kentucky Transportation Cabinet (KYTC) and the FAA. KYTC also provides support for the Capital City Airport, located in Frankfort, which is utilized by the Army National Guard and Kentucky's governmental officials. The three largest commercial airports in the state are the Louisville International Airport, the Cincinnati/Northern Kentucky International Airport, and Bluegrass Airport in Lexington. Although these three airports serve as the backbone of Kentucky's commercial air transportation, the 52 general aviation airports located around the state also play an integral role in assisting in the efficiency of our air transportation system and in economic development for the communities where they are located.

The majority of funding for Kentucky's airports is provided by the FAA through the AIP grant fund. Fifty-seven airports in Kentucky are considered critically important to the national air transportation system, and are therefore included in NPIAS. Inclusion in NPIAS enables airports in Kentucky to receive FAA AIP grants.<sup>14</sup> In 2008, Kentucky received over \$64 million in AIP grants. In 2009, the state received just over \$46 million in AIP grants.<sup>15</sup>

### *Airports in Kentucky*

<b>Airport Type</b>	<b>Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)</b>
Primary Airport	4
Commercial Service	1
General Aviation	52
Total	57

One integral part of enabling Kentucky to leverage a maximum of AIP grant funds is the State's (or local governments) ability to provide five percent matching funds. For the 52 general aviation airports in Kentucky, the state provides a 2.5 percent match for AIP grants, while the other 2.5 percent is provided through local funding where the airport is located. Although all 57 airports in the state are technically eligible for state funding, the state has traditionally expected the largest airports in the state to provide their own local matches of 25 percent to leverage the other 75 percent of federal dollars. In 2011, the American Society of Civil Engineers (ASCE) Kentucky section, provided an issue brief grading the current conditions of aviation in Kentucky. They provided the state with a grade of C+, which is the same grade that Kentucky Aviation earned in 2003 from ASCE.<sup>16</sup>

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<sup>14</sup> Federal Aviation Administration. 2011. National Plan on Integrated Airport Systems (NPIAS). Available at: [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/) (Accessed 1 September 2011).

<sup>15</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

<sup>16</sup>

## State Governance, Ownership and Regulation

Aviation in Kentucky is regulated by the Department of Aviation, which is a work unit of KYTC. The mission of the Kentucky Department of Aviation is:

“to provide a safe and secure air transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves that quality of our environment and communities.”<sup>17</sup>

The powers and duties of the Department of Aviation are primarily conferred by Kentucky Revised Statute (KRS) 183. The powers and duties of the Department of Aviation include:

- Licensing of aircraft and airports
- Provide advice and assistance, including financial aid and engineering and technical assistance to airports and airport boards
- Acceptance of financial aid and/or grants from the federal government
- Issue revenue bonds for airport purposes
- Rendering state financial aid to public airports
- Matching federal funds for state airport development

## Financial Assistance

The Department of Aviation, and the programs it supports throughout the state, receives funding via the Kentucky Airport Development Fund and the Aviation Economic Development Fund. The Airport Development Fund is the vehicle by which the Federal government provides money to the state. The Aviation Economic Development Fund is a dedicated fund where all revenues collected from the sale of jet fuel are deposited in a fund and utilized for the development, rehabilitation, and maintenance of publically-owned or operated aviation facilities.<sup>18</sup>

Taxes collected on the sale of jet and aviation fuel in Kentucky generates millions of dollars for the Aviation Economic Development Fund. A majority of these taxes are collected through sales of jet fuel to the commercial airline industry. Kentucky does have a jet fuel tax limit that is capped at \$1 million per carrier.<sup>19</sup> Jet fuel is taxed with a 6 percent sale and usage tax, but no excise tax.<sup>20</sup> The additional revenues are generated through jet fuel sales at a select number of general aviation airports throughout the state. Aviation gas is taxed with an excise of \$.164 per gallon and a sale and usage tax of 6 percent. For FY 2010 and FY 2011, the Aviation Economic Development Fund generated over \$10 million on average. However, rather than these funds being deposited into a fund specifically for aviation use, these funds were deposited into Kentucky’s General Fund, and General Obligation bonds were sold to cover the majority of costs for the Department of Aviation.

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<sup>17</sup> Kentucky Transportation Cabinet, 2011. Aviation. Available at <http://transportation.ky.gov/Aviation/Pages/default.aspx> (Accessed 16 September 2011).

<sup>18</sup> Kentucky Revised Statutes. 2011. Statute 183.525. Available at: <http://www.lrc.ky.gov/KRS/183-00/525.PDF> (Accessed 1 September 2011).

<sup>19</sup> Interim Joint Committee on Transportation. 2005. Minutes of the First Meeting of the 2005 Interim. Available at: <http://www.lrc.ky.gov/minutes%5Ctransport%5C050609OK.HTM> (Accessed 6 September 2011).

<sup>20</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

Other taxes collected in Kentucky related to aviation include a 6 percent sales and use tax on purchases of aircraft and local personal property taxes with rates determined by each individual county across the state. Kentucky also collects an annual ad valorem property tax on all real and personal property that is owned or leased in the state. In 2009, the state collected approximately \$2.3 million in ad valorem property taxes from commercial carriers and just over \$2.2 million in 2010. However, the revenues from these taxes are not allocated to the Aviation Economic Development Fund; rather they are placed in Kentucky's General Fund. Lastly, Kentucky does not charge aircraft registration fees and although airports must be licensed in the state, the Department of Aviation provides a licensing service at no charge.

### **Marketing and Technical Assistance**

The Department of Aviation has one full time engineer and one engineering technician that provide engineering services to airport boards, airport managers, fixed base operators, consultants, contractors, or citizens of Kentucky who may require it.<sup>21</sup> The engineers are available to answer questions and provide engineering support for all of Kentucky's airports. Recently, the Department of Aviation has completed statewide airport pavement assessment, where the data gathered will assist the Department of Aviation in determining pavement preservation needs and priorities.

In 2007, the Department of Aviation received the 2007 National Association of State Aviation Officials (NASAO) Center Aviation Education Program Award for the Kentucky Aviation Teacher Institute. The Kentucky Aviation Teacher Institute was a joint partnership between the Department of Aviation and the Kentucky Department of Education that was designed to help teachers use aviation to inspire K-12 students to study math and science. Between 2005 and 2009, the institute trained over 400 teachers across the state. Due to budgetary shortfalls, the institute was discontinued in 2009.

In general, advertising is funded by each of the individual airports as authorized by their aviation boards. However, the Department of Aviation does publish the *New Horizons* e-newsletter and co-hosts an annual state aviation conference in August/September.

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<sup>21</sup> Kentucky Transportation Cabinet. 2011. "Aviation Engineering." Available at: <http://transportation.ky.gov/Aviation/Pages/Engineering.aspx> (Accessed 1 September 2011).

# ILLINOIS

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## State Governance, Ownership, and Regulation

Illinois Division of Aeronautics is housed in the Department of Transportation. It has five bureaus: the Bureau of Airport Engineering, the Bureau of Aviation Safety, the Bureau of the South Suburban Airport, the Bureau of Air Operations, and the Bureau of Administrative Services. The duties of the five Bureaus are outlined below:

- The Bureau of Airport Engineering monitors and approves planning, design, and construction of both federal and state funded projects at public airports.
- The Bureau of Aviation Safety inspects and certifies all airport facilities, public and private, as well as registering pilots and aircraft. The Bureau also conducts pilot safety seminars, produces the Aeronautical chart, the airport directory, and a bi-monthly publication.
- The Bureau of Air Operations provides aviation services to state government officials and assistance to law enforcement.
- The Bureau of Administrative Services monitors personnel and contract payments such those for as airport construction.
- The Bureau of the South Suburban Airport is tasked with designing and constructing a commercial airfield that will serve the Chicago suburban area.

Overall, the division employees 75 full time workers and five contract employees. Additionally, the division operates 22 state-owned aircraft.

The Division of Aeronautics is empowered and directed to encourage, foster, and assist the development of aviation within the state and the establishment of airports and aviation related facilities. To best serve the interests of the state, the Illinois Division of Aeronautics is authorized to develop a state airport plan, encompassing all types of aviation related facilities. The Division of Aeronautics is also authorized to cooperate with the federal government in the acquisition, construction, and improvement of aeronautics facilities and is authorized to assist the federal government and other political subdivisions in the promotion of aviation and to coordinate the functions of these entities.

Illinois has nine commercial airports with the busiest being O’Hare International Airport and Chicago Midway International Airport, both of which are located in Chicago. O’Hare International Airport alone had over 66 million passengers pass through during 2010. In total, there are 88 airports in Illinois that are eligible for AIP funds.

### *Airports in Illinois*

<b>Airport Type</b>	<b>Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)</b>
Primary Airport	9
Commercial Service	0
General Aviation	79
Total	88

## Financial Assistance

Illinois imposes a 6.25 percent sales and use tax on the purchase of aircraft, and local governments can impose an additional tax up to 2.75 percent. Jet fuel taxes have an excise tax of \$.03 per gallon and an environmental impact fee of \$.08 per gallon as well as a sales tax of 6.25 percent.<sup>22</sup> Taxes on aviation gasoline mirror those for jet fuel.

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<sup>22</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).



Illinois does have one of the highest tax rates on fuel in the country, prompting airlines to seek relief with a tax cap.<sup>23</sup> Registration fees for aircraft cost \$20 on a biennial basis and pilot registrations cost \$10 with the same time frame. By statute, funds received by the state pertaining to aeronautics (certificates, permits, and licenses) shall be deposited in a special aeronautics fund.<sup>24</sup> However, neither funds from the sale of jet or aviation fuel nor funds from airplane sales tax are deposited into this fund. Illinois does not levy a personal property tax on airplanes.

Federal AIP grants to the state in FY 2008 totaled over \$115 million, with approximately \$35 million allocated to the state block grant program.<sup>25</sup> In 2009, Illinois was awarded \$116.9 million in AIP grants.<sup>26</sup> In FY 2008, Illinois allocated approximately \$1.8 million from the state's general fund and issued over \$17 million in bonds.

Other restrictions and rules regarding expenditures and financial assistance by the division are also pertinent. The Illinois DOT can provide monetary assistance to the Civil Air Patrol as well as other materials and personnel via a loan or grant.<sup>27</sup> The Airport Land Loan Program is used so that the state can make loans to airports for the purchase of land as needed for essential airport purposes.<sup>28</sup> The division can also offer financial assistance to municipalities and others for planning, construction, and improvement of air facilities that include: acquisition of land, land rights, easements, obstruction removal, and others.<sup>29</sup> Aid for hangars or other airport buildings is not permitted, nor is spending on projects that are not included or related to the state airport plan or airways system.

### **Technical and Marketing Assistance**

In terms of technical assistance, the Division of Aeronautics can offer engineering or other services to political subdivisions at no cost to assist with construction, maintenance, or other activities related to airports and aviation facilities.<sup>30</sup> One way the Division of Aeronautics specifically offers technical assistance is through the Illinois Airport Inventory Report (AIR). The purpose of the AIR is to compile information on the characteristics and physical condition of public airports in Illinois. The AIR contains pavement evaluations, airport activity, as well as the physical characteristics of airport locations around the state.

For marketing assistance, the Bureau of Aviation Safety publishes the Illinois Aviation Magazine twice a month and the division holds an annual aviation conference. However, the Division of Aeronautics does not participate in or provide for any aviation education programs.

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<sup>23</sup> Skertic, Mark. 2006. "Airlines Seek State Jet Fuel Tax Cap" Chicago Tribune. Available at: [http://articles.chicagotribune.com/2006-03-11/business/0603110138\\_1\\_fuel-tax-jet-fuel-state-tax](http://articles.chicagotribune.com/2006-03-11/business/0603110138_1_fuel-tax-jet-fuel-state-tax) (Accessed 19 October 2011).

<sup>24</sup> Illinois Compiled Statutes, 620 ILCS 5/78. 2011. Available at: <http://www.ilga.gov/legislation/ilcs/ilcs.asp> (Accessed 1 September 2011).

<sup>25</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

<sup>26</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

<sup>27</sup> Illinois Compiled Statutes, 620 ILCS 5/27.02. 2011. Available at: <http://www.ilga.gov/legislation/ilcs/ilcs.asp> (Accessed 1 September 2011).

<sup>28</sup> Illinois Compiled Statutes, 620 ILCS 5/34b. 2011. Available at: <http://www.ilga.gov/legislation/ilcs/ilcs.asp> (Accessed 1 September 2011).

<sup>29</sup> Illinois Compiled Statutes, 620 ILCS 5/34. 2011. Available at: <http://www.ilga.gov/legislation/ilcs/ilcs.asp> (Accessed 1 September 2011).

<sup>30</sup> Illinois Compiled Statutes, 620 ILCS 5/32. 2011. Available at: <http://www.ilga.gov/legislation/ilcs/ilcs.asp> (Accessed 1 September 2011).

## State Governance, Ownership, and Regulation

In Indiana, the Office of Aviation is housed within the Intermodal Division in the Indiana Department of Transportation. Similar to other states, aviation in Indiana is a joint venture between state, federal, and local governments and the local airport sponsors. The Indiana Code illustrates the powers and duties of the Office of Aviation, including:

- Providing technical assistance for airport development
- Maintaining a five-year rolling capital improvement forecast of projects and funding level requirements
- Processing state grants for capital improvement projects
- Monitoring progress of state grant projects
- Publish and revise the Indiana State Aviation System Plan
- Maintain the Indiana Airport Pavement Condition Index
- Issue revenue bonds and airport revenue funding bonds<sup>31</sup>

The Office of Aviation is also authorized by statute to collect proceeds from selling the airways' system plans, maps, and other materials, which are credited to the division for future publications up to \$10,000. The Office of Aviation can accept federal money relating to aviation expenditures and apply for grants or other aid for airports. A special airport fund, known by the same name, can be used to acquire land or rights related to airport facilities expansion. Lastly, as mentioned in the above bulleted list, Indiana is responsible for establishing and maintaining a development grant fund and airport development revolving loan fund that is administered by the Office of Aviation.

The Indiana Office of Aviation recognizes the importance of aviation to the state as demonstrated in their commitment to funding studies tying the role of aviation together with the dollars it brings to the state. A 2005 report on economic development pegged aviation's impact statewide at nearly \$3 billion with almost 19,000 jobs.<sup>32</sup> More recent studies conducted by the FAA estimate that approximately 3.2 percent of the state's gross domestic product is generated through aviation, where the average earnings per job is just over \$30,000 per year.<sup>33</sup>

The largest airport in Indiana is the Indianapolis International Airport which is a primary- medium hub facility. It annually boards 10 times more passengers than the next largest airport in South Bend. Overall, the state has four commercial airports and 63 general aviation airports. Among all the public-use airports in Indiana, 69 are considered critical to the Indiana air transportation system and are included in the Indiana State Aviation System Plan (ISASP).<sup>34</sup> Sixty-seven of the airports included in the ISASP are considered critically important to the national air transportation system and are therefore included in NPIAS. Inclusion in NPIAS enables airports to receive AIP grants.<sup>35</sup>

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<sup>31</sup> Indiana Code 8-21, Article 21. 2011. Available at: <http://www.in.gov/legislative/ic/code/> (Accessed 1 September 2011)

<sup>32</sup> Aviation Association of Indiana. 2005. "2005 Economic Impact Study." Available at <http://www.in.gov/indot/files/AAIEcoImpactStudy.pdf> (Downloaded 15 August 2011).

<sup>33</sup> Federal Aviation Administration. 2009. "The Economic Impact of Civil Aviation on the U.S. Economy." Available at: [http://www.faa.gov/air\\_traffic/publications/media/FAA\\_Economic\\_Impact\\_Rpt\\_2009.pdf](http://www.faa.gov/air_traffic/publications/media/FAA_Economic_Impact_Rpt_2009.pdf) (Downloaded 16 September 2011).

<sup>34</sup> Indiana Department of Transportation. 2011. Airport Development Fund Grant Programs. Available at: <http://www.in.gov/indot/files/AirportDevelopmentFundProcedure.pdf>

<sup>35</sup> Federal Aviation Administration. 2011. National Plan on Integrated Airport Systems (NPIAS). Available at: [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/) (Accessed 1 September 2011).

<b>Airport Type</b>	<b>Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)</b>
Primary Airport	4
Commercial Service	0
General Aviation	63
Total	67

### **Financial Assistance**

State taxes on aircraft purchases are six percent, although there is a fly-away exemption for non-residents who immediately remove the aircraft from the state. Jet fuel taxes are five percent sales tax and an excise tax (called oil inspection fee) of .008 per gallon. Jet fuel taxes are exempt if the fuel is used for export or international operations. Aviation gas is taxed in a similar manner with a five percent sales tax and an excise tax, or oil inspection fee, of 0.15 per gallon.<sup>36</sup> Retailers of aviation gas can gain an exemption by applying for an aviation fuel permit. Aircraft registration fees of \$10 annually are charged along with an excise tax based on the class, age, and weight of the aircraft. This tax can be reduced through partial credit that is paid on aircraft sold during the year. Airports are also required to be certified by the state, but there is no charge for this. Indiana does not charge a personal property tax on aircraft.

Indiana does not have a dedicated aviation trust fund nor is it a block grant state. In FY 2008, Indiana received over \$58 million in AIP grants. Of this money \$38 million was disbursed to general aviation airports and nearly \$17 million to primary airports. State funding in FY 2008 was \$1.2 million which came from general funds. Using these funds, the state matched federal grants of \$1.1 million.<sup>37</sup> In 2009, Indiana was able to leverage \$68.8 million in AIP grants.

### **Technical and Marketing Assistance**

Indiana offers engineering or other technical assistance to airports as needed. Technical assistance is designed to promote efficient development of facilities, leading to a balanced system such as the one proposed in the state aviation system plan. The Office of Aviation also is responsible for promoting safety by inspecting landing facilities and reviewing federal, state, and local policies to ensure that regulations, funding, and legislation are helping aviation in the state.

Indiana's promotion of aviation is designed to provide the public with information on the benefits of aviation. Aviation education is part of this strategy and includes a program called Project TAKEOFF, which is a teaching module designed for students in grades 2-6. The state does not put out a newsletter or airport directory, although it is working to develop an airport directory. The Office of Aviation is responsible for publishing a statewide aeronautical chart that can be used for planning purposes. The Office of Aviation also hosts an annual aviation conference, usually in October. Lastly, the Office of Aviation is permitted to promote and increase aviation commerce and prepare materials relating to airport facilities so as to promote such facilities. As such, the Office of Aviation can designate airport development zones to promote aviation and economic development.

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<sup>36</sup> National Business Aviation Association. 2004. "NBAA State Aviation Tax Report." Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

<sup>37</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington DC.

# MISSOURI

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## State Governance, Ownership, and Regulation

Aviation is a branch of the Missouri Department of Transportation (MoDOT) located in the Multimodal Operations Division. Aviation employs 10 full time employees and operates three state-owned aircraft. The Aviation program is authorized under the Missouri Revised Statutes, Chapter 305, Section 30.230, which illustrates the powers and duties of the Missouri Highways and Transportation Commission to administer the aeronautics program, including:

- The Commission shall provide financial support for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.
- The moneys in the aviation trust fund shall be administered by the Commission for a variety of purposes including:
  - o As matching funds for projects where a state or local match is required
  - o As total funds with no local match
  - o As total funds with a local match<sup>38</sup>

Missouri has six commercial airports and 70 general aviation airports that are eligible for NPIAS funds. Inclusion in NPIAS enables airports to receive AIP grants.<sup>39</sup> Missouri airports serve over 20 million travelers annually.<sup>40</sup> Employment in the aviation industry in Missouri accounts for approximately 5 percent of jobs in the state.<sup>41</sup> The largest airports in Missouri are Lambert-St. Louis International Airport and the Kansas City International Airport.

### *Airports in Missouri*

Airport Type	Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)
Primary Airport	4
Commercial Service	2
General Aviation	70
Total	76

## Financial Assistance

Missouri applies several taxes to assist in funding aviation in the state. A sales and use tax of 4.25 percent is levied on purchases with no fly-away exemption. The state has a jet fuel sales tax of 4.225 percent and an aviation gasoline excise tax of \$.09 per gallon.<sup>42</sup> Agricultural flight operations are exempt from the aviation gas tax. Missouri does not charge for licenses or registration for pilots, aircrafts, or airports. However, personal property

<sup>38</sup> Missouri Revised Statutes. 2010. Chapter 305 Aircraft and Airports Section 305.230. Available at: <http://www.moga.mo.gov/statutes/C300-399/3050000230.HTM> (Accessed 1 November 2011).

<sup>39</sup> Federal Aviation Administration. 2011. National Plan on Integrated Airport Systems (NPIAS). Available at: [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/) (Accessed 1 September 2011).

<sup>40</sup> Missouri Department of Transportation. 2011. Missouri Aviation Facts. Available at: <http://www.modot.mo.gov/othertransportation/aviation/aviationfacts.htm> (Accessed 16 October 2011).

<sup>41</sup> Federal Aviation Administration. 2009. "The Economic Impact of Civil Aviation on the U.S. Economy." Available at: [http://www.faa.gov/air\\_traffic/publications/media/FAA\\_Economic\\_Impact\\_Rpt\\_2009.pdf](http://www.faa.gov/air_traffic/publications/media/FAA_Economic_Impact_Rpt_2009.pdf) (Accessed 16 August 2011).

<sup>42</sup> National Business Aviation Association. 2004. "NBAA State Aviation Tax Report." Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

taxes are applied to airplanes with a rate of assessment being 33 percent of market value. These tax rates do vary by county. As part of the multimodal appropriations, the aviation program project budget is slated to receive over \$6.6 million in state funding for FY 2012 and another \$30 million from federal sources.<sup>43</sup>

The Aviation Trust Fund is used to assist in airport maintenance and to publish the state's aeronautical chart. Up to \$10 million annually can be appropriated from this fund, which receives funding from the jet fuel and aviation gas taxes. The State Transportation Assistance Revolving Fund was established in 1996 and funds non-highway transportation facilities, such as airports. This fund has specific limitations on how these funds may be used. Funds used for aviation purposes can be utilized for planning, acquisition, development, and construction of facilities.

In FY 2008, AIP grants to the state totaled nearly \$70 million with over \$50 million going to primary airports and \$15 million in block grants, as Missouri is a block grant state.<sup>44</sup> In 2009, Missouri was able to leverage \$66.7 million in AIP grants. By participating in block grants, Missouri is able to administer federal funding to general aviation airports.

### **Technical and Marketing Assistance**

MoDOT Aviation is statutorily empowered to provide airports with technical assistance in planning, constructing, and operating a public airport. Aviation will also develop and maintain an airport design plans to ensure efficiency and good use of funds.<sup>45</sup> In addition, MoDOT can act as an agent for airports in relations with the federal government concerning acquisition, construction, improvement, and other activities related to the functions and operations of airports.

In terms of marketing assistance, MoDOT Aviation publishes a newsletter titled the ShowMe Flyer, whose purpose is to promote Missouri aviation programs. They also publish an airport directory and an aeronautical chart. Missouri also seeks to encourage local authorities to develop and improve aeronautics, although specific methods used to achieve this goal are not enumerated. The state does not host an aviation conference.

Recently, MoDOT Aviation began providing an electronic edition of the State Block Grant Program Guidance (SBGP) Handbook.<sup>46</sup> The Handbook is designed to take the airport sponsor from grant application through grant closure and provide practical guidance on successfully completing a SBGP project. Sections within the Handbook refer to MoDOT applications, agreements, checklists, certifications and specifications, which can be downloaded by clicking on the highlighted items or by returning to the grant documentation webpage. Ultimately, the purpose of the handbook is to streamline procedures for the State Block Grant Program in Missouri and improve sponsor education grant procedures and requirements.

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<sup>43</sup> Missouri Department of Transportation. 2011. "Multimodal operations." Available at: [http://www.modot.org/plansandprojects/construction\\_program/STIP2012-2016/documents/Sec07\\_MultimodalOperations.pdf](http://www.modot.org/plansandprojects/construction_program/STIP2012-2016/documents/Sec07_MultimodalOperations.pdf) (Accessed 26 October 2011).

<sup>44</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington, D.C.

<sup>45</sup> Missouri Revised Statutes. 2010. Chapter 305 Aircraft and Airports Section 305.233. Available at: <http://www.moga.mo.gov/statutes/C300-399/3050000230.HTM> (Accessed 1 November 2011).

<sup>46</sup> Missouri Department of Transportation. 2011. "Grant Documentation." Available at: <http://morail.org/other-transportation/aviation/Aviation%20-%20Grant%20Documentation.htm> (Accessed 31 October 2011).

### State Governance, Ownership, and Regulation

The Office of Aviation is housed in the Ohio Department of Transportation (ODOT) under the Operations division. It has three sections including: Flight Operations, Aircraft Maintenance, and Aviation Programs. Flight Operations supplies aircraft for transportation of state officials, aerial support for ODOT and law enforcement, and aerial assistance to natural resources including pesticide application and wildlife surveys. Aircraft Maintenance is responsible for upkeep on the division's fleet of 11 planes and other aircraft from state agencies. The Aviation Programs section covers airport planning, engineering, grants, paving, safety inspections, aircraft registration, aviation education publications, and enforcing the state's aviation laws. The Office of Aviation is granted the authority to accept federal funds and act as an agent for localities as long as the funds are being directed to aviation related concerns.<sup>47</sup>

Overall, Ohio has seven primary airports and 93 general aviation airports that are included in NPIAS. Among the 100 airports on the NPIAS list, 98 are eligible for state funding. The largest airports in the state are located in Cleveland and Columbus, which are categorized as primary medium hubs, with Dayton, a primary small hub, the third busiest. In 2004, aviation's economic impact on the state was estimated to be over \$10 billion.<sup>48</sup>

#### *Airports in Ohio*<sup>49</sup>

Airport Type	Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)
Primary Airport	7
Commercial Service	0
General Aviation	93
Total	100

### Financial Assistance

Ohio, like its neighboring states, levies several aviation related taxes. State sales and use taxes on aircraft purchases are 5 percent and local sales and use taxes vary from 0.25 percent to 3 percent. Ohio does not have a fly-away exemption of this tax. Both jet fuel and aviation gas sales are taxed at 5 percent, depending on the activity of the purchaser.<sup>50</sup> Aircraft registration fees are charged based on the maximum seating capacity in the airplane. These fees range from \$6 to \$15, where aircraft that seat more than five people being \$15 plus \$5 for each extra person. Airports in Ohio must be licensed, but the state does not charge a fee for this. Personal property taxes on airplanes do exist, but owners are exempt as long as the property is properly registered. If the airplane is not properly registered, the personal property tax rate is formulated based on net book value and a 25 percent assessment.<sup>51</sup> Aircraft transfer and license fees are deposited in the general fund and are to be used for the maintenance and improvement of public airports. In FY 2008, the state received over \$100 million in AIP grants with nearly

<sup>47</sup> Ohio Revised Code 4561.09. 2011. Available at <http://codes.ohio.gov/orc> (Accessed 10 October 2011).

<sup>48</sup> Ohio Department of Transportation. 2011. Overview. Available at: <http://www.dot.state.oh.us/Divisions/Operations/Aviation/Pages/Overview.aspx> (Accessed 13 October 2011).

<sup>49</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington, D.C.

<sup>50</sup> Ohio Department of Taxation. "FAQs-Motor Fuel." Available at: [http://tax.ohio.gov/faqs/Excise/motor\\_fuel.stm#6](http://tax.ohio.gov/faqs/Excise/motor_fuel.stm#6) (Accessed 13 October 2011).

<sup>51</sup> National Business Aviation Association. 2004. "NBAA State Aviation Tax Report." Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

\$70 million going to primary airports. In FY 2009, Ohio's AIP grants totaled just over \$77.9 million.<sup>52</sup> The state granted funds in the amount of \$1.2 million in FY 2008, \$1.7 million in FY 2009, and \$1.3 million in FY 2010.

Ohio does have a unique funding program in the State Infrastructure Bank (SIB). The SIB is a direct loan and bond financing program used to develop transportation facilities in the state. Authorized under the Ohio Revised Code, Chapter 5531, the purpose of the SIB is to develop transportation facilities throughout Ohio by providing funding to transportation projects which produce revenue to amortize debt.<sup>53</sup> The objective of the SIB program is to maximize the use of federal and state funds in order to make direct loans to eligible projects. Repayments from these loans are made to ODOT and then re-loaned to subsequent projects, thus creating a revolving loan program. The SIB was originally funded by money from the general fund, motor fuels tax, and federal highway funds. As of the end of September 2010, the fund had 12 ongoing airport related projects with loans and bonds valued at nearly \$24 million.<sup>54</sup>

### **Technical and Marketing Assistance**

Technical assistance is available to public airports for engineering and other services either with or without charge for construction and improvement to airports and facilities.<sup>55</sup> The Office of Aviation does conduct pavement inspections at eligible airports around the state in order to maintain a clear picture of the condition of airport surfaces and the maintenance necessary to preserve the pavement. The information gathered from these inspections is posted on the Office of Aviation's website and is utilized to select state and federal grant projects.<sup>56</sup>

The Office of Aviation does offer some marketing assistance as it is charged with encouraging aviation development and education throughout the state.<sup>57</sup> The Office of Aviation meets this mandate by producing a number of publications, including the aeronautical chart, airport directory, airport handbook, and Good Neighbors by Design (guide to land use planning at airports). The office also sponsors Fly Ohio summer events and an aviation art contest each year designed to increase interest in aviation.

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<sup>52</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

<sup>53</sup> Ohio Department of Transportation. 2011. "State Infrastructure Bank." Available at: <http://www.dot.state.oh.us/Divisions/Finance/Pages/StateInfrastructureBank.aspx> (Accessed 13 October 2011).

<sup>54</sup> Ohio Department of Transportation. 2010. "State Infrastructure Bank: Annual Financial Report Federal Fiscal Year 2010.

<sup>55</sup> Ohio Revised Code 4561.06. 2011. Available at <http://codes.ohio.gov/orc> (Accessed 10 October 2011).

<sup>56</sup> Ohio Department of Transportation. 2011. Airport Pavement Condition. Available at: <http://www.dot.state.oh.us/Divisions/Operations/Aviation/Pages/AirportPavement.aspx> (Accessed 14 October 2011).

<sup>57</sup> 4561.06

# TENNESSEE

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## State Governance, Ownership, and Regulation

The Aeronautics Division is housed in the Tennessee Department of Transportation. The mission of the Aeronautics Division is to:

“provide Tennessee with a quality, integrated aviation system that is safe, efficient, economical and sensitive to environmental concerns, serve the needs of local communities, and provide state government with safe, professional, courteous flight services in an efficient, comfortable manner.”<sup>58</sup>

The Aeronautics Division is responsible for licensing airports, overseeing grants to improve and rehabilitate these facilities, providing aircraft for state government executives, and providing staffing for the Tennessee Aeronautics Commission (TAC). The TAC is a five-member advisory board that helps formulate aviation policy and approves any changes in the state airport system plan. The Aeronautics Division holds an annual policy review meeting with the TAC, which then reviews the existing and newly proposed policies. All revisions or newly proposed policies recommended by the TAC are forwarded to the Commissioner of Transportation for review and approval.<sup>59</sup> The Aeronautics Division is divided into 5 sub-divisions: (1) Administration, (2) Finance and Grant Management, (3) Engineering and Program Development, (4) Flight Services, and (5) Planning and Programming. The Division employs 32 full-time workers and operates 14 state-owned aircraft.

Tennessee has a total of 84 airports under its jurisdiction, of which 69 are eligible for AIP funding as a part of NPIAS.<sup>60</sup> The two busiest airports in the state are in Memphis and Nashville, where Memphis is one of the busiest air cargo airports in the country.

### *Airports in Tennessee*

<b>Airport Type</b>	<b>Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)</b>
Primary Airport	5
Commercial Service	0
General Aviation	64
Total	69

## Financial Assistance

Tennessee does not charge for pilot or aircraft registration, and although it does require airport licensing, it does not charge for these services.<sup>61</sup> However, Tennessee does levy a number of other taxes. Sales and use taxes are 6 percent at the state level and range from an additional 1.5 percent to 2.75 percent at the local level. There is a fly-away exemption in place for 15 days after purchase. Jet fuel and aviation gas are taxed at a 4.5 percent sales tax. Additionally, the state also charges a personal property tax on aircraft that are held for business use.

Tennessee is one of 10 block grant states meaning that it has the sole responsibility for deciding the distribution of federal funds for improvement projects at general aviation and non-primary commercial service airports. The primary benefits of the Block Grant State Program for Tennessee is the ability to assess project justification based on local, regional, and statewide conditions and to adapt local, state, and federal funds to meet the immediate and

<sup>58</sup> Tennessee Department of Transportation. 2010. “Airport Management Guide.” Available at: <http://www.tdot.state.tn.us/aeronautics/handbook/AirportManagementGuide.pdf> (Downloaded 10 October 2011).

<sup>59</sup> Tennessee Department of Transportation. 2010. “Departmental Policy: Policy Number 170-02. Available online [http://www.tdot.state.tn.us/a\\_commission/170-02.pdf](http://www.tdot.state.tn.us/a_commission/170-02.pdf) (Downloaded 9 September 2011).

<sup>60</sup> Federal Aviation Administration. 2011. National Plan on Integrated Airport Systems (NPIAS) available at: [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/) (Accessed 10 October 2011).

<sup>61</sup> Tennessee Code, 42-2-211. 2011. Available at: <http://www.lexisnexis.com/hottopics/tncode/> (Accessed 10 October 2011).



future needs of the state aviation system.<sup>62</sup>

In FY 2008, the state received over \$17 million in block grant AIP funding for a total of over \$68 million in total AIP funding for the state. State funding sources in FY 2008 relied solely on fuel taxes and amounted to nearly \$57 million.<sup>63</sup> In FY 2009, Tennessee was able to leverage over \$90 million in AIP grants.<sup>64</sup>

The division can also offer financial assistance via grants or loans to localities for planning, construction, and improvement of airports. The DOT is empowered to act as an agent for localities in receiving and disbursing federal or other monies for airport or aviation related concerns. The division is authorized in conjunction with the DOT to spend available funds for the purpose of furthering aeronautics generally in the state of Tennessee.

The Department of Aeronautics administers an Airport Maintenance Program to assist airport sponsors with partial costs associated with operating publically-owned, public use airports. Some of the costs eligible for reimbursement are preventative maintenance and repair or replacement of buildings, equipment, navigational aids, lighting systems, and pavements necessary for the safe and efficient function of the airport. Moving services, inspections of underground fuel storage, airport signage, and subscription to a flight planning satellite weather system may also be eligible for partial reimbursement.

### **Technical and Marketing Assistance**

Technical assistance in the form of engineering or other services can be provided to localities and airport authorities at no charge as long as the assistance is related to the planning, construction, or improvement of airports or aviation facilities. Services are provided by the Engineering and Program Development section of the Aeronautics Division, which include conducting preliminary surveys and cost estimates for project feasibility and funding; collecting and reviewing bids to initiate contracts and grants; assisting with project design development; reviewing designs prepared by consultants; assisting with property acquisition; and providing assistance with construction administration.<sup>65</sup>

The Aeronautics Division also provides a comprehensive Airport Management Guide that is intended to provide airport sponsors with information regarding a variety of airport management subjects including the benefits of local airports, information on grant funding, and airport planning, promotion and management. This guide is particularly helpful in that it provides a clear understanding of the policies and procedures necessary for obtaining state and federal grant assistance and the obligations associated with accepting such funding to airport sponsors.<sup>66</sup>

Tennessee does publish a newsletter on a quarterly basis called the *Tennessee Aviation Newsletter* and they maintain a state airport directory and an aeronautical chart. The state also hosts an annual aviation conference (Tennessee Airports Conference) each year as well as participating in aviation education efforts. The division can also establish and maintain air schools that offer aeronautics instruction. An annual international aviation art contest is held each year to encourage youth to reflect on aviation at the state level.

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<sup>62</sup> Tennessee Department of Transportation. 2010. "Airport Management Guide." Available at: <http://www.tdot.state.tn.us/aeronautics/handbook/AirportManagementGuide.pdf> (Downloaded 10 October 2011).

<sup>63</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington, D.C.

<sup>64</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

<sup>65</sup> Tennessee Department of Transportation. 2010. "Airport Management Guide." Available at: <http://www.tdot.state.tn.us/aeronautics/handbook/AirportManagementGuide.pdf> (Downloaded 10 October 2011).

<sup>66</sup> Tennessee Department of Transportation. 2010. "Airport Management Guide." Available at: <http://www.tdot.state.tn.us/aeronautics/handbook/AirportManagementGuide.pdf> (Downloaded 10 October 2011).

## State Governance, Ownership, and Regulation

The Commonwealth of Virginia’s Department of Aviation is a state transportation agency whose mission is to cultivate an advanced aviation system that is safe, secure, and provides for economic development; promotes aviation awareness and education; and provides executive flight services for the Commonwealth leadership.<sup>67</sup> The responsibility for aviation in Virginia is a joint partnership between the state, local, and federal governments. Each entity plays an important role in supporting individual airports and the statewide air transportation system, including the Virginia Aviation Board (VAB), the Virginia Department of Aviation (DOAV), and the Virginia Airport Sponsors. Set forth in the Code of Virginia §5.1-2.1 et seq., the VAB is responsible for establishing financial assistance programs and allocating funds for capital improvement projects related to aviation in Virginia. The VAB also sets policies to guide funding programs, operations, and promote and develop safe aviation practices. The DOAV is responsible for providing financial and technical assistance to eligible airport sponsors for the planning, development, promotion, construction, and operation of airports and aviation facilities. The DOAV is also charged with developing the state aviation system, licensing airports and aircraft, and promoting aviation activities within the state. The DOAV is divided into 5 subdivisions: the Director’s Office, the Airport Services Division, the Communications and Education Division, the Flight Operations and Safety Division, and the Finance and Administration Division. The DOAV employees 33 full-time workers as well as operating six state owned aircraft, three of which are owned by the department.

Virginia airport sponsors are defined as entities responsible for an airport, including the airport’s financial dealings, long-term development planning, and daily maintenance and operations activities.<sup>68</sup> Airport sponsors are responsible for providing a six-year Airport Capital Improvement Plan to the DOAV that identifies and prioritizes projects for an airport. These plans are submitted yearly and are integral in securing state, local, and/or federal funding. The total number of airports in Virginia is outlined in the table below.

### *Airports in Virginia*

<b>Airport Type</b>	<b>Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)</b>
Primary Airport	8
Commercial Service	1
General Aviation	41
Total	50

The Commonwealth of Virginia has nine commercial airports and 49 general aviation airports. Of the 49 general aviation airports, 41 are eligible to receive AIP funding since they are included in NPIAS. In total, 50 airports are included in NPIAS and are eligible for AIP funding. The state’s largest airports both serve the Washington, D.C. metropolitan area, where Dulles and Ronald Reagan International combined served nearly 20 million passengers in 2008.

<sup>67</sup> Virginia Department of Aviation. 2011. Available at: <http://www.doav.virginia.gov/> (28 October 2011).

<sup>68</sup> Virginia Department of Aviation. 2011. “Airport Program Manual.” Available online at [www.doav.virginia.gov](http://www.doav.virginia.gov).

## Financial Assistance

Funding for aviation in Virginia is derived from the Commonwealth Airport Fund (CAF) and the Aviation Special Fund. The CAF receives its revenue from an annual allocation made by the Commonwealth Transportation Board to the Virginia Aviation Board. CAF funds are divided between state entitlement and discretionary funds. Entitlement state funds are allocated to airports that have scheduled air carrier service and their intended use is as the state's share of costs for eligible federally funded projects. Discretionary state funds are allocated to air carrier, reliever, and general aviation airports on a discretionary basis. The DOAV encourages Virginia airport sponsors to use other available federal, state, and local funding options prior to applying for state discretionary funds. In fiscal year 2010-2011, Virginia allocated \$18,510,160 to the CAF from the Commonwealth Transportation Fund.<sup>69</sup>

The Aviation Special Fund (ASF) is used to fund facilities and equipment, general aviation security, maintenance, aviation promotion, and air service development programs. Under the *Code of Virginia* 5.1-52, taxes on aviation fuel, fees for licensing airport, and aircraft sales and use taxes are revenue sources for the ASF. In fiscal year 2010, the ASF generated \$9,500,000 for projects such as upgrading aviation facilities and equipment, general aviation airport security, airport maintenance, air service development, small aircraft transportation system, and airport promotion.<sup>70</sup>

Virginia levies several taxes on aviation as well.<sup>71</sup> Jet fuel and aviation gasoline both have excise taxes of .05 per gallon which is reduced to .005 after 100,000 gallons are purchased. Sales and use taxes are 2 percent for purchases but 4.5 percent on aviation parts purchases. Registration fees are charged for aircraft depending on the type of plane ranging from \$5 for non-commercial to \$75 for commercial fleet. Airport license fees are \$25. Finally, personal property taxes are charged, but are assessed at the local government level and thus vary across the state. In FY 2009, Virginia received over \$75.5 million in AIP grants.<sup>72</sup>

## Technical and Marketing Assistance

DOAV has an Airport Services Division that provides airport sponsors and managers with technical assistance on a variety of projects and issues, including the planning, design, construction and maintenance of airport facilities. This division manages funding programs for (1) capital improvements, facilities and equipment, airport maintenance projects, and airport security; (2) the General Aviation Voluntary Security Certification Program; (3) the licensing program for public-use airports; and (4) the registration program for private-use airports. The division also conducts statewide aviation system planning and maintains the Virginia Air Transportation System Plan. The division is divided into three sections including Planning and Environment, Engineering, and Security and Facilities.

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<sup>69</sup> Virginia Department of Transportation. 2010. "Fiscal Year 2010-2011 Commonwealth Transportation Fund Budget. Available at: [http://www.virginiadot.org/about/resources/CTB\\_Budget\\_6-7-10.pdf](http://www.virginiadot.org/about/resources/CTB_Budget_6-7-10.pdf). (1 September 2011).

<sup>70</sup> Virginia Department of Aviation. 2010. "Aviation in Virginia." Available at: <http://sfc.virginia.gov/pdf/transportation/2010/020310%20Aviation.pdf> (1 September 2011).

<sup>71</sup> National Business Aviation Association. 2004. "NBAA State Aviation Tax Report." Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

<sup>72</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

The DOAV provides an *Airport Program Manual* to all airport sponsors and the general public. The manual provides information on state aviation funding programs, the state's General Aviation Airport Voluntary Security Certification Program, and licensing a public-use airport.<sup>73</sup> The manual is particularly useful because it clearly outlines the various roles for state, local, federal governments, as well as, the airports sponsors. It explains all rules and regulations for airport sponsors to qualify for state and federal funding, thus providing an exceptional level of transparency for airport sponsors and the general public. In addition to the Airport Program Manual, the DOAV provides *Airport IQ: Virginia Sponsors Guide* which is a guidebook for assisting airport sponsors with the online submission of project requests to the DOAV.<sup>74</sup>

There are a variety of marketing/educational aviation programs in Virginia that are sponsored by the DOAV. The Virginia Aviation Ambassadors Program is designed to encourage pilots and passengers to fly (or drive) to all the airports in Virginia, as well as, aviation museums and to attend safety seminars. There is a yearly awards ceremony honoring those who have completed the program. Virginia also hosts an annual aviation conference and provides safety seminars around the state, including several during Fall Aviation Safety Week.

Aviation education and aviation awareness programs are provided throughout the Commonwealth of Virginia. The DOAV hosts an annual aviation conference and publishes a newsletter to raise awareness. The aviation education programs offered include structured, full-time activities in high schools and post-secondary aviation programs, or one-time events such as airport open houses or Young Eagles days. The purpose of these programs is to inform participants about the importance of aviation to both our state and rest of the country, open young minds to a much wider range of future career possibilities, and ultimately, invite young and old to experience the excitement and fun that aviation has always represented to our nation. The Virginia Department of Aviation also operates an Aviation Education Resource Center which provides aviation education and career materials and videotapes (on loan) to Virginia educators; as well as clubs, organizations, and other entities.

The Virginia Department of Aviation also offers Virginia teachers in grades K-12 grant opportunities to assist in integrating aviation into the classroom. Teachers are eligible to apply for small grant from the Virginia Department of Aviation's Teachers Grant Program to help implement their ideas.

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<sup>73</sup> Virginia Department of Aviation. 2011. "Airport Program Manual." Available at: [http://www.doav.virginia.gov/Downloads/Airport\\_Grant\\_Program/Airport%20Program%20Manual/2011%20Airport%20Program%20Manual/500%20DOAVAS%2020110831%202011%20Airport%20Program%20Manual%20bookmarked.pdf](http://www.doav.virginia.gov/Downloads/Airport_Grant_Program/Airport%20Program%20Manual/2011%20Airport%20Program%20Manual/500%20DOAVAS%2020110831%202011%20Airport%20Program%20Manual%20bookmarked.pdf) (Downloaded 20 October 2011).

<sup>74</sup> Virginia Department of Aviation. 2008. "Airport IQ: Virginia Sponsors Guide." Available at [http://www.doav.virginia.gov/Downloads/Airport\\_Grant\\_Program/Airport%20IQ/VA%20Sponsor%20Guide%20Sept%202008.pdf](http://www.doav.virginia.gov/Downloads/Airport_Grant_Program/Airport%20IQ/VA%20Sponsor%20Guide%20Sept%202008.pdf) (Downloaded 14 September 2011).

# WEST VIRGINIA

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## State Governance, Ownership, and Regulation

The West Virginia Aeronautics Commission (WVAC) is an agency within the Department of Transportation. The mission of the WVAC is to foster and assist in the development of aeronautics in West Virginia and encourage the establishment of airports and air navigation facilities.<sup>75</sup> The WVAC has five members, including the Secretary of Transportation, and three staff members. In addition, the Department of Administration has an aviation division that provides air travel to state officials.

The WVAC is authorized to spend funds on the civil air patrol and its operations. It can also provide available grant funds to localities and accept federal funds for planning, acquisition, construction, and other airport activities. The WVAC is authorized to plan and establish airports and related facilities within the state and to use monies appropriated for such purposes.

West Virginia has seven commercial airports and 18 general aviation airports. The airport with the most enplanements in the state is Yeager Airport, located in Charleston. Twenty-five airports in West Virginia are considered critically important to the National Air Transportation System and are therefore included in NPIAS. Inclusion in NPIAS enables airports to receive AIP grants.<sup>76</sup> These 25 airports are also eligible to receive state funding from the WVAC.

### *Airports in Virginia*

Airport Type	Number of Airports Included in the National Plan of Integrated Airport Systems (NPIAS)
Primary Airport	4
Commercial Service	3
General Aviation	18
Total	25

## Financial Assistance

The FY 2012 budget appropriates over \$1.2 million to the WVAC for unclassified proposes and \$155,000 specifically for the Civil Air Patrol. West Virginia maintains a dedicated state aviation trust fund as well, that is supported by the state tax on aircraft fuel and general revenue funds.<sup>77</sup> The sales and use tax in West Virginia is 6 percent with no fly-away exemption for citizens who remove their planes from the state. The rate on the state's jet fuel and aviation gasoline excise taxes is \$.0485 per gallon. West Virginia does not charge fees for pilot, aircraft, or airport registration and licensing. However, West Virginia does implement a local personal property tax on aircraft, with a tax rate ranging from \$1.35 to \$1.76 per \$100 of value.<sup>78</sup>

<sup>75</sup> West Virginia Department of Transportation, Aeronautics Commission. 2011. Available at: <http://www.transportation.wv.gov/aeronautics/Pages/default.aspx> (Accessed 6 September 2011).

<sup>76</sup> Federal Aviation Administration. 2011. National Plan on Integrated Airport Systems (NPIAS) available online at [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/) (Accessed 1 November 2011).

<sup>77</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington, D.C.

<sup>78</sup> National Business Aviation Association. 2004. "NBAA State Aviation Tax Report." Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

The WVAC's grant program, the Airport Improvement Grant Program, is used to support capital improvements to public airports. As mentioned in the previous section, airports that qualify for FAA AIP funding can also receive state funding to supplement these funds. Those airports that meet the WVAC's criteria, may qualify for up to half of the local share required to match FAA funds. The state grant program is funded by the tax on jet fuel as well as general revenue funding. In FY 2008, the state matched federal grants of \$900,000 and disbursed state only grants in the amount of over \$660,000. AIP grants to the state totaled over \$36 million with the majority of funding going to primary airports.<sup>79</sup> In 2009, West Virginia received \$20.3 million in AIP grant funding.<sup>80</sup>

### **Technical and Marketing Assistance**

In terms of technical assistance, the WVAC has the authority to appoint a director of aeronautics who is statutorily responsible for making engineering and other services available to local airport authorities without charge to facilitate maintenance, operations, or construction at airports. The WVAC is also empowered to encourage and foster development of aviation and help establish airports and related facilities.

The WVAC does not have any specific marketing programs currently in place. They do maintain a statewide aviation system plan and airport directory. They also conduct an annual state aviation conference, generally held in August.

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<sup>79</sup> National Association of State Aviation Officials. 2009. "NASAO State Aviation Funding and Organizational Data Report FY 2008." Washington, D.C.

<sup>80</sup> Federal Aviation Administration. 2011. "26th Annual Report of Accomplishments." Available at: [http://www.faa.gov/airports/aip/grant\\_histories/media/FY\\_2009\\_AIP\\_Grants\\_Awarded\\_by\\_State.pdf](http://www.faa.gov/airports/aip/grant_histories/media/FY_2009_AIP_Grants_Awarded_by_State.pdf) (Accessed 26 September 2011).

## OTHER STATES

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In addition to the states surrounding Kentucky, four other states were examined to determine the type of financing employed for aviation and whether any of these strategies could be considered “innovative.” The states chosen were: Florida, Colorado, North Carolina, and Pennsylvania.

### FLORIDA

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Florida’s state funding for aviation comes from general funds, highway taxes, and aviation fuel taxes. State funding in FY 2008 totaled \$162 million, when over \$57 million in aviation fuel taxes was collected by the state. In FY 2008, the state received over \$165 million in AIP grant funds, which is larger than many of the comparison states, but valid considering the state has 21 airports with commercial service and 80 general aviation airports.<sup>81</sup> Florida taxes jet fuel and aviation gas at a rate of \$.06 per gallon with the money being used for aviation funding in the state. The sales and use tax is 6 percent and there is a fly-away exemption, but the proceeds from this tax are not used to fund state aviation.<sup>82</sup> There is no personal property tax in Florida nor are there any aircraft registration fees. Although airports are required to be licensed in Florida, the state does not charge a fee for this service. By state law, a minimum of 15 percent of state transportation trust funds dollars must be spent for public transportation, which includes aviation, transit, rail, seaports, and intermodal facilities.

### COLORADO

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Colorado funds aviation at the state level through fuel taxes and a SIB. In FY 2008, the state appropriated over \$51 million in aviation funding. The tax rates of aviation fuel vary. Jet fuel has a sales tax of 2.9 percent in addition to an excise tax of \$.04 per gallon, although the excise tax is applied only to commercial airlines. Aviation gas has an excise tax of \$.06 per gallon but no sales tax. The sales and use tax in Colorado is lower than many of the other comparison states at 2.9 percent and it is also applied only to commercial airlines.<sup>83</sup> The state does not charge registration fees or personal property taxes. The state aviation trust fund is responsible for 100 percent of aviation funds that are not appropriated from the SIB. AIP funding in FY 2008 totaled over \$100 million, which is also relatively high considering the state’s size but it does have 13 airports with commercial service and 37 general aviation airports that are eligible for AIP funds.<sup>84</sup> Colorado’s Aeronautical Board disburses much of the Aviation Fund in the form of discretionary grants to fund various projects including pavement maintenance, planning, and safety improvements.

In 2010, the Aeronautical Board appropriated nearly \$7.5 million in discretionary aviation grants, funded by aviation fuel taxes. Colorado also reimburses public use airports a portion of the fuel taxes that are collected with the reimbursement rate being \$.04 per gallon on all fuels and 65 percent of the sales tax on jet fuel. The remaining funds are used to fund the aviation division and the discretionary grant program. Another unique feature of Colorado’s funding is the SIB, which is a low interest revolving loan program established in 1999. The loans are used to support local operators of transportation facilities and aviation has benefitted as 13 airports have been loaned over \$40 million dollars.<sup>85</sup>

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<sup>81</sup> National Association of State Aviation Officials. 2009. “NASAO State Aviation Funding and Organizational Data Report FY 2008.” Washington, D.C.

<sup>82</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

<sup>83</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

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<sup>85</sup> Colorado Department of Transportation. 2010. Division of Aeronautics Annual Report. Available at: <http://www.coloradodot.info/business/budget/reports-presentation/division-of-aeronautics-reports/2010-division-of-aeronautics-annual-report.url> (Accessed 26 October 2011).

## NORTH CAROLINA

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North Carolina is a block grant state but has no aviation trust fund. Thus state funding comes entirely from general funds, which was over \$20 million in FY 2008.<sup>86</sup> AIP grants in FY 2008 were over \$100 million, but the state does have eight commercial airports and 55 general aviation airports. Its taxing structure is also one of the more complex and unique among the states. Sales and use taxes are 3 percent up to a maximum of \$1,500, while aircraft parts are taxed 4 percent at the state level and an additional 2 percent locally except for Mecklenburg County, which is at 2.5 percent. Jet fuel and aviation gas are both taxed at 4 percent by the state and 2 percent locally except for Mecklenburg County which is 2.5 percent.<sup>87</sup> North Carolina does not charge any registration fees but does charge a personal property tax that is calculated on original cost basis, assessment, and the local rate. State Aid to Airports is a program of the division. Under the terms of North Carolina General Statutes Chapter 63, “the Department of Transportation is hereby authorized to provide State aid in the forms of loans and grants to cities, counties, and public airport authorities for the purpose of planning, acquiring, constructing, or improving municipal, county and other publicly owned or controlled airport facilities, and to authorize related programs of aviation safety, promotions, and long-range planning”.<sup>88</sup> North Carolina also often requires local matching funds for state grants anywhere from 10 percent to 50 percent of project costs.

## PENNSYLVANIA

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Pennsylvania funds state aviation via fuel taxes, loans from the SIB (in FY 2008), block grants, and bonds (in FY 2008). State funding in FY 2008 was over \$38 million with AIP funding of over \$106 million.<sup>89</sup> Pennsylvania is a block grant state and of the AIP funds over \$16 million was designated to block grants. The Pennsylvania Bureau of Aviation has three total grant programs for airport development. The federal block grant program just mentioned, the state Aviation Development Program (ADP), and state Capital Budget/Transportation Assistance Program (TAP).<sup>90</sup> The block grant program funding is available only to general aviation airports, non-primary commercial airports, and reliever airports. ADP funding comes from taxes on fuel. Revenues from these taxes are deposited in the Aviation Restricted Account for the state to upgrade and build new facilities. Funds can be used to pay up to 75 percent of a project’s cost (federally eligible) or 50 percent of non-federally eligible projects. The average amount of funding through ADP is \$8 million. TAP funding is used to improve aviation infrastructure in the state. Funding comes from the general fund and projects can get up to 75 percent funding (for federally eligible projects) or 50 percent for non-federally eligible projects. Average annual TAP funding is \$10 million. Total state investment via the three grant programs is approximately \$35 million. State sales taxes of 6 percent and local taxes of 1 percent are levied on aircraft purchases while no registration fees are charged for aircraft. Airports are charged \$30 for a three year license renewal. Jet fuel taxes are \$.018 per gallon and aviation gas taxes are \$.041 per gallon with revenues from both going to aviation funding.<sup>91</sup> Pennsylvania charges no personal property taxes. The state does have an SIB, but in 2010, only one loan was made to an aviation entity and outstanding loan balances were approximately \$1 million.<sup>92</sup>

<sup>86</sup> National Association of State Aviation Officials. 2009. “NASAO State Aviation Funding and Organizational Data Report FY 2008.” Washington, D.C.

<sup>87</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

<sup>88</sup> North Carolina Department of Transportation. 2011. Airport Development and Grant Program. Available at: <http://www.ncdot.gov/aviation/programs/default.html> (Accessed 26 October 2011).

<sup>89</sup> National Association of State Aviation Officials. 2009. “NASAO State Aviation Funding and Organizational Data Report FY 2008.” Washington, D.C.

<sup>90</sup> Pennsylvania Department of Transportation. 2011. Bureau of Aviation. Available at: <http://www.dot.state.pa.us/Internet/Bureaus/pdBOA.nsf/AviationHomepage?openframeset> (Accessed 26 October 2011).

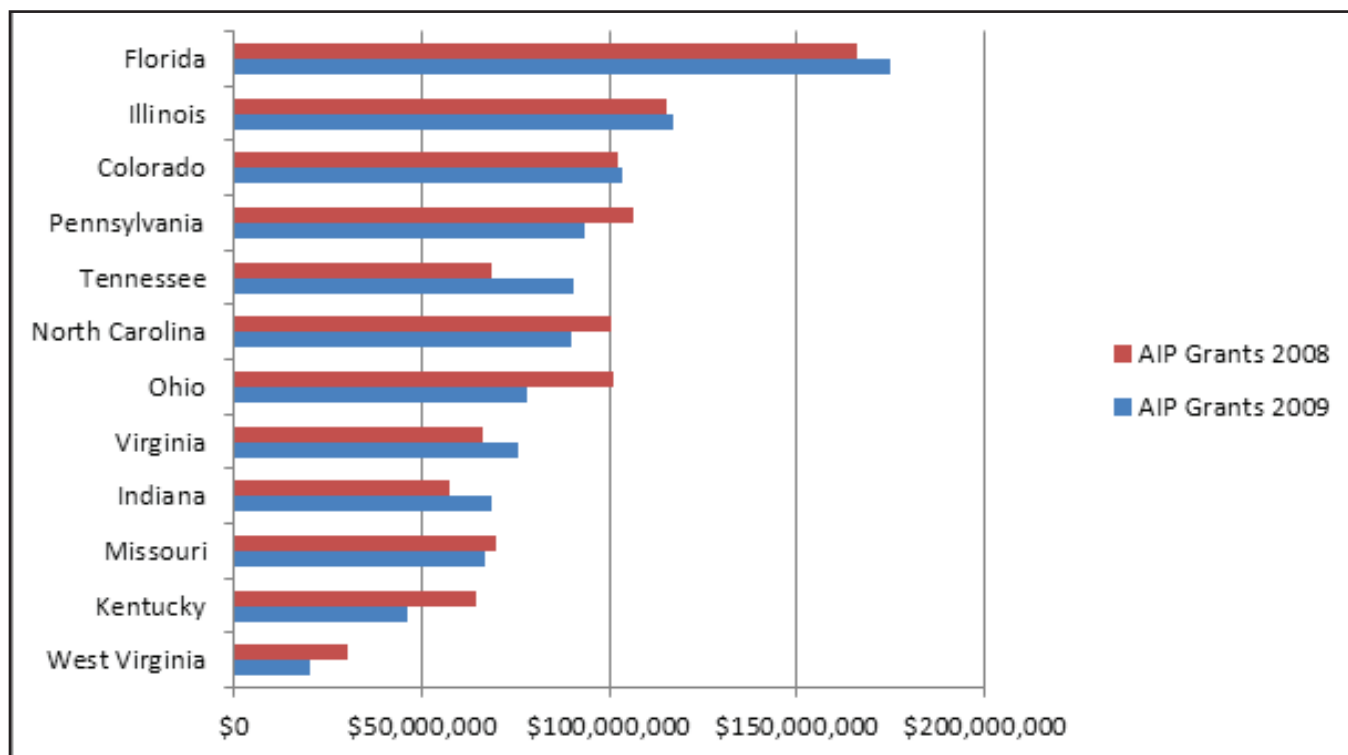
<sup>91</sup> National Business Aviation Association. 2004. “NBAA State Aviation Tax Report.” Available at: <http://www.nbaa.org/admin/taxes/state/report.php> (Accessed 18 August 2011).

<sup>92</sup> Pennsylvania Infrastructure Bank. 2010. Annual Report. Available at: <http://www.dot.state.pa.us/penndot/bureaus/pib.nsf/report?readform> (Accessed 26 October 2011).



## AVIATION SUMMARY AND OPPORTUNITIES

When it comes to leveraging AIP grant dollars, Kentucky ranks toward the bottom in the total amount of dollars received in 2008 and 2009. In fact, only West Virginia ranks lower in total AIP grants received for 2009. Also notable is the drop in the amount of AIP grants Kentucky received from 2008 to 2009. From 2008 to 2009, the amount of AIP funding for Kentucky Airports dropped over \$18 million or 29 percent. The chart below provides a pictorial view of monetary differences in AIP grants received across the seven surrounding states and four additional states selected for their innovative approaches to aviation.



**Figure 1: FY 2008 and FY 2009 AIP grants to states surveyed**

Kentucky's ability to maximize AIP grant funding is dependent on the availability of the 5 percent local match (25 percent for the largest airports in Kentucky). For most general aviation airports, the State generally provides 2.5 percent of that match while the local airport sponsors are required to provide the other 2.5 percent. Providing additional funding to maximize an airport sponsor's ability to qualify for 95 percent (75 percent) federal matching dollars would position Kentucky to make better use of federal funds.

Of the seven states surrounding Kentucky, three of them have a dedicated aviation trust fund. In Kentucky, this trust fund is called the Aviation Economic Development Fund, which is intended to serve as a repository for aviation and jet fuel tax dollars, to be spent by KYTC on aviation activities. However, for FY 2011 and FY 2012, revenues in the Aviation Economic Development Fund were included in Kentucky's General Fund and general obligation bonds were sold to cover the dollars intended for Kentucky aviation.

Kentucky and three surrounding states permit localities to charge a personal property tax on airplanes. States like Ohio, Indiana, Illinois, and Tennessee<sup>93</sup> do not charge annual personal property taxes for personal use airplanes. Anecdotal evidence suggests that residents that live near Kentucky's borders are taking advantage of other states lack of property tax by keeping their planes in hangars in those states, using those mechanics, and buying fuel in those localities.

<sup>93</sup>Tennessee does charge a personal property tax on airplanes that are used for business purposes, not personal use.

In summary, the review of how other states govern, fund, and provide technical and marketing assistance for aviation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Permit funds accrued in the Aviation Economic Development Fund be used to fund aviation activities as set forth in KRS 183.525(5) rather than selling general obligation bonds to cover aviation related costs.
- Allocating all current taxes and fees collected by the state on aviation-related activities (sales, excise, ad valorem, personal property, and aviation and jet fuel, etc.) to the state's dedicated aviation fund.
- Raising or eliminating the per carrier cap on jet fuel taxes to generate additional revenue for the state's dedicated aviation fund.
- Providing comprehensive guides for airport sponsors clearly explaining the various processes for applying for state and federal grant dollars. Tennessee, Virginia, and Missouri all provide excellent guides for their airport sponsors clearly explaining the various processes for applying for state and federal grant dollars, what types of projects are eligible to receive such funding, and where and what the state and federal dollars are funding.
- Establishing a State Infrastructure Bank (SIB) to assist in funding aviation facilities. Colorado, Pennsylvania, and Ohio have each established State Infrastructure Banks (SIBs) to assist in funding aviation facilities in their respective states. SIBs serve as revolving loan funds for states for the purposes of providing direct loan and bond financing to develop transportation facilities.

AVIATION MODE							
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	Number of Airports Eligible for AIP Funding	AIP Grants 2009	Dedicated Trust Fund for Aviation	Personal Property Tax	Block Grant State
Kentucky	Constitutional	Department of Aviation	57	\$46,048,679	Yes <sup>94</sup>	Yes	No
Illinois	No - Multimodal	Division of Aeronautics	88	\$116,902,131	No	No	Yes
Indiana	Statutory	Office of Aviation— Intermodal Division	67	\$68,872,740	No	No	No
Missouri	Constitutional	Aviation Branch— Multimodal Division	76	\$66,738,082	Yes	Yes	Yes
Ohio	Constitutional	Office of Aviation— Operations Division	100	\$77,996,323	No	No	No
Tennessee	No - Multimodal	Aeronautics Division	69	\$90,493,903	No	Yes <sup>95</sup>	Yes
Virginia	No - Multimodal	Department of Aviation	50	\$75,558,873	Yes	Yes	No
West Virginia	Constitutional	Aeronautics Commission	25	\$20,340,947	Yes	Yes	No
North Carolina	No-Multimodal	Division of Aviation	63	\$90,055,950	No	Yes	Yes
Colorado	Constitutional	Division of Aeronautics	50	\$103,741,661	Yes	No	No
Florida	No-Multimodal	Aviation Office	101	\$174,924,681	No <sup>96</sup>	No	No
Pennsylvania	Constitutional	Bureau of Aviation	72	\$93,465,541	Yes	No	Yes

<sup>94</sup> For FY 2011-2012, the dedicated funds for the Aviation Economic Development Fund were placed in the Kentucky General Fund and bonds we sold in the same amount to fund Kentucky Aviation.

<sup>95</sup> Tennessee Property tax on Aviation is only on airplanes that are for business use

<sup>96</sup> All sales from jet fuel and aviation fuel are utilized to fund aviation but it is not technically a dedicated trust fund.

## CHAPTER 3: PUBLIC TRANSPORTATION

### KENTUCKY PUBLIC TRANSPORTATION OVERVIEW

Public transportation in Kentucky is administered by the Office of Transportation Delivery (OTD), which is a unit of the Kentucky Transportation Cabinet (KYTC). Three large urbanized areas (population greater than 200,000) are served by mass transit authorities. In addition to these large urban public transportation systems, Kentucky also has a number of smaller urban bus and rural paratransit, demand response and intercity systems.

The major source of financial support for Kentucky's public transportation comes from the Federal Transit Administration (FTA). When it comes to state funding, Kentucky ranks the lowest when compared to its seven adjacent states in terms of both dollars per capita and total dollars provided for FY 2009. At \$0.37, Kentucky provided less than a third per capita than the next lowest state, Missouri at \$1.15. Illinois provided the highest funding per capita at \$44.04 per person. At \$1.6 million, Kentucky ranked last of the eight states with funding levels slightly higher than half of the next lowest state, West Virginia at \$3 million. Illinois again was the highest, allocating \$568.6 million toward public transportation.

The non-public school transportation program in Kentucky receives nearly two-thirds (\$2.95 million) of the total general revenue funds (\$4.57 million) enacted for allocation to public transportation. Public transportation systems only receive the remaining \$1.6 million.

### Historical Context

Public transportation is valued for its contributions to the economic vitality and social well-being of communities. It increases the overall mobility of citizens and promotes connectivity among the different transportation modes. For low-income and mobility restricted Americans, public transportation provides a way to get to work, to access health care, to go shopping, and get around town. Effective public transportation systems reduce vehicle miles traveled (VMT) in automobiles, alleviate congestion, and reduce the overall environmental impact of the transportation network. Public transportation providers come in all shapes and sizes, from large regional intermodal systems encompassing bus, light rail, heavy rail, intercity and para-transit services, all the way down to small, rural non-profit systems providing transportation services for elderly or disabled Americans.

Like many public agencies, public transportation providers have been adversely affected by the last few years' economic downturn. In states where public transportation is funded through general revenues, the availability of funds has often been limited. In states where public transportation is funded directly through a sales tax, revenues have declined due to the overall decrease in consumer spending. At the same time, operating costs have increased significantly as the price of fuel and health insurance has risen.

Despite these funding limitations, public transportation ridership has increased in nearly every sector. According to records compiled by the American Public Transportation Association (APTA) for the first half of 2011<sup>97</sup>, ridership increased nationwide by 1.7 percent, an increase of 85.7 million trips. Passenger rail (light rail and heavy rail combined) ridership was up 3.7 percent. Bus ridership overall increased slightly, but for smaller cities (population below 100,000) it increased by 4.8 percent and for mid-sized cities (population 100,000 - 500,000) it increased by 4.0 percent. Demand response para-transit ridership also increased by 3.6 percent.

Public transportation is becoming an increasingly vital service in both urban and rural areas due to the general "aging" of the American population. A large cohort of Americans, dubbed the baby boomer generation, are approaching retirement age, an age where a larger percentage of citizens rely on public transportation for medi-

<sup>97</sup> APTA. 2011. *Transit Ridership Report: 2nd Quarter 2011*. Available at <http://www.apta.com/resources/statistics/Documents/Ridership/2011-q2-ridership-APTA.pdf> (downloaded 31 October 2011).

cal and human services transport as well as for general mobility. Additionally, life expectancy for Americans continues to increase, meaning more Americans will rely on public transportation for longer periods of their lives.

### *Funding for Public Transportation*

In 1964, the Federal Urban Mass Transportation Act established federal funding for urban public transportation systems in the form of matching funds to states and cities, and the Urban Mass Transportation Administration was created (later becoming the Federal Transit Administration). This 1964 Act was amended in 1978 by the Surface Transportation Assistance Act which authorized federal funding for rural and small urban public transportation systems. Currently federal public transportation funding is authorized by the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Every state receives FTA dollars through formula-based funding programs. Additionally, FTA has several discretionary competitive grant programs which provide project funding. All FTA funding programs require a local match in funds. Nearly every state contributes state dollars to help supply the local match for one or more FTA programs. Doing so enables states to leverage federal funding and maximize the financial impact toward the provision of public transportation. Listed and described below are all of the formula-based FTA funding programs as well as the most common discretionary grant FTA programs for the states reviewed in this report.

### Metropolitan and Statewide Planning (49 U.S.C. 5303, 5304)

This formula program provides funding to support cooperative, continuous, and comprehensive planning for communities at the metropolitan and state level. Funds are first apportioned to state Departments of Transportation (DOT) based on a formula that accounts for the state's urbanized area population as well as other factors. State DOTs subsequently allocate the funds by formula to Metropolitan Planning Organizations (MPOs) that administer urban and transportation planning for urbanized areas of population 50,000 or greater. Eligible activities for these funds include those that promote economic development; enhance the safety, security, connectivity, efficiency, accessibility, or preservation of the transportation system; and/or promote energy conservation or lessen the environmental impact. Funds are available at a matching rate of 80 percent federal and 20 percent local.

### Urbanized Area Formula Program (49 U.S.C. 5307)

This program provides funding for transit capital investments, operating assistance, and transportation related planning for public transportation providers in urbanized areas of population 50,000 or more. For urbanized areas between populations of 50,000 and 199,999, the Governor or Governor's designee (generally the state agency responsible for administering public transportation) is the recipient of these funds, which are distributed by formula that accounts for population and population density. For urbanized areas of population 200,000 or more, funds flow directly to the local designated recipient (generally the public transportation authority of the urbanized area). The formula for allocating these funds accounts for bus revenue vehicle miles, bus passenger miles, fixed guideway revenue vehicle miles, and fixed guideway route miles as well as population and population density. Funds for operating assistance are provided at a 50 percent federal and 50 percent local match. Funds for capital projects are provided at an 80 percent federal and 20 percent local match.

### Capital Investment Program (49 U.S.C. 5309)

This discretionary competitive program provides funding assistance for three types of transit activities: new and replacement buses and bus facilities, modernization of existing rail systems, and new fixed guideway systems. Eligible recipients vary slightly by project type, but generally include public bodies and agencies, private companies engaged in the provision of public transportation, and certain public corporations, boards and commissions established under state law. Historically, applicants have requested appropriation earmarks from their respective Congressional representatives, and the program has been fully earmarked. With the recent elimination of federal earmarks, these grants are now fully competitive and discretionary. Funds are approved at an 80 percent federal and 20 percent local match.

### Transportation for Elderly Persons and Persons with Disabilities (49 U.S.C. 5310)

This formula program provides funding assistance toward the provision of public transportation for older adults and individuals with disabilities in areas where the transportation service provided is unavailable, insufficient, or inappropriate to meeting the needs. Each state is the recipient of these funds, which are distributed by formula accounting for the state's share of population for these groups of people, and the state is responsible for administering and allocating the funds to transportation providers. Eligible sub-recipients are private nonprofit agencies and public entities approved by the state to coordinate transportation services for elderly persons and persons with disabilities. Funds, which are provided at an 80 percent federal and 20 percent local match, are to be used for capital expenses such as the purchase of vehicles and other related equipment.

### Formula Grants for Other than Urbanized Areas (49 U.S.C. 5311)

This program provides funding assistance for the provision of public transportation services in rural areas (population less than 50,000). Projects funded by Section 5311 should help meet the transportation needs of rural transit-dependent individuals by making available transportation opportunities for health care, shopping, education, employment, social services and recreation. State agencies responsible for administering public transportation are generally the designated recipient and administrator of Section 5311 funds, as designated by the Governor of each state. Funds are allocated by statutory formula that accounts for the non-urbanized population of each state (80 percent) and land area (20 percent) - though no individual state may receive more than 5 percent of the amount apportioned for land area. For capital projects, funds are provided at 80 percent federal and 20 percent local; for operating assistance, funds are provided at 50 percent federal and 50 percent local.

- FTA regulations require that 15 percent of Section 5311 funds be dedicated toward Intercity Bus Transportation - Section 5311(f). Emphasis is placed on providing public transportation from rural areas to nearby urbanized areas, as well as connecting rural areas to other modes of transportation, such as passenger rail, bus, and air transportation.
- To help implement Section 5311 programs, FTA also funds for each state a Rural Transportation Assistance Program (RTAP) – Section 5311(b). This program provides funding assistance for training and technical assistance projects tailored to the need of transit operators in rural areas. Funds are distributed by formula, where each state first receives \$65,000, each U.S. territory receives \$10,000, and the remaining balance is allocated by formula that accounts for the non-urbanized population of each state.

### Job Access and Reverse Commute Program (49 U.S.C. 5316)

This formula program provides funding assistance for projects that assist low-income individuals in accessing work and work-related opportunities. This often entails transporting residents of either inner-city urban or rural locales to suburban employment opportunities. For non-urban and small urban areas (population less than 200,000), states are the recipient and administrator of these funds. Eligible sub-recipients are private non-profit organizations, local governments, and operators of public transportation services. For large urbanized areas (population 200,000 or more), the designated recipient administers and receives these funds. 5316 funds are apportioned by formula: 60 percent to large urbanized areas; 20 percent to small urbanized areas; and 20 percent to non-urban areas. Among recipients, funds are apportioned based on the ratio of eligible low-income and welfare recipients for each area compared to the total of such residents in all areas. For capital projects, funds are provided at 80 percent federal and 20 percent local; for operating assistance, funds are provided at 50 percent federal and 50 percent local.

### New Freedoms Program (49 U.S.C. 5317)

This formula program provides funding assistance toward the provision of public transportation services for Americans with disabilities beyond those required by the Americans with Disabilities Act (ADA) of 1990. Allocation of Section 5317 funds is the same as those for Section 5316 in terms of eligible recipients, formula used for distribution, and federal share and local matching requirements.

Outside of these FTA funding programs, there are a number of other federal programs which provide funding and/or project financing. Public transportation providers in urbanized areas can apply for flexible funds such as Congestion Mitigation and Air Quality (CMAQ) grants and Surface Transportation Program (STP) funds. Since passage of the American Recovery and Reinvestment Act (ARRA) in 2009, FTA has approved over a thousand grants totaling over \$8 billion in funding through this program.<sup>98</sup> A number of innovative financing programs are also available through the federal government, including Grant Anticipation Notes (GANS), and Transportation Infrastructure Finance and Innovation Act (TIFIA) program loans.

In addition to the federal funding programs, public transportation systems often receive local funding. Most states have statutory authorization for the formation of transit authorities by local governing bodies. Though the details of this authorization vary by state, they generally include some measure by which transit authorities can secure local funding contributions. In many instances, transit authorities are authorized to levy a municipal tax if approved by voter referendum. Additionally, in most cases transit authorities are authorized to issue revenue bonds.

For public transportation systems not established as transit authorities, local contributions may be acquired from general revenue funds of counties or cities, though this is certainly not the case for all systems. For small operators, especially those that primarily focus on transportation services for elderly or disabled persons, local funding may be in the form of specific grants or charitable contributions.

The other prominent source of local funding is at the state level. The following modal section analyzes how public transportation is funded at the state level in Kentucky as well as the seven adjacent states of Illinois, Indiana, Ohio, Missouri, Tennessee, Virginia and West Virginia. Other non-adjacent states that offer unique and innovative governance and funding programs for public transportation are also examined. These states are: California, Oregon, and Pennsylvania. This section concludes by reviewing the status of public transportation funding in Kentucky as it compares to the other states included, and it highlights some of the more notable or innovative funding programs currently being implemented.

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<sup>98</sup> FTA. 2011. *The American Recovery and Reinvestment Act (ARRA)*. Available at <http://www.fta.dot.gov/grants/12835.html> (last accessed 31 October 2011).

# KENTUCKY

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## State Governance, Ownership, and Regulation

In Kentucky, public transportation is administered by the Office of Transportation Delivery (OTD), a unit within the Kentucky Transportation Cabinet (KYTC). The mission statement of KYTC/OTD is to “provide a safe, efficient, environmentally sound and fiscally responsible transportation system that promotes economic growth and enhances the quality of life in Kentucky.”<sup>99</sup> In carrying out this mission, KYTC/OTD seeks to maximize the benefits of FTA funding programs that enhance mobility options for business, commercial, educational and other activities related to economic development.

Pursuant to the provisions of Title 49 U.S.C. 5310, 5311, 5316, 5317, 5307, 5309, the Governor of Kentucky has designated KYTC/OTD as the administrator of applicable Federal Transit Administration (FTA) funding programs.<sup>100</sup> As administrator, KYTC/OTD reviews and selects applicants for funding, monitors compliance with FTA requirements, and oversees project activity. KYTC/OTD is also responsible for the following:<sup>101</sup>

- Developing and implementing public transportation programs throughout the state;
- Ensuring adherence to federal program guidelines by all sub-recipients through periodic monitoring and oversight;
- Notifying eligible and/or potential local entities of the availability of programs;
- Developing project selection criteria;
- Soliciting applications;
- Ensuring fair and equitable distribution of program funds;
- Ensuring the maximum feasible coordination of transit resources at both the state and local levels; and
- Ensuring a process whereby private transit and para-transit operators are provided an opportunity to participate to the maximum extent feasible.

In 1970, the Kentucky General Assembly enacted KRS Chapter 96A, which authorized the formation of Mass Transit Authorities by local governing bodies for the purpose of providing public transportation services for the communities. The legislation also authorized and defined how the mass transit authorities could be municipally funded. As defined by KRS Chapter 96A, Mass Transit Authorities are authorized to issue bonds for capital expenses. They are also authorized to receive tax revenue from municipalities to support their services, but only if approved by voter referendum. Potential forms of municipal taxation include<sup>102</sup>:

- “An ad valorem tax levy expressed as a certain maximum number of cents per each one hundred dollars (\$100) of assessed valuation, subject to constitutional limits”
- “An occupational license tax, subject to the limitations of KRS 96A.310 to 96A.370”
- “A sales tax upon all retailers at a rate not to exceed one-half of one percent (0.5 percent) of the gross receipts of any retailer derived from “retail sales” or “sales at retail” as defined in KRS Chapter 139”

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<sup>99</sup> KYTC. 2011. *Kentucky State Management Plan*. Available at <http://transportation.ky.gov/Transportation-Delivery/Documents/State%20Management%20Plan.pdf> (downloaded 12 September 2011).

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> Commonwealth of Kentucky. 1990. *KRS Chapter 96A.330*. Available at <http://www.lrc.ky.gov/KRS/096A00/330.PDF> (downloaded 20 October 2011).



Three large urbanized areas (population greater than 200,000) in Kentucky are served by Mass Transit Authorities:

Transit Authority of the River City (TARC): TARC is the public transportation authority for Louisville, the largest urbanized area in the Commonwealth. TARC began operations in 1974, the same year voters in Jefferson County approved a referendum to support the Transit Authority financially by enacting a 0.2 percent share of the Jefferson County Occupation Tax.<sup>103</sup> Revenues from the tax are placed into the Mass Transit Trust Fund (MTTF) for use toward both capital costs and operating expenses.<sup>104</sup> TARC also receives funding from the state of Indiana for providing public transportation in Indiana's part of the Louisville metropolitan area. TARC provides bus services in five counties: Jefferson, Bullitt, and Oldham in Kentucky; and Clark and Floyd in Indiana.

Transit Authority of Lexington (Lextran): Lextran began operations in 1973 after being incorporated under KRS 96A as the Transit Authority of the Lexington-Fayette Urban County Government (LFUCG). Lextran is supported by a .06/\$100.00 tax on assessed property values in Fayette County that was passed by voter referendum in 2004. Before 2004, Lextran received funding assistance directly from LFUCG general revenue funds. Because Lextran is supported by a Fayette County property tax, it may only provide transportation services within the county.

Transit Authority of Northern Kentucky (TANK): Three counties in Northern Kentucky – Boone, Kenton, and Campbell – are included as part of the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), and this agency administers public transportation programs for the Cincinnati metropolitan area. Since 1973, public transportation for the three Northern Kentucky counties has been provided by TANK. The system has been publicly funded by the three counties since 1978 when the initiative passed by voter referendum. In Kenton and Campbell Counties, funding was approved through an occupational license fee.<sup>105</sup> Boone County voters approved funding from general revenue funds. Each county contributes a share of TANK's annual budget, and the share is calculated from a formula that accounts for hours and miles of service, and population within a half-mile of service routes. TANK operates bus routes within the three counties and also connecting routes to downtown Cincinnati.

In addition to these large urban public transportation systems, Kentucky also has a number of smaller urban and rural transit systems. The small urban systems include ones in Ashland, Berea, Clarksville (TN), Danville, Frankfort, Glasgow, Bowling Green, Henderson, Murray, Maysville, Morehead, Owensboro, Oldham County, Paducah, Richmond, and Winchester. The majority of these systems, with a few exceptions, do not have dedicated local funding. The rural systems include specialized transportation services for elderly and disabled persons, demand response public transportation services and intercity public transportation. These services are available in most counties within Kentucky and are provided by various transportation agencies.

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<sup>103</sup> Louisville/Jefferson County Metro Revenue Commission. 2008. *Regulations of the Louisville/Jefferson County Metro Revenue Commission*. Available at <http://www.louisvilleky.gov/NR/rdonlyres/AFF68006-468C-4C3F-A326-9FEC8C15D334/0/regulations.pdf> (downloaded 18 October 2011).

<sup>104</sup> TARC. 2008. *Long Range Plan Update*. Available at <http://www.ridetarc.org/inside-tarc/long-range-plan.asp> (downloaded 19 October 2011).

<sup>105</sup> Campbell County, Kentucky. 2011. *Occupational License Tax*. Available at <http://www.campbellcountyky.org/images/stories/OccTax/camp11.pdf> (downloaded 1 November 2011).

## Financial Assistance

In fiscal year 2009, Kentucky allocated \$1.58 million toward public transportation, which translated to approximately \$0.37 per capita.<sup>106</sup> State funding is uneven from year to year, and the 2009 allocation represented a slight increase from the \$1.4 million allocation in 2005. Kentucky is bound by a constitutional dedication of fuel taxes for highway purposes only; public transportation funds largely come from the state's general revenue funds.

Within Kentucky's Biennial Budget for 2010-2012, total state general revenue funds enacted for allocation to public transportation in 2011 are \$4.57 million dollars.<sup>107</sup> However, subtracted from this sum are \$2.95 million dollars assigned to the Nonpublic School Transportation program. After this subtraction, public transportation systems in Kentucky are left with less than half - \$1.62 million - the total sum enacted for allocation.

Since 1976, Kentucky's primary funding program for public transportation has been the Kentucky Public Transportation Capital Improvement Program. As part of the annual state budgeting process, general revenue funds are appropriated by the Kentucky General Assembly and made available to KYTC/OTD as a match to FTA capital grants. All public transportation systems in Kentucky are requested to review their capital equipment needs for the coming three-year period and submit them to the state as part of a Transportation Improvement Program.<sup>108</sup> To date, KYTC/OTD has not made available state funds for operating costs.<sup>109</sup>

Kentucky primarily avails state funds for public transportation in the form of a state match of capital expenditures under FTA funding program Sections 5307, 5308, 5309, 5310, 5311, 5316, 5317. These programs are funded at 80 percent federal and 20 percent local; Kentucky will provide up to 10 percent of the local share depending on the availability of funds. The source of local matching funds for sub-recipients may arise from unrestricted federal funds, county and city allocations, service contracts, dedicated tax revenues, private donations, and net income generated from advertising, concessions, and incidental charter service income. A sub-recipient may also request a toll credit match up to 20 percent for capital expenditures. Toll credits are credits earned by states that have constructed state roads with state dollars to federal interstate specifications. Since 2002, Kentucky has been using toll credits in lieu of actual state dollars to match federal dollars for some eligible programs, including FTA funding programs for public transportation. Toll credits enable the state to leverage federal dollars without actually contributing funds to the programs. Recipients, however, do not receive the full value of the funding programs. For example, the recipient of a grant that is 80 percent federal dollars and 20 percent state toll credits only receives the 80 percent federal share in actual dollars; the 20 percent is a credit only and no actual dollars are contributed to the project. Kentucky's allotment of toll credits are rapidly being used up to match federal funding for transportation projects throughout the state, and it is anticipated that they will be completely gone within two to three years.

Aside from FTA funding programs to which KYTC/OTD matches funds, KYTC/OTD may also approve FTA applications from sub-recipients who provide the entire 20 percent required local match of capital and a 50 percent local match of operating and administrative expenditures without contributing state funds. Contract revenue or revenues received from human service delivery may be used to match program funding.

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<sup>106</sup> AASHTO. 2011.

<sup>107</sup> Commonwealth of Kentucky. 2011. *2010-2012 Budget of the Commonwealth*. Available at <http://www.osbd.ky.gov/NR/rdonlyres/4C8577D6-9974-490F-8748-C06CEAC64E45/0/1012BOCVolumeI.pdf> (downloaded 1 November 2011).

<sup>108</sup> Kentuckiana Regional Planning and Development Agency (KIPDA). 2010. *FY 2011 - FY 2015 Transportation Improvement Program*. Available at [http://www.kipda.org/files/PDF/Transportation\\_Division/TIP/FY2011to-FY2015/01\\_TitleTOCIntroProcessFundingAQ.pdf](http://www.kipda.org/files/PDF/Transportation_Division/TIP/FY2011to-FY2015/01_TitleTOCIntroProcessFundingAQ.pdf) (downloaded 17 October 2011).

<sup>109</sup> KYTC. 2011

State funds are distributed on a discretionary basis and are to be used exclusively for capital expenses. In distributing the funds, KYTC/OTD is assisted by regional transportation coordinators. The selection and review process involves the Area Coordinator, Project Manager/Internal Policy Analyst, and the Public Transit Branch Manager/Staff Assistant, with final approval provided by the Executive Director of OTD. Priority in funding is given in the following order: elderly and handicapped program, rural program, small urban systems, and large urban areas. Along with these criteria, projects submitted by eligible sub-recipients are also evaluated based upon the following items:

1. The need for the service(s)
2. Maintenance of Effort (MOE), fair and equitable
3. Efforts at coordination
4. Financial and management capabilities, (unspent grants)
5. Locally developed Coordinated Plan Project Rankings
6. Quality of the operating plan, ridership projections and the amount of local support
7. Correlate with regional coordination plan implementation strategies
8. Address gaps in current service provisions for targeted communities
9. Make use of available resources and leverage resources to the extent possible
10. Facilitate coordination across public-private, inter-agency and geographic boundaries
11. Coordinate with other Federal and/or state programs

#### **Technical and Marketing Assistance**

KYTC/OTD is the designated recipient and administrator of Kentucky's Rural Transit Assistance Program (RTAP). Kentucky's RTAP is comprised of a committee of transit officials and professionals who meet once a year to allocate funds to eligible transit agencies for approved RTAP projects. RTAP funds can be used to provide training and technical assistance with OTD staff, to acquire training and technical assistance from outside sources, and to develop local capabilities for self-help.<sup>110</sup> In fiscal year 2008, Kentucky's RTAP dedicated 72 percent of its funding toward driver training and passenger assistance, 20 percent of its funding toward support services, and the remaining 8 percent toward technical assistance.

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<sup>110</sup> Ibid.

### **State Governance, Ownership, and Regulation**

Public transportation in Illinois is administered by the Division of Public and Intermodal Transportation (DPIT), an agency within the Illinois Department of Transportation (IDOT). DPIT's mission is to "support public and specialized transportation throughout Illinois by providing technical support and financial resources to local governments, public and specialized transportation operators, and rail operators."<sup>111</sup> DPIT supports programs that enhance the transportation network's intermodal, interconnectedness, and efficient movement of people, goods and services.

The Governor of Illinois has designated IDOT as the agency responsible for receiving and administering FTA funding programs (authorized for FTA Section 5310 by 20 Illinois State Code 2705 et. seq.; and for FTA Section 5311 by 30 Illinois State Code Section 740/1 et. seq.).<sup>112</sup>

DPIT's functions are divided into several programs that operate throughout the state:

- **Northeastern Illinois Program:** Administer and provide grant assistance for capital and operating funding for the Regional Transportation Authority (RTA). The RTA was established in 1974 and includes Cook, DuPage, Kane, Lake, McHenry and Will Counties of the Chicago metropolitan area. The RTA consists of three transit systems: Chicago Transit Authority (CTA) bus and rail, Metra commuter rail, and Pace suburban bus and regional para-transit. In all, the RTA is the third largest public transportation system in the U.S.<sup>113</sup>
- **Downstate Area Programs:** Administer and provide grant assistance for capital and operating funding for downstate (non-Chicago metropolitan area) urban and rural public transportation systems; also administers the Statewide Consolidated Vehicle Procurement Program.
- **Railroads:** Administer both freight and passenger rail programs and include passenger and high speed rail capital projects and operating assistance for Amtrak service. The state of Illinois has the second most extensive intercity passenger rail system in the country, second only to California.
- **Program Support:** Includes participation in regional and statewide planning efforts, research, and technical reviews.
- **Administrative Support:** Maintains DPIT's operating budget, provides accounting assistance for DPIT programs, and administers financial compliance reviews.

The Local Mass Transit District Act authorized the formation of local transit authorities for the purpose of administering and providing public transportation services.<sup>114</sup> Transit Districts formed under this legislation are empowered to issue revenue bonds and receive revenues through local taxation.

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<sup>111</sup> Illinois Department of Public and Intermodal Transportation website: <http://www.dot.il.gov/dpit/index.html> (last accessed 5 October 2011).

<sup>112</sup> IDOT. 2001. 5310/5311 *Grant Management Manual*. Available at <http://www.dot.il.gov/dpit/SFX1A55.pdf> (downloaded 22 August 2011).

<sup>113</sup> RTA. 2010. *Regional Transportation Authority 2010 Popular Annual Financial Report*. Available at [http://www.rtachicago.com/images/stories/final\\_RTa\\_imgs/2010%20Annual%20Report\\_web.pdf](http://www.rtachicago.com/images/stories/final_RTa_imgs/2010%20Annual%20Report_web.pdf) (downloaded 5 October 2011).

<sup>114</sup> Illinois General Assembly. 1981. *Local Mass Transit District Act*. Available at <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=983&ChapterID=15> (last accessed 5 October 2011).

## Financial Assistance

In fiscal year 2009, Illinois allocated \$568.6 million toward public transportation, which translated to approximately \$44.04 per capita.<sup>115</sup> The 2009 allocation represented a 21 percent increase from the 2000 total of \$467.6 million. Though Illinois is not bound by a constitutional or statutory dedication of fuel tax revenues exclusively to highway and road purposes, public transportation is primarily funded from general revenue funds and localized sales taxes. The amount available each year is determined through the legislative process. State funds may be applied toward operating costs, debt service on capital bonds, and reduced fare reimbursement.

In 2009, the Public Transportation Fund allocated \$302.2 million to the Northeast Illinois Regional Transportation Authority (RTA)<sup>116</sup>; these funds were dedicated toward the Chicago Transit Authority's (CTA) operating costs. The RTA has a minimum fare box recovery rate of 50 percent. It receives general revenue funds as a match equal to 25 percent of the RTA sales taxes collected in Northeastern Illinois (1.25 percent in Cook County and 0.75 percent in the other counties). CTA also receives revenue through a Real Property Transfer Tax (Section 3-33 of the Chicago Municipal Code); \$1.50 of the \$5.25 per \$500.00 of the transfer price is dedicated for transit funding.<sup>117</sup> In 2010, Governor Quinn dedicated state funds to pay debt service for two years on new RTA issued bonds for capital projects. This enabled RTA to dedicate more of its existing funds toward operating costs and avoid any fare increases for the public.

The Downstate Operating Assistance Fund provides up to 65 percent of operating expenses for transit systems outside the Metro East Area.<sup>118</sup> The Metro East transit system, which includes Illinois counties within the St. Louis metropolitan area, receives general revenue funds equal to 80 percent of 2/32 of the sales taxes collected in the region. Other eligible downstate transit systems outside the Metro East area receive 80 percent of 3/32 of the sales taxes collected in those areas, up to 65 percent of the operating budgets.

The State Reduced Fare Program reimburses transit systems for revenue lost by providing reduced (or in some cases, eliminated) fares to students, the elderly and persons with disabilities. This program is funded from general revenue funds as part of the broader Public Transportation program.

Public transportation capital projects in Illinois are funded primarily by state issued Series B bonds. Revenue from bonds sales fund capital investments for public transportation operators and municipalities throughout the state. Capital projects not eligible for funding through the issuance of Series B bonds receive contributions from the state general funds<sup>119</sup>.

As part of the Illinois Jobs Now! initiative, Governor Quinn and the Illinois Assembly authorized \$2 billion for transit infrastructure improvement projects statewide beginning in 2010.<sup>120</sup> Of this, \$200 million is divided between downstate transit systems and intercity passenger rail systems. These funds are applied as local matches to federal funds toward facility improvement projects. The remaining \$1.8 billion is to be used by the RTA for infrastructure improvements for the CTA, Metra, and Pace. In addition to these funds, the Illinois Jobs Now! program also dedicates \$150 million to Amtrak and \$400 million to high speed rail initiatives (including a high-speed passenger rail line connecting Chicago and St. Louis).

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<sup>115</sup> AASHTO. 2011.

<sup>116</sup> Ibid.

<sup>117</sup> City of Chicago. 2011. *Real Property Transfer Tax*. Available at [http://www.cityofchicago.org/city/en/depts/rev/supp\\_info/tax\\_list/real\\_property\\_transfertax.html](http://www.cityofchicago.org/city/en/depts/rev/supp_info/tax_list/real_property_transfertax.html) (last accessed 22 August 2011).

<sup>118</sup> Ibid.

<sup>119</sup> IDOT. 2010. *Governor Pat Quinn Proposes FY 2011-2015 Public Transportation Improvement Program*. Available at <http://www.dot.state.il.us/opp/2011-2015%20PTIP/2011program.pdf> (downloaded 22 August 2011).

<sup>120</sup> IDOT. 2011. *Illinois Department of Transportation 2010 Annual Report: The Road Forward*. Available at <http://www.dot.il.gov/annualreport/fy2010areport.html> (downloaded 22 August 2011).

### **Technical and Marketing Assistance**

The Illinois Rural Transit Assistance Center (RTAC) is located at Western Illinois University and is under contract with IDOT and DPIT to operate the FTA funded Rural Transit Assistance Program (RTAP) under Section 5311(b).<sup>121</sup> RTAC provides assistance toward transit program development, implementation and delivery, as well as other functional areas such as marketing and promotion, accounting and reporting, coordination, and personnel and labor relations. RTAC also provides training for drivers and operators. RTAC activities include management conferences, maintenance workshops, a toll-free telephone line, the RTAP lending library, a seasonal newsletter, site visits, driver trainings, and technical assistance.

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<sup>121</sup> IDOT. 2001.

## State Governance, Ownership, and Regulation

In Indiana, public transportation is administered by the Office of Transit (OT), a unit within the Indiana Department of Transportation's (INDOT) Local Programs Division. This division also oversees the Rail and Aeronautics sections. The OT is responsible for administering both federal and state transit assistance programs. The goal of the OT is "to furnish reliable, safe, and efficient public transit services and enhance personal mobility throughout Indiana's urban and rural areas."<sup>122</sup> The Governor of Indiana has designated the Indiana Department of Transportation (INDOT) as the agency responsible for administering Indiana's allocation of FTA program funds.

Public transportation in Indiana is comprised of sixty-seven urban and rural public transit systems. These are divided into four groups, based on total vehicle miles provided, level of urbanization for the service area, and proportion of fixed-route to demand response services:

- Large Fixed Route systems: Eight public transportation systems are included in Group One. These systems average more than one million total vehicle miles per year and more than 50 percent of this total is provided on fixed route systems. Transit systems in this group provide service to more than 1.6 million residents, approximately 27 percent of the state's population. These include Regional Transportation Authorities established under Section 36-9-3 of the Indiana Code.<sup>123</sup>
- Small Fixed Route systems: Ten public transportation systems are included in Group Two. These average less than one million total vehicle miles per year and more than 50 percent of this total is provided on fixed route systems. Group Two systems provide service to more than 493,000 residents, approximately 8 percent of the state's population.
- Urban Demand Response systems: Five public transportation systems are included in Group Three. These systems operate in urbanized areas of 50,000 residents or more, and more than half of their total vehicle miles are provided by demand response or deviated fixed route service. Group Three systems provide service to more than 651,000 residents, approximately 11 percent of the state's population.
- Rural Demand Response systems: Forty-three public transportation systems comprise Group Four. These systems exist in either urbanized areas of less than 200,000 residents or rural county-wide and multi-county systems of varying population sizes. More than half the total vehicle miles of these systems are provided by demand response and deviated fixed route services. Group Four systems provide service to more than 2.16 million people, approximately 36 percent of the population.

In addition to these urban and rural public transit systems, the Office of Transit also oversees the Northern Indiana Commuter Transportation District (NICTD). The NICTD operates the South Shore Line commuter rail service between South Bend, Indiana and Chicago, Illinois.

## Financial Assistance

In fiscal year 2009, Indiana allocated \$55.5 million toward public transportation, which translated to approximately \$8.63 per capita.<sup>124</sup> Yearly allocations typically rise and fall depending on the relative health of the state's economy. The \$55.5 million allocated in 2009 represented a slight decrease from the 2008 allocation of \$55.7 million.

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<sup>122</sup> INDOT. 2010. *Indiana Public Transit Annual Report: 2009*. Available at <http://www.in.gov/indot/2826.htm> (downloaded 29 August 2011).

<sup>123</sup> State of Indiana. 2011. *Regional Transportation Authorities*. Available at <http://www.in.gov/legislative/ic/code/title36/ar9/ch3.html> (last accessed 29 August 2011).

<sup>124</sup> AASHTO. 2011.

Historically, the primary source of state funding for transit has been the Public Mass Transportation Fund (PMFT). Until 2011, the PMFT received 0.67 percent of the state sales and use tax.<sup>125</sup> However, HB 1001 passed by the Indiana General Assembly in 2011 effectively eliminated the PMFT and its statutory dedication of sales tax revenues. Going forward, funding for public transportation will be determined by a line item in the state annual budget.

Distribution of public transportation funds from the PMFT are allocated to agencies on a formula basis that accounts for yearly passenger trips, total vehicle miles, and Locally Derived Income (LDI). In 2009, the PMFT accounted for \$50.2 million in funding for the 67 transit systems in Indiana.<sup>126</sup>

As a component of the PMFT formula, LDI serves as a measure of local commitment to financially supporting transit systems. LDI is calculated based on system revenues (including fares, charter, advertising proceeds, and any other non-transportation revenues), locally levied taxes that benefit transit systems, and any other type of locally derived financial assistance (local cash grants and reimbursements, general funds, bank building and loan funds). For each transit agency in the state, yearly PMFT funding is limited to an amount 100 percent equal to the agency's LDI or the system's total allocation, whichever is less.<sup>127</sup>

In addition to the funding for general public transportation, Indiana also designates special funding programs exclusively for commuter rail services. Established under Section 8-5-15 of the Indiana Code, The Electric Rail Service Fund is generated from property tax on a railroad company's distributable property that operates within a commuter transportation district. This particular fund is only eligible to systems where the majority of the service is performed by electrical powered railroads. In 2009, the Northern Indiana Commuter Transportation District (NICTD) was the only system to receive these funds, which totaled \$137,294.<sup>128</sup>

The Commuter Rail Service Fund (CRSF) supports commuter rail systems in the state and is comprised of two distinct forms of state taxes. Under Section 8-5-15 of the Indiana Code, the CRSF receives 0.123 percent of the state's general sales and use tax revenue, which is distributed to commuter transportation districts to be used for maintenance, improvement, and operations of commuter rail service. In 2009, this totaled \$7.7 million. Under Section 6-1.1-8 35 of the Indiana Code, the CRSF also receives situs tax on distributable property of railroad car companies. These funds are distributed to commuter transportation districts to be used for debt maintenance or for capital expenditures. In 2009, this totaled \$5.1 million. As of 2009, the Northern Indiana Commuter Transportation District received all CRSF allocations, as it was the only eligible entity.<sup>129</sup>

### **Technical and Marketing Assistance**

The Indiana Department of Transportation administers a Rural Transit Assistance Program (RTAP) as part of FTA's Section 5311(b) program. Indiana RTAP is administered by INDOT and operated by RLS & Associates, Inc. The mission of Indiana's RTAP is to provide technical assistance, training, and research for rural and specialized transportation providers. In support of this mission, the RTAP advises rural transit providers through technical assistance, on-site training, and a fellowship program that provides financial assistance to participate in training courses. In 2009, the RTAP conducted a total of 77 training sessions around the state. Services are provided at no cost to agencies that provide public and social service transportation and participate in INDOT's 5310 or 5311 FTA funding programs.

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<sup>125</sup> INDOT. 2010.

<sup>126</sup> AASHTO. 2011.

<sup>127</sup> INDOT. 2010.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.



## **State Governance, Ownership, and Regulation**

The Missouri Department of Transportation (MoDOT) is designated by the Governor of Missouri as the administrator of all state level FTA funding programs.<sup>130</sup> Within MoDOT, the Transit Section of the Multimodal Operations Division is responsible for administering all federal and state programs involving public transportation, including the state transit operating assistance and the state funded Missouri Elderly and Handicapped Transportation Program. MoDOT's Transit Section provides financial and technical assistance to public transportation and specialized mobility providers by administering federal and state programs relating to public transportation as well as specific transit programs directed toward serving senior citizens and/or persons with disabilities.

MoDOT is the recipient of FTA grants for non-urbanized (less than 50,000) and small urbanized areas (50,000-200,000). Large urbanized areas (greater than 200,000) designate a recipient to administer eligible FTA grants. In 2010, Missouri designated for state transit aid two large urbanized areas - Kansas City and St. Louis; five small urbanized areas – St. Joseph, Columbia, Springfield, Joplin and Jefferson, and 26 non-urban transit providers.<sup>131</sup> All MPOs coordinate their efforts with MoDOT Transit Section when planning and implementing public transportation projects. Final funding decisions rest with MoDOT.<sup>132</sup>

To meet the coordination requirements of FTA human service funding programs, the State of Missouri established an Interagency Committee on Special Transportation under the Missouri Revised Statute 228.805.<sup>133</sup> The Committee includes representatives of transportation, education, social services, developmental disabilities, mental health, and other related state agencies.

## **Financial Assistance**

In fiscal year 2009, Missouri allocated \$6.9 million toward public transportation, which translated to approximately \$1.15 per capita.<sup>134</sup> Funding is uneven year to year (\$0 in 1990; \$17M in 2000; \$6.9M in 2008). Missouri is bound by a constitutional dedication of fuel taxes for highway purposes only; public transportation funds largely come from the state's general revenue funds. However, in 2009 some Transportation Fund monies (primarily derived from vehicle registration fees) were applied in order to lessen the level of general revenue funding for transit.

Missouri DOT has two funding programs for public transportation. The first is the Transit Operating Assistance program. This program provides funds to both rural and urban public transportation agencies to help offset the costs of providing transit services. Operating Assistance Program Funds generally provide a small share of the total operating costs for transit systems, less than 5 percent. This program is funded by the Missouri Legislature annually with general revenue funds as well as funds from the State Transportation Fund. The Transportation Fund derives its revenues from a portion of the state sales tax on motor vehicles. Operating Assistance Funds distributed to transit providers may be used to help secure federal operating assistance funding through FTA Section 5307 for urbanized transit providers and Section 5311 for non-urbanized transit providers.

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<sup>130</sup> MoDOT. 2010. *Missouri Department of Transportation Section 5310 State Management Plan*. Available at <http://www.modot.mo.gov/othertransportation/transit/transitapplicationsreportsprograms.htm> (downloaded 5 September 2011).

<sup>131</sup> MoDOT. 2011. *2010 State Transit Aid*. Available at <http://www.modot.mo.gov/othertransportation/transit/transitapplicationsreportsprograms.htm> (downloaded 5 September 2011).

<sup>132</sup> MoDOT 2010.

<sup>133</sup> Ibid.

<sup>134</sup> AASHTO. 2011.

In 2010, Missouri provided Operating Assistance funds to the following:<sup>135</sup>

- Large Urban Area State Transit Assistance (2 systems) Total: \$1,937,492
- Small Urban Area State Transit Assistance (5 systems) Total: \$549,025
- Total Non-urban (Rural) State Transit Assistance (26 systems) \$1,031,93

In 2011, the Missouri Legislature created statute 226.195 RSMo that includes a rulemaking provision for the allocation of State Transit Operating Assistance.<sup>136</sup> The statutory allocation factors include population, ridership, cost and efficiency of the program, availability of alternative transportation in the area, and local effort or tax support. MoDOT has proposed the allocation and distribution of urbanized transit funds to weigh mostly on ridership and for the non-urbanized transit funds to weigh mostly on service area population.

The second funding program is the Missouri Elderly and Handicapped Transportation Assistance Program (MEHTAP). Established in 1978, this program provides funds to help offset the costs of providing transportation services to elderly or handicapped residents. This program is only available to non-profit organizations. In 2010, MEHTAP was funded through state general revenue funds and the state transportation fund, and it requires matching federal, local, or private funds. Funds are divided among grantees according to a formula that accounts for ridership, costs, and alternative services available. Total allocation for 2010 was \$2,722,924, and this was distributed to 190 organizations.<sup>137</sup> Of these funds, 46 percent of the funds were distributed to systems operating in the largest urbanized areas of St. Louis, Kansas City, and Springfield. The remaining 54 percent were distributed throughout the state. All told, state funds comprised 8 percent of their total transportation expenses.

The Bi-State Development Agency of the Missouri-Illinois Metropolitan District (also called Metro) operates the transit system for the St. Louis metropolitan area. This includes MetroBus, MetroLink light rail, and Metro Call-A-Ride demand response service. Metro is funded through a ¼ cent sales tax in St. Louis city as well as a ½ cent sales tax in St. Louis County (passed in 2010 as Proposition A).<sup>138</sup> Missouri also has passenger rail service between St. Louis and Kansas City. This rail service is operated by Amtrak and supported by state funds administered by the Railroads Section of MoDOT's Multimodal Operations Division.

As a general rule, Missouri public transit providers do not have bonding authority. However, the Bi-State Development Agency, as an interstate compact, has the authority to issue bonds and has done so in the past to help finance capital projects for the MetroLink light rail system.

The Missouri Highways and Transportation Commission also oversee the Statewide Transportation Assistance Revolving (STAR) Fund.<sup>139</sup> Established by the Missouri General Assembly in 1997, the STAR program provides loans to local transportation entities for non-highway projects including rail, waterway, airway, and transit facilities, as well as transit capital investments such as rolling stock and the purchase of vehicles for elderly or handicapped persons. STAR funds may not be used for operating expenses.

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<sup>135</sup> MoDOT. 2011.

<sup>136</sup> Missouri General Assembly. 2011. *House Bill No. 484, 96th General Assembly*. Available at <http://www.house.mo.gov/billtracking/bills111/billpdf/perf/HB0484P.PDF> (downloaded 13 October 2011).

<sup>137</sup> MoDOT. 2010. *Missouri Elderly and Handicapped Transportation Assistance Program Fiscal Year 2010 Report*. Available at <http://www.modot.mo.gov/othertransportation/transit/transitapplicationsreportsprograms.htm> (downloaded 5 September 2011).

<sup>138</sup> Bi-State Development Agency of the Missouri-Illinois Metropolitan District. 2010. *2010 Comprehensive Annual Financial Report*. Available at [http://www.metrostlouis.org/Libraries/Annual\\_Financial\\_Reports/2010\\_CAFR\\_Final.pdf](http://www.metrostlouis.org/Libraries/Annual_Financial_Reports/2010_CAFR_Final.pdf) (downloaded 13 October 2011).

<sup>139</sup> MoDOT. 2007. *Statewide Transportation Assistance Revolving (STAR) Fund*. Available at <http://www.modot.org/partnershipdevelopment/documents/STARprofile1-07.pdf> (downloaded 5 September 2011).

### **Technical and Marketing Assistance**

The Missouri Rural Transit Assistance Program (RTAP) is funded through FTA Section 5311(b) and administered by the Transit Section of MoDOT.<sup>140</sup> The goal of the program is to provide instruction and training for Section 5311 recipients in fulfillment of FTA requirements. The directors of systems funded through Section 5311 serve on an advisory committee for the RTAP program to provide evaluations and recommendations for RTAP programs and projects. These include free on-site training courses for transit agencies. Courses cover issues involving driver training and passenger assistance techniques. Funds for continuing education, such as at a four-year college to obtain a degree, are also eligible.

MoDOT also provides technical assistance as part of the administrative portions of FTA Sections 5310, 5311, 5316 and 5317. MoDOT has conducted two statewide rural transit marketing campaigns in 2005 and 2008 that were funded with Section 5311 grant administration funds.

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<sup>140</sup> MoDOT. 2010. *Missouri Department of Transportation, Section 5311 Nonurban Transportation Assistance Grant Program, State Management Plan*. Available at [http://www.modot.org/othertransportation/transit/documents/01-1\\_5311\\_State\\_Management\\_Plan\\_OCT-2010.pdf](http://www.modot.org/othertransportation/transit/documents/01-1_5311_State_Management_Plan_OCT-2010.pdf) (downloaded 5 September 2011).

## State Governance, Ownership, and Regulation

In Ohio, public transportation is administered by the Office of Transit, a unit within the Division of Planning of the Ohio Department of Transportation (ODOT). ODOT's administrative responsibilities as they relate to transit are defined in Chapter 5501.7 of the Ohio Revised Code (ORC).<sup>141</sup> Ownership, operation and maintenance of public transit systems lies with local units of government as established under Chapter 36 of the ORC. In 2010, the Office of Transit assisted 62 public transportation systems in the state: 27 urban systems and 35 rural systems. The Office of Transit provides funding and technical assistance as well as a number of other services and programs in order to carry out the agency's mission of promoting and supporting public transportation throughout the state.

The Governor has designated ODOT as the recipient of FTA funding for rural areas and small urbanized areas (population 50,000 and 200,000). Ohio also has eight metropolitan areas that, by FTA regulations, receive transit funding directly. These are Cincinnati, Cleveland, Columbus, Akron, Canton, Dayton, Toledo, and Youngstown. Urban transit organization structures in Ohio have several basic forms:<sup>142</sup>

- **General Government Agencies:** Transit systems of this type are generally part of a municipal government. Agencies can access general revenue funds directly to subsidize services.
- **Board of County Commissioners:** The board appoints an executive director for the transit agency, and the board assumes all the power and duties as assigned to a county transit board, except that no county transit system can be established in any county which is included in a regional transit authority.
- **County Transit Boards:** ORC 306.01 authorizes the creation of a county transit board by a Board of County Commissioners. The county transit board has exclusive control over its budgets, appropriations, collections, custody, and application of its funds and has jurisdiction of all its purchases and contracts.
- **Regional Transit Authorities:** ORC 306.32 authorizes the creation of a regional transit authority by any county, or any two or more counties, municipal corporations, townships, or any combination thereof. Regional transit authorities are charged with acquiring, constructing, operating, maintaining, replacing, improving, and extending transit facilities and services. Section 306.35 of the Ohio Revised Codes authorizes Regional Transit Authorities to issue revenue bonds for the purpose of capital investments. They may also levy taxes, if approved by voter referendum, to fund transportation provision.

To coordinate and maximize the efficacy of FTA funding programs, the Office of Transit administers several state programs: the Ohio Coordination Program, which seeks to enhance and expand transportation options in counties without a public transportation system; and the Specialized Transportation Program, which assists organizations in providing transportation services to meet the needs of elderly persons and persons with disabilities where existing transportation services are unavailable, insufficient, or inappropriate.

## Financial Assistance

In 2009, public transportation in Ohio received \$14.6 million in state funds, or about \$1.27 per capita.<sup>143</sup> State funding has been steadily decreasing, over 50 percent less than in 1990, and funding has fallen to levels not seen in the state since the early 1980s.<sup>144</sup> Ohio is bound by a constitutional dedication of fuel tax revenues exclusively to highway and road purposes; public transportation is primarily funded from the general sales tax.

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<sup>141</sup> ODOT. 2004. *Urban Transit Manual*. Available at <http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/UrbanTransitManual.aspx> (downloaded 7 September 2011).

<sup>142</sup> Ibid.

<sup>143</sup> AASHTO. 2011.

<sup>144</sup> ODOT. 2011. *Status of Public Transit in Ohio, July 2011*. Available at <http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/What%27sNew.aspx> (downloaded 7 September 2011).

The Office of Transit administers two state funding programs that provide the majority of state funds for public transportation in the state. These two funding programs are intended solely to leverage state funds to maximize federal funding through FTA Sections 5304 (Statewide Planning), 5307 (Urbanized Area Formula Funding), and 5311 (Formula Grants for Other than Urbanized Areas). State funds for public transportation can only be used as a match to federal dollars through these FTA programs.

*The Ohio Public Transportation Grant Program (OPTGP):*

Established under Section 5501.07 of the Ohio Revised Code, OPTGP is the primary state funding source for public transportation. The OPTGP is divided into two funding programs:

- The Urban Transit Program: Encompasses funding administered by the OT for transit systems in urbanized areas of population greater than 50,000. State funding is available only as a match to a federal grant (Section 5307). The formula used to allocate funding to the Urban Transit Program recipients incorporates: ridership (20 percent), revenue miles (20 percent), farebox revenue (10 percent), cost per hour (20 percent), passengers per mile (20 percent), farebox recovery (10 percent).<sup>145</sup>
- The Rural Transit Program: Encompasses funding administered by the OT for transit systems in non-urbanized areas of population less than 50,000. The funding is allocated to each rural transit system based on their need and performance. State funding is available only as a match to Section 5311 grants. Funds can be used for up to 50 percent of the net project cost of operating expenses and up to 80 percent of the cost of capital projects. State General Revenue funds, through the Ohio Public Transportation Grant Program, are also available to provide up to 30 percent of eligible operating costs and up to 10 percent of the costs of capital projects.<sup>146</sup>

Within the Urban Transit Program and Rural Transit Program, funding may be provided in two forms:

- Formula fund recipients are divided into six categories by transit type and size: I. Rail/Bus Systems; II. Large Bus Systems; III. Mid-sized Bus Systems; IV. Intermediate Bus Systems; V. Small Bus Systems; and VI. Non-urbanized Bus Systems. Within each category funds are allocated according to a formula that incorporates system data, ridership, revenue service miles, revenue hours, costs, and farebox revenue. Funds may be used for any eligible operating, planning, or capital project at the discretion of the individual systems. One exception to this rule is that Category I and II systems may not use state funds in support of capitalized maintenance. Maximum state participation is 50 percent of the non-federal share for operating costs, 10 percent of total costs for planning projects, and 80 percent of the total project cost for capital projects.
- Discretionary Capital funds are awarded at the discretion of the ODOT for buses, major equipment purchases, and major transit facilities. Projects are evaluated for their potential to improve mobility, provide greater accessibility, and increase ridership. Maximum state participation for any project is 10 percent.

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<sup>145</sup> AASHTO. 2011.

<sup>146</sup> ODOT. 2011. *Rural Transit Program*. Office of Transit website: <http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx> (last accessed 7 September 2011).

*Elderly and Disabled Transit Fare Assistance Program (E&D):*

Authorized under Section 5501.07(B) of the ORC, E&D provides funding to public transportation systems that offer reduced fares for the elderly and persons with disabilities. These funds are meant to encourage transportation systems to provide reduced fares and help offset the cost of doing so. Funding for each system is allocated by multiplying the number of eligible riders by the amount of fare reduction, up to a maximum of 1/2 the full fare. Priority in funding is given to rural and small urban transit systems.

In addition to these ODOT programs, public capital transportation projects in Ohio are sometimes funded on a discretionary basis by the Transportation Review Advisory Council (TRAC). Created by the Ohio General Assembly in 1997, TRAC is comprised of non-DOT personnel appointed by the governor and legislature leaders. As part of the Major New Capacity Program, their task is to identify and prioritize major transportation projects - cost of \$12 million or more - which will increase transportation capacity, reduce congestion, and are critical to the mobility, economic development, and quality of life for Ohio residents. Funding for this program is only available once existing transportation system preservation needs have been met on a four-year basis. Major New Capacity Program funds are provided for both highway and non-highway transportation projects.

Authorized under Chapter 5531 of the Ohio Revised Code, the Ohio State Infrastructure Bank (SIB) was established as a direct loan and bond financing program for transportation investments in Ohio. The Ohio SIB was capitalized with \$40 million in Ohio general revenue funds, \$10 million in state motor fuel tax funds, and \$87 million in Federal Title XXIII Highway Funds.<sup>147</sup> The Ohio SIB finances highway, rail, transit, intermodal, and other transportation facilities and projects which contribute to the connectivity of Ohio's transportation system.

**Technical and Marketing Assistance**

ODOT's Office of Transit administers the Ohio Technical Assistance Program for Transit (OTAP), a federal and state funded program designed to assist Ohio's public transportation and human service transportation providers. Most OTAP assistance is provided one-on-one by request of individual grantees and results in a specific product. In some cases, a local match is required for assistance.

ODOT's RTAP (FTA Section 5311b) awards scholarships to attend state and national meetings and conferences. The scholarships are meant to enhance the knowledge and professionalism of rural transit system staff's and provides access to relevant training programs that would otherwise be unavailable to the grantee.

The Office of Transit also offers marketing and advocacy building tools to assist transit systems in increasing public awareness about the services they provide. To be considered for funding, providers are asked to provide a marketing plan to the Office of Transit for evaluation.

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<sup>147</sup> ODOT. 2011. *State Infrastructure Bank*. Available at <http://www.dot.state.oh.us/Divisions/Finance/Pages/StateInfrastructureBank.aspx> (last accessed 25 October 2011).

## State Governance, Ownership, and Regulation

In Tennessee, the Department of Transportation (TDOT) is authorized under Tennessee's Public Mass Transit Act Sections 13-10-101 to 13-10-109 of the Tennessee Code Annotated *Title 13 Public Planning and Housing* to "enter into agreements with any bureau, department or agency of the United States government dealing with or concerning the planning, design, acquisition, construction, maintenance or supervision of any public mass transportation program or system, or the operation thereof".<sup>148</sup> Within TDOT, the Division of Multimodal Transportation Resources is the designated recipient and administrator, as designated by the Governor, of FTA funding program provisions of Title 49 U.S.C. 5303, 5309, 5310, 5311, 5316, and 5317.

The primary objective of the Division of Multimodal Transportation Resources is to "lead the State in the establishment and maintenance of public, private and non-profit passenger transportation systems."<sup>149</sup> This is accomplished in coordination with Regional Planning Organizations (RPOs), Metropolitan Planning Organization (MPOs), and private/public transit providers. The Office of Passenger Transportation (OPT), a unit within the Division of Multimodal Transportation Resources, oversees all aspects of the mode, including public transit, planning and public awareness, and research and technical assistance. Public transportation is available in all 95 counties in the state and is provided by eighteen urban and ten rural systems.

The Division of Multimodal Transportation Resources administers all FTA funding programs in Tennessee, though the 11 MPOs are the direct recipients of some FTA grants. The 11 MPOs include the areas of Bristol, Chattanooga, Clarksville, Cleveland, Jackson, Johnson City, Kingsport, Knoxville, Lakeway, Memphis and Nashville. Nashville also is part of a Regional Transportation Authority, which oversees the Music City Star Commuter Rail, the first commuter rail service in Tennessee (began operating in 2006). Section §64-8-207 of the Tennessee Code authorizes the formation of Regional Transportation Authorities, and empowers them to issue bonds and secure dedicated funding through taxation if approved by voter referendum.<sup>150</sup>

## Financial Assistance

In fiscal year 2009, Tennessee allocated \$35.2 million to the Office of Passenger Transportation (OPT), which translated to approximately \$5.59 per capita.<sup>151</sup> Funding for public transportation is appropriated from the state gas tax revenues. The annual allocation is determined by the Tennessee legislature.

Tennessee provides state dollars as a match for several FTA funding programs. In 2009, these included:

- Urban transit systems: \$3.9 million in urban capital assistance, a discretionary state match of 10 percent to Sections 5307 and 5309; \$19.1 million in urban operating assistance, a formula match of up to 50 percent in FTA Section 5307 funds
- Rural transit systems: \$8.8 million toward rural transit, a discretionary match of capital expenses and formula match of operating assistance toward FTA Section 5311

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<sup>148</sup> TDOT. 2007. *State of Tennessee Management Plan for the Administration of Federal Transit Grants*. Available at <http://www.tdot.state.tn.us/publictrans/pubtrans.htm> (downloaded 8 August 2011).

<sup>149</sup> Ibid.

<sup>150</sup> State of Tennessee. 2009. *Public Chapter No. 362. Senate Bill No. 1471*. Available at <http://state.tn.us/sos/acts/106/pub/pc0362.pdf> (downloaded 8 August 2011).

<sup>151</sup> AASHTO. 2011.

- Other FTA programs: \$2.2 million state match to Section 5316 (Job Access and Reverse Commute); \$500,000 state match of capital expenses under Section 5310 (Transportation for the Elderly and Persons with Disabilities); \$136,900 state match of up to 10 percent toward statewide planning (Section 5303); \$130,000 toward the state RTAP (Section 5311b); \$250,000 state match to Section 5317 (New Freedoms Program).

Operating assistance for both urban and rural public transportation systems is provided through the State Operating Assistance Program. These funds are allocated on a formula-based approach according to each agency's respective population figures. State funds can be used to match up to 40 percent of the non-federal share for operating expenses and 100 percent of the non-federal share approved for passenger rolling stock.<sup>152</sup> Approximately 16 percent of the operating costs for urban and rural transit systems were covered by the state of Tennessee in 2009 through the State Operating Assistance Program.

### **Technical and Marketing Assistance**

The Tennessee Transit Training Center is housed at Middle Tennessee State University and provides individualized and specific training programs. Included with this center are the Rural Transit Assistance Program (RTAP), which provides training and technical assistance to rural transit providers at the state and national level, the Urban Transit Assistance Program (UTAP), which provides information and assistance to urban transit professionals at the state level, and the TDOT Statewide Transit Student Internship Program. Additionally, TDOT retains consultant services for urban and rural funding recipients on an as-needed basis for technical services.

Training and assistance provided by The Division of Multimodal Transportation Resources intends to promote competent transit management and improve the effectiveness of transit operations. This includes an annual onsite technical assistance audit/visit, a transit library maintained by the TDOT for use by transit operators, and driver and passenger assistance training.

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<sup>152</sup> TDOT. 2009. *Multimodal Transportation Resource Division 2009 Annual Report*. Available at <http://www.tdot.state.tn.us/publictrans/pubtrans.htm> (downloaded 8 August 2011).



# VIRGINIA

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## State Governance, Ownership, and Regulation

Public transportation in Virginia is administered by the Department of Rail and Public Transportation (DRPT). The DRPT operates alongside, and in conjunction with, the Virginia Department of Transportation (responsible for highways), the Department of Aviation, and the Port of Virginia. All four agencies report to the State Secretary of Transportation.

The DRPT was established in 1982 through the Virginia State Code, and there its general powers (Code of Virginia, §33.1-391.4) and responsibilities (Code of Virginia §33.1-391.5) are defined.<sup>153</sup> The Governor of Virginia has designated DRPT as the recipient and administrator of FTA funding program provisions of Title 49 U.S.C. 5304, 5307, 5310, 5311, 5316, and 5317 for all areas of the Commonwealth.

The DRPT has three primary areas of focus:

- The Rail Division (passenger rail component) is responsible for coordinating Amtrak, Virginia Railway Express (VRE), states, MPOs, and agencies on passenger rail operations, planning, advocacy and development.
- Public Transportation consists of sixty public transportation operators and fifty-four human service operators; includes large regional transit systems such as Washington Metropolitan Area Transit Authority (WMATA) in Northern Virginia and Hampton Roads Transit (HRT).
- Commuter Services sponsors programs to promote carpools, vanpools, telework, and other forms of Transportation Demand Management (TDM).

Although DRPT serves as the lead state agency for the Commonwealth's 60 public transportation systems, in most cases, local governments are the direct owners and operators of transit systems. Additionally, there are several regional transportation commissions, including the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, which manage and coordinate the respective regional transportation systems. Sections §15.2-4500-4534 of the Code of Virginia authorized the formation of Transportation Commissions, empowered them to issue revenue bonds, and authorized the Commissions governing bodies to appropriate public monies to help fund the systems.<sup>154</sup>

The Public-Private Transportation Act (PPTA) of 1995 (§§56-556 to 575 of the Code of Virginia) authorizes the Commonwealth of Virginia, local governments, and other public entities to enter into agreements authorizing private entities to develop and/or operate Qualifying Transportation Facilities.<sup>155</sup> The multimodal PPTA Office is organizationally located in the Virginia Department of Transportation and is designed to leverage resources and expertise across all modes of transportation. PPTA projects, which may originate as either Solicited Projects or Unsolicited Proposals, are intended to encourage investment in the Commonwealth's transportation system by private entities in order to facilitate the development and/or operation of transportation facilities. PPTA works with the relevant department to identify and secure funding necessary for a project's administration, management, and implementation.

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<sup>153</sup> DRPT. 2011. *Agency Strategic Plan*. Available at <http://vaperforms.virginia.gov/agencylevel/stratplan/spReport.cfm?AgencyCode=505> (last accessed 7 October 2011).

<sup>154</sup> The Code of Virginia. 1964. *Transportation District Act of 1964*. Available at <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC1502000004500000000000> (last accessed 7 October 2011).

<sup>155</sup> The Commonwealth of Virginia. 2010. *Public-Private Transportation Act of 1995 (as Amended), Implementation Manual and Guidelines*. Available at [http://www.drpt.virginia.gov/about/files/PPTA\\_Implementation\\_Manual\\_FINAL\\_December\\_08\\_2010.pdf](http://www.drpt.virginia.gov/about/files/PPTA_Implementation_Manual_FINAL_December_08_2010.pdf) (downloaded 10 August 2011).

The Commonwealth Transportation Board (CTB), a 17-member panel appointed by the Governor, is responsible for determining priority and funding for improvements to the transportation system, including public transportation.

### **Financial Assistance**

In fiscal year 2009, Virginia allocated \$209.5 million toward public transportation, which translated to approximately \$26.58 per capita.<sup>156</sup> In general, the annual allocation for public transportation has been increasing - the 2009 funds represented a 28 percent increase from the 2000 total of \$163.9 million; however the 2009 allocation was significantly less than the 2008 total of \$229 million.<sup>157</sup> Established by the Virginia General Assembly in 1986, the Transportation Trust Fund, an amalgamation of the general sales tax, gasoline and motor vehicle taxes, is the primary funding mechanism for funding Virginia transportation, including public transportation.

DRPT is funded primarily through the Mass Transit Trust Fund (MTTF), which represents DRPT's 14.7 percent allocation from the Transportation Trust Fund. The 14.7 percent MTTF is allocated by statute with 73.5 percent for state operating assistance grants (called formula assistance grants), 25 percent awarded as discretionary capital assistance grants, and the balance of 1.5 percent awarded as special project grants subject to CTB approval.<sup>158</sup> In all, DRPT receives 89 percent of its funding from transportation trust funds and 11 percent from federal funds.

The Commonwealth of Virginia Transportation Capital Projects Revenue Bonds (Code of Virginia §33.1-23.4:01) provided \$90 million to the Mass Transit Capital Fund in FY11 and \$8.6 million to the DRPT rail programs in FY11.<sup>159</sup> The legislation was passed by the Virginia Assembly in 2007, and authorized the issuance of over \$3 billion dollars in bonds over the coming years, with a maximum of \$300 million per year. Twenty percent of the revenue generated from sales of the bonds is dedicated toward transit capital projects, 4.3 percent is dedicated toward rail capital projects, and the balance is reserved to match federal funding, to enhance the Revenue Sharing Program and Statewide and Regional Projects.<sup>160</sup>

In 2005 Virginia established the Rail Enhancement Fund (Code of Virginia §33.1-221.1:1.1), the first dedicated revenue stream for investment in rail infrastructure – both freight and passenger rail – in Virginia's history. The source of revenues for the fund is a portion of the vehicle rental tax and the interest earned on cash balances. At least 90 percent of the funds are to be spent on capital improvements. Projects must include a minimum of 30 percent matching funds from a private source, which may include a railroad, a regional authority, or a local government source, or a combination of such sources.<sup>161</sup>

In 2011, the Virginia General Assembly established the Intercity Passenger Rail Operating and Capital Fund. While no money has yet been appropriated to the fund, the legislation authorized the Commonwealth Transportation Board and General Assembly to allocate existing transportation revenues into the fund. Nine localities in the Northern Virginia/Washington D.C. vicinity are subject to a regional motor fuels tax, which is used to support a number of transportation initiatives, including Metrorail (part of WMATA) and other locally operated bus systems in the area.

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<sup>156</sup> AASHTO. 2011.

<sup>157</sup> AASHTO. 2010.

<sup>158</sup> DRPT. 2010. *Annual Budget: Fiscal Year 2011*. Available at <http://www.drpt.virginia.gov/about/files/FY%202011%20DRPT%20Agency%20Budget.pdf> (downloaded 10 August 2011).

<sup>159</sup> DRPT. 2011. *Agency Strategic Plan*.

<sup>160</sup> VDOT. 2011. *Capital Projects Revenue Bonds, Series 2011*. Available at [http://www.ctb.virginia.gov/resources/2011/mar/Agenda\\_Item\\_2\\_CPR\\_Series\\_2011.pdf](http://www.ctb.virginia.gov/resources/2011/mar/Agenda_Item_2_CPR_Series_2011.pdf) (downloaded 10 August 2011).

<sup>161</sup> DRPT. 2008. *Statewide Rail Plan: Commonwealth of Virginia*. Available at <http://www.drpt.virginia.gov/activities/files/Final%20Statewide%20Rail%20Plan%202008.pdf> (downloaded 10 August 2011).

In fiscal year 2009,<sup>162</sup> the DRPT provided \$115 million in transit operating assistance. Distribution of these funds is formula-based on each system's operating costs as a percentage of the statewide total. \$30.8 million went toward capital assistance, which is discretionary-based on grant applications submitted to the Transportation Trust Fund. \$6.2 million went toward transit and congestion management assistance, which is discretionary-based on grant applications for congestion management projects, transit studies, and transit demonstration projects. The Northern Virginia Transportation Commission received \$38.7 million; of this \$29.8 million went directly to WMATA for both operating and capital expenses and \$8.8 million was controlled and distributed by Loudoun County for local projects, including road projects. The Potomac and Rappahannock Transportation Commission received \$18.5 million; these funds supported operating and capital expenses of the Virginia Railway Express, OmniRide, LINK, and other transportation projects and services.

Funds are distributed by DRPT through eight State Aid Grant Programs and seven Federal Aid Grant Programs (FTA Sections 5303, 5304, 5307, 5310, 5311, 5316, and 5317).<sup>163</sup> The State Aid Grant Programs are discussed below:

- **Operating Assistance:** Distribution of funds is formula-based and factors in total operating costs for each eligible system. Though Virginia State Code allows for up to 90 percent match of eligible expenses, available funds generally dictate a match of between 35 percent and 50 percent.
- **Capital Assistance:** The state match ratio is calculated by dividing the available state funding for capital projects by the amount needed to support the non-Federal share of all eligible projects. State funds are provided through the Mass Transit Trust Fund (MTTF) and the Mass Transit Capital Fund (MCTF). The capital match ratio may vary significantly from year to year based upon capital needs and any supplemental funding appropriated by the General Assembly and allocated by the CTB.
- **Demonstration Project Assistance:** This broadly defined program invests in projects that improve the efficiency of public transportation, offer creative approaches to identify and access public transportation markets, increase private sector involvement, and/or increase the utilization and productivity of existing transportation services. Funds are provided from the Special Projects fund and are generally awarded at the maximum state ratio of 95 percent.
- **Technical Assistance:** Provides funds to help improve public transportation or commuter assistance related services. Funds are provided from the Special Projects fund and are generally awarded at the maximum state ratio of 50 percent. Project applications are also considered for FTA Section 5304 funds in lieu of state assistance.
- **Public Transportation Intern Program:** Designed to promote and develop careers in public transportation and commuter assistance. Funds are provided from the Special Projects fund and are generally awarded at the maximum state ratio of 95 percent.
- **TDM Operating Assistance:** Supports the operating costs for local and regional TDM Programs. Projects are funded from the Transportation Efficiency Improvement Fund (TEIF) and are generally awarded at the maximum state ratio of 80 percent.
- **Transportation Management Project Assistance:** Supports new and/or expanded transportation demand management services and facilities at the state, regional, and community level. Projects are funded from TEIF and are generally awarded at the maximum state ratio of 80 percent.
- **Senior Transportation Program:** Supports operating costs for new transportation services for adults of age 60+. Program generally receives approximately \$100,000 of state funds annually from DRPT; projects are funded at the maximum state match of 95 percent.

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<sup>162</sup> AASHTO. 2011.

<sup>163</sup> DRPT. 2010. *Public Transportation and Transportation Demand Management Grant Program Application Guide FY 2012*. Available at <http://www.drpt.virginia.gov/grants/files/DRPT%20FINAL%20Program%20Application%20Guidance%20-%20FY12.pdf> (downloaded 10 August 2011).

In addition to overseeing 26 state and federal programs, DRPT has also contributed significantly to large scale projects such as the Dulles Corridor Metrorail Project, the largest transit capital project in the Commonwealth's history and the first public-private partnership for transit in Virginia; and Norfolk Light Rail Transit (The Tide), the Commonwealth's first light rail system.

In 2011, the Commonwealth established the Virginia Transportation Infrastructure Bank (VTIB).<sup>164</sup> The Bank was initially capitalized with \$32.7 million in general fund revenues and \$250 million from the Commonwealth Transportation Fund. Monies in the Bank are to be used for providing loans and other financial assistance to localities, private entities and other eligible borrowers and grants to localities to finance transportation projects. The Bank is administered by the Virginia Commonwealth Transportation Board. Eligible projects for financing include highway, bridge, tunnel, mass transit, passenger or freight rail, port or airport facilities, as well as rolling stock, vehicles or equipment.

### **Technical and Marketing Assistance**

In Virginia, DRPT administers the FTA Section 5311(b) Rural Transit Assistance Program (RTAP).<sup>165</sup> The RTAP program provides funding assistance for training, technical assistance, transit research and related support services. As part of administrative funding through FTA Sections 5310, 5311, 5316, and 5317, DRPT also provides technical assistance to public transportation systems in the areas of program administration, planning, project/program development and management, training, research and communications.

The goal of the RTAP program is to promote the improvement of public transportation services and mobility for citizens living in rural areas. DRPT fulfills this mission through several channels: soliciting rural transit providers for suggestions on best use of RTAP training and technical assistance funds; on-site visits by DRPT staff to evaluate and monitor rural systems' operations; and by assessing the individual and statewide technical needs of transit providers. Eligible RTAP projects include: DRPT sponsored training; non-DRPT sponsored training; transit studies; coordination with other states through the Mid-Atlantic RTAP Group; training equipment; and marketing materials.

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<sup>163</sup> Commonwealth of Virginia. 2011. *The Virginia Transportation Infrastructure Bank*. Available at [http://www.ctb.virginia.gov/resources/2011/sept/VTIB\\_-\\_Guidelines\\_and\\_Criteria\\_-\\_9-19-11.pdf](http://www.ctb.virginia.gov/resources/2011/sept/VTIB_-_Guidelines_and_Criteria_-_9-19-11.pdf) (downloaded 25 October 2011).

<sup>164</sup> DRPT. 2009. *Commonwealth of Virginia, Virginia Department of Rail and Public Transportation, Section 5311 State Management Plan for Public Transportation in Nonurbanized Areas*. Available at: <http://www.drpt.virginia.gov/activities/files/FTA5311%20State%20Mgt%20Plan.pdf> (downloaded 7 October 2011).

### State Governance, Ownership, and Regulation

In West Virginia, public transportation is administered by the Division of Public Transit, a unit within the West Virginia Department of Transportation (WVDOT). The Division of Public Transit was created under Chapter 17, Article 16C of the West Virginia State Code, and it is designated as the state agency responsible for receiving and administering all federal and state programs related to public transportation.<sup>166</sup> The Governor of West Virginia has also designated WVDOT as the administrator and recipient of FTA funding programs. Because West Virginia does not have any urbanized areas of population 200,000 or more, WVDOT receives and administers all FTA funding programs for the state public transportation systems. The Division funds only one agency per county for provision of transportation services for eligible population subgroups. Of the 55 counties in West Virginia, some form of public transportation is available in 33. Sections §88-27 of the West Virginia Code authorizes the formation of Urban Mass Transportation Systems.<sup>167</sup> Such systems are authorized to issue revenue bonds and receive public funding for the purposes of providing public transportation in urbanized areas.

In 2004, the West Virginia Transportation Coordinating Council (WVTCC) was created by Executive Order of the Governor to promote effective and efficient use of the state's transportation resources. The Council is charged with evaluating the coordination of transportation services, the elimination of waste and overlap from duplicate agency services, and ways to increase citizen access to transportation.

### Financial Assistance

In fiscal year 2009, West Virginia allocated \$3 million toward public transportation, which translated to approximately \$1.66 per capita.<sup>168</sup> This money was funded through the state's general revenues and was used only as a match for FTA grants. Funding levels are determined by the Governor's annual budget, passed by the state legislature who can increase or decrease the funding levels (though this rarely happens) and then signed into law by the Governor.

Of the \$3 million distributed in 2009:

- \$1.2 million went toward Operating Assistance to Rural Transit (FTA Section 5311): The Division funds operating assistance at a 50 percent state and 50 percent federal matching ratio when funds are available, and makes no distinction between operating and administrative expenses. Capital assistance is provided at a 20 percent state and 80 percent federal ratio. Because local matching funds are so scarce, the Division has provided most of the matching Section 5311 funds for both operating and capital assistance since 1980.<sup>169</sup> Section 5311 operating funds are provided to most 5311 recipients based on historic funding levels.
- \$1.7 million went toward Statewide Capital Discretionary (FTA Section 5309) grants. Both urban and rural systems are eligible to receive these matching funds. Generally, urban systems contribute 5 percent to 7.5 percent in local matching funds and rural systems contribute 2.5 percent to 5 percent in matching funds. In a few cases, WVDOT has provided the entire local share.

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<sup>166</sup> WVDOT. 2010. *49 USC Section 5311 State Management Plan*. Available at <http://www.transportation.wv.gov/publictransit/Pages/default.aspx> (downloaded 15 August 2011).

<sup>167</sup> West Virginia Legislature. 2011. *Chapter 8. Municipal Corporations. Article 27. Intergovernmental Relations – Urban Mass Transportation Systems*. Available at <http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=08&art=27> (last accessed 15 August 2011).

<sup>168</sup> AASHTO. 2011.

<sup>169</sup> WVDOT. 2010.

### **Technical and Marketing Assistance**

West Virginia's Rural Transportation Assistance Program (RTAP) is the responsibility of WVDOT Division of Public Transit.<sup>170</sup> RTAP provides funding toward training, technical assistance, transit research, and related support services. RTAP funds are available primarily to assist operators that are involved in the provision and coordination of rural transportation services. In some cases, they may also benefit properties in small urbanized areas. All RTAP activities are funded at the 100 percent federal funding level.

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<sup>170</sup> WVDOT. 2010. *49 USC Section 5311 State Management Plan*. Available at <http://www.transportation.wv.gov/publictransit/Pages/default.aspx> (downloaded 15 August 2011).

## OTHER STATES

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In addition to the states surrounding Kentucky, four other states were examined to determine whether any of these strategies employed by these states could be considered “innovative.” The states chosen were: California, Oregon, and Pennsylvania.

## CALIFORNIA

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The primary source of state funding for public transportation in California is the Transportation Development Act (TDA). Enacted by the California Legislature in 1971, the TDA provides funding for transit and non-transit related programs that enhance regional transportation coordination. The TDA provides two funding sources:<sup>171</sup>

- The Local Transportation Fund (LTF) is derived from ¼ cent of the general sales tax collected statewide. Sales taxes collected by the State Board of Equalization are returned to the county from which they were received. LTF funds may be used for planning and program activities, pedestrian and bicycle facilities, community transit services, public transportation, and bus and rail projects. For smaller counties meeting certain conditions, including population below a certain threshold, funds may also be applied toward road construction and maintenance.
- The State Transit Assistance Fund (STA) is derived from the statewide sales tax on diesel fuel. STA funds are allocated by formula to planning agencies and other selected agencies. Passage of Proposition 22 in 2010 requires revenues generated from diesel fuel sales tax be split equally between State and local transit.

The TDA generated \$1.3 billion in fiscal year 2010.

California also collects a fee on commercial vehicles based on their weight that represents compensation for the wear and tear on the roadways. Revenues generated from these Truck Weight Fees are directed to the General Fund for payment on general obligation bond debt service for specified voter-approved transportation bonds.<sup>172</sup>

California DOT (Caltrans) administers a number of innovative financing programs for transportation-related projects through the Office of Innovative Finance. Included is the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, a federal program aimed at helping states advance large-scale transportation-related projects. The TIFIA program provides credit assistance for states, including improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates. In 2010, the Transbay Transit Center, a multi-modal facility in San Francisco that will house nine transportation systems, was approved for a \$171 million loan through the program.

The Bay Area Rapid Transit District of California has also participated in the Transit Grant Anticipation Notes (GANS) program. GANS is a federal program that enables transit agencies to borrow against future federal-aid funding. The BART San Francisco Airport Extension was financed in part through the GANS program, including \$385 million in federal loans.

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<sup>171</sup> Caltrans. 2011. *The Transportation Development Act Guidebook*. Available at <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/STIP/TDA7-15-2011.pdf> (downloaded 21 October 2011).

<sup>172</sup> Caltrans. 2011. *Transportation Funding in California*. Available at [http://www.dot.ca.gov/hq/tpp/offices/eab/fundchrt\\_files/Transportation\\_Funding\\_in\\_California\\_2011.pdf](http://www.dot.ca.gov/hq/tpp/offices/eab/fundchrt_files/Transportation_Funding_in_California_2011.pdf) (downloaded 24 October 2011).

## OREGON

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A significant source of state funding for public transportation in Oregon is the Elderly and Disabled Special Transportation Fund (STF), which was established in 1985 through Oregon Revised Statutes 391.800 through 391.830.<sup>173</sup> The STF is funded with a statewide \$0.02 per pack cigarette tax, as well as from extra funds generated through sales of photo ID cards and other funds from the Oregon Department of Transportation (ODOT). Eligible recipients of the funds include 33 transit districts as well as 9 federally recognized Indian Tribes. Funds may be used for any transit-related purposes, including operating costs, capital expenses, planning and training. The STF has two components:

- STF Formula Program: 75 percent of the STF is allocated by formula to the 42 eligible recipients. Each agency receives either their population-based allocation or the minimum allocation, whichever is more.
- STF Discretionary Grant Account: 25 percent of the STF is reserved for a competitive grant program administered by the Oregon Transportation Commission. The majority of these funds are provided as a state match to FTA Section 5310 funding.

In 2011 the Oregon Legislature approved as part of HB 5036 the *ConnectOregon* IV program.<sup>174</sup> Building on the success of previous *ConnectOregon* programs, it provides funding statewide for air, marine, rail, transit and other multimodal projects. The program is funded with state lottery revenues. Lottery revenues have also been used to provide funding for a number of passenger rail projects in Oregon, including the Westside Light Rail, South Metro Commuter Rail, Southeast Metro Milwaukie Extension, and other Street Car projects.

As part of a federal pilot program, Oregon established the Oregon Transportation Infrastructure Bank (OTIB) in 1996, and the next year established the program in state law (codified in Oregon Revised Statutes 367.010 to 367.050).<sup>175</sup> Eligible borrowers include cities, counties, transit districts, port authorities, other special service districts, tribal governments, state agencies, and private for-profit and non-profit entities.

The Tri-County Metropolitan Transportation District of Oregon (TriMet) is the transit authority for the Portland metropolitan area and operates bus, light rail, and commuter rail services. TriMet has several dedicated sources of funding, including the employer payroll tax, the self-employment tax and the state-in-lieu payroll tax. The Lane County Mass Transit District (LTD), which operates the public transportation system for the Eugene-Springfield area, is similarly supported by a payroll tax and self-employment tax.

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<sup>173</sup> ODOT. 2011. *Special Transportation Fund Program Guidebook*. Available at <http://www.oregon.gov/ODOT/PT/docs/STF/STF-Guidebook-041311.pdf> (downloaded 26 October 2011).

<sup>174</sup> Oregon Legislative Assembly. 2011. *House Bill 5036*. Available at <http://www.leg.state.or.us/11reg/measpdf/hb5000.dir/hb5036.en.pdf> (downloaded 26 October 2011).

<sup>175</sup> ODOT. 2010. *Oregon Transportation Infrastructure Bank Annual Report*. Available at <http://www.oregon.gov/ODOT/CS/FS/docs/other/OTIB2010AnnualReport.pdf> (downloaded 26 October 2011).



## PENNSYLVANIA

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In 2007, the Pennsylvania General Assembly passed legislation codified Act 44 as part of an effort to completely revise how the state funds public transportation. Act 44 established the Pennsylvania Transportation Trust Fund, and it provided for several new and/or revised mechanisms for funding transit:<sup>176</sup>

- Dedicated 4.4 percent of the state Sales and Use Tax (replaced previous usage of General Revenue funds)
- Dedicated revenue from the state lottery fund for the Free Transit for Senior Citizens Program
- Continued use of state bond revenues for capital projects
- Retained funding from the Public Transportation Assistance Fund (PTA). Established by the General Assembly in 1991 by Act 26, the PTA collects revenues from the Tire Fee (\$1 per tire fee on the sale of new tires); the Motor Vehicle Rental Fee (\$2 per day fee on the rental of any motor vehicle); and the Motor Vehicle Lease Tax (3 percent of the total lease price).<sup>177</sup>
- Collected annual payments from the Pennsylvania Turnpike Commission. In 2010, the Federal Highway Administration (FHWA) denied Pennsylvania's request to toll Interstate 80, and as a result, the Turnpike Commission's contribution to the Transportation Trust Fund was capped at \$250 million annually.<sup>178</sup>

In addition to the Pennsylvania Transportation Trust Fund, the state also administers the Pennsylvania Infrastructure Bank (PIB).<sup>179</sup> Established in 1998, the PIB is comprised of four accounts: highway/bridge, transit, aviation, and rail freight. Eligible borrowers include cities, townships, boroughs, counties, school districts, transportation authorities, economic development agencies, airports, railroads, and private for profit and non-profit corporations. A new transit center operated by the Lehigh and Northampton Transit Authority was recently funded through the PIB.

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<sup>176</sup> PennDOT. 2007. *Act 44 Public Transportation Program*. Available at <http://ftp.dot.state.pa.us/public/Bureaus/PublicTransportation/GeneralInformation/Act44Overview.pdf> (downloaded 21 October 2011).

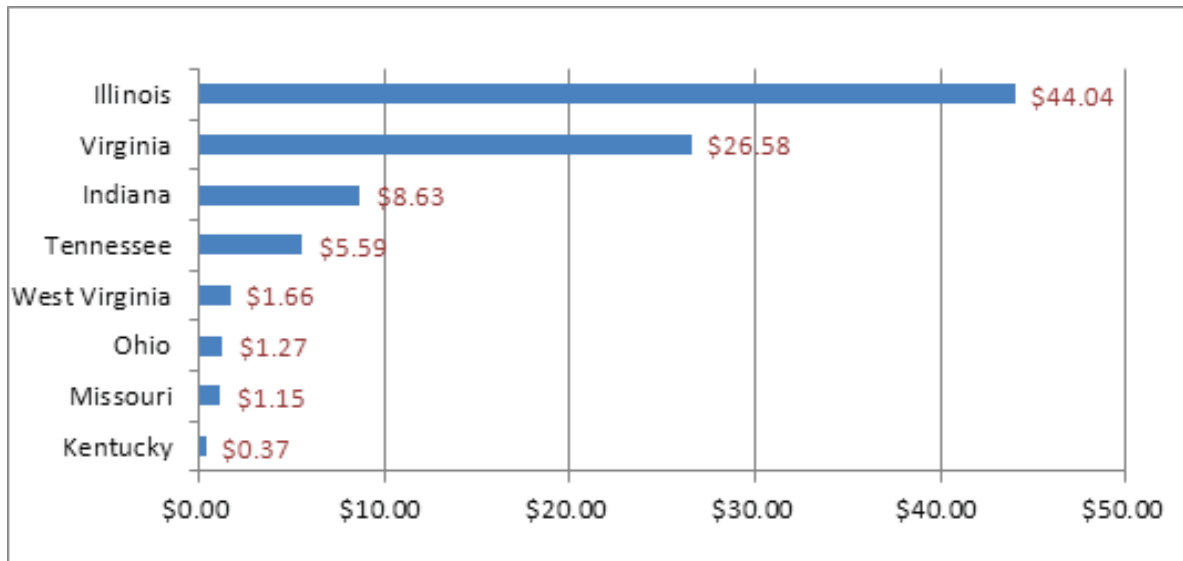
<sup>177</sup> Pennsylvania Department of Revenue. 2011. *Public Transportation Assistance Fund (PTA) Taxes and Fees*. Available at [https://revenue-pa.custhelp.com/app/answers/detail/a\\_id/661/~/public-transportation-assistance-fund-%28pta-%29-taxes-and-fees](https://revenue-pa.custhelp.com/app/answers/detail/a_id/661/~/public-transportation-assistance-fund-%28pta-%29-taxes-and-fees) (last accessed 21 October 2011).

<sup>178</sup> Pennsylvania House Appropriations Committee. 2011. *Statutory History of Mass Transit Funding*. Available at [http://www.hacd.net/primers/BP\\_TransMassTransit\\_Feb2011.pdf](http://www.hacd.net/primers/BP_TransMassTransit_Feb2011.pdf) (downloaded 21 October 2011).

<sup>179</sup> PennDOT. 2011. *Pennsylvania Infrastructure Bank Handbook*. Available at <http://www.dot.state.pa.us/pennidot/bureaus/pib.nsf/fund?readform> (downloaded 21 October 2011).

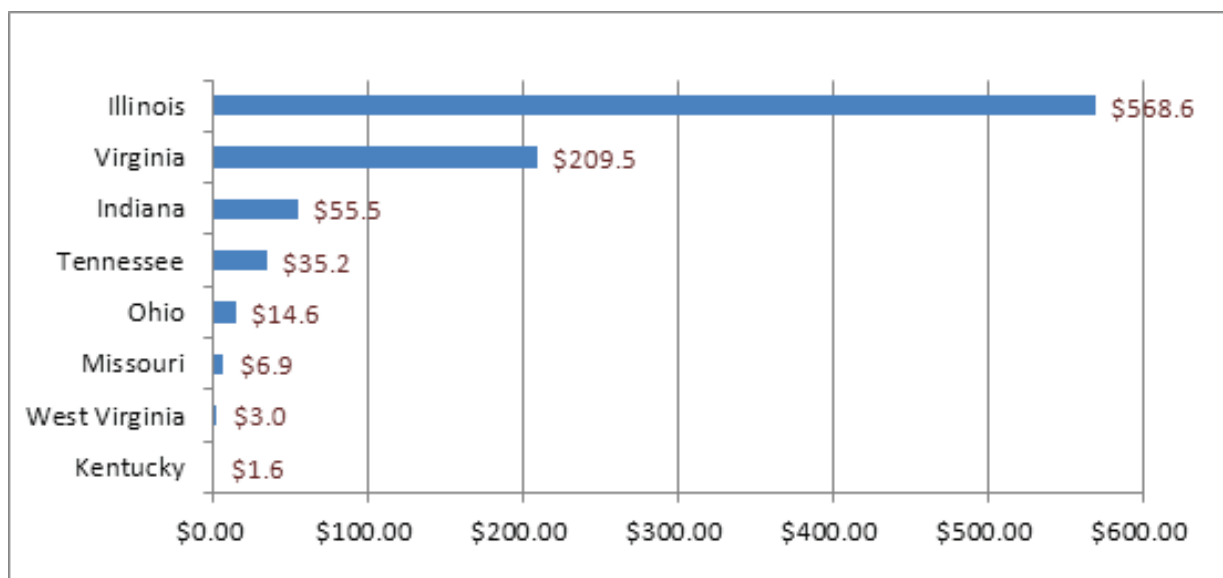
## PUBLIC TRANSPORTATION SUMMARY AND OPPORTUNITIES

When it comes to funding public transportation, Kentucky ranks the lowest when compared to adjacent states in terms of both dollars per capita and total dollars provided. Figure 2 displays the dollars per capita provided by each state in fiscal year 2009. At \$0.37, Kentucky provided less than one third of the amount provided by the next lowest state, Missouri at \$1.15. Illinois provided the highest funding per capita at \$44.04 per person.



**Figure 2: 2009 per capita state funding for public transportation<sup>180</sup>**

Figure 3 displays the total dollars provided for public transportation by each state in fiscal year 2009. At \$1.6 million, Kentucky ranked last of the eight states with funding levels slightly higher than half of the next lowest state, West Virginia at \$3 million. Illinois again was the highest, allocating \$568.6 million toward public transportation.



**Figure 3: 2009 total state funding for public transportation (in millions)<sup>181</sup>**

<sup>180</sup> AASHTO. 2011. *Survey of State Funding for Public Transportation: FY 2009 Data*. Available at <http://scopt.transportation.org/Documents/2011%20Survey%20of%20State%20Funding%20for%20Public%20Transportation%20-%20FY%202009%20data.pdf> (downloaded 28 September 2011).

<sup>181</sup> Ibid.

In Kentucky, The Nonpublic School Transportation program receives nearly two-thirds (\$2.95 million) the total general revenue funds (\$4.57 million) enacted for allocation to public transportation. Public transportation systems only receive the remaining \$1.6 million. Compounding this funding situation is the state's reliance on toll credits to match Federal Transit Administration (FTA) funding programs. Though toll credits help in securing federal dollars, they do not provide the local match in terms of actual dollars. It is anticipated that within two to three years Kentucky will have used up all its existing toll credits.

In summary, the review of how other states fund public transportation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Operating assistance state funding is provided for public transportation systems in all the states reviewed except Kentucky. In Kentucky, all state funds are reserved for capital costs.
- Some or all state funds are distributed by formula in all the states reviewed except Kentucky and West Virginia.
- Reimbursement programs toward reduced or eliminated fares for elderly and/or disabled persons are available in Illinois, Missouri, Ohio, and Pennsylvania.
- Sales taxes generate revenues for public transportation in six states reviewed. The structure of the sales tax varies by state. In Illinois, Missouri, Virginia and Ohio, state-authorized transit authorities may levy sales taxes within their service areas. California and Pennsylvania have a statewide sales tax for funding public transportation. In California, the ¼ cent sales tax revenues are returned to the county from which they were collected to help fund the provision of public transportation.
- State lottery revenues are dedicated for public transportation services in Oregon and Pennsylvania.
- Transportation financing programs for large capital transit projects are available in five states reviewed. Ohio, Virginia, Oregon and Pennsylvania finance public transportation from active State Infrastructure Banks; Missouri administers the Statewide Transportation Assistance Revolving (STAR) Fund.
- State issued revenue bonds generate funds for capital transit projects in Illinois and Virginia.
- Innovative federal financing programs, such as the Grant Anticipation Notes (GANS) program and the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, have been utilized by states to help secure funding for large capital transit projects in California, Missouri, Illinois, and Virginia.
- Various other taxes and fees are also used to secure revenues for public transportation in many states: A property transfer tax generates revenue for the Regional Transportation Authority in Illinois; Indiana levies a railroad property tax to fund the Northern Indiana Commuter Transportation District; Tennessee's funding for public transportation comes directly from the state fuel tax; in Virginia the Transportation Trust Fund is an amalgamation of sales, fuel, and motor vehicle taxes; California has enacted a state diesel fuel tax; Oregon has a statewide cigarette tax, and local transit authorities receive revenues from a payroll tax and a self-employment tax; Pennsylvania collects revenues from a new tire fee, a vehicle rental fee, a motor vehicle lease tax, as well as from the Pennsylvania Turnpike Commission.

PUBLIC TRANSPORTATION MODE										
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	Financial Support	Bonding Authority	Dedicated Funding	Technical and/or Marketing Support	Operating Assistance	Capital Assistance	Distribution of Funds	
<b>Kentucky</b>	Constitutional	KYTC: Office of Transportation Delivery	Yes	Yes	No	Yes	No	Yes	Discretionary	
<b>Illinois</b>	No - Multimodal	IDOT: Division of Public and Intermodal Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula	
<b>Indiana</b>	Statutory	INDOT: Office of Transit	Yes	Yes	No	Yes	Yes	Yes	Formula	
<b>Missouri</b>	Constitutional	MoDOT: Transit Section	Yes	Yes	Yes	Yes	Yes	Yes	Formula	
<b>Ohio</b>	Constitutional	ODOT: Office of Transit	Yes	Yes	No	Yes	Yes	Yes	Formula and Discretionary	
<b>Tennessee</b>	No - Multimodal	TDOT: Office of Passenger Transportation	Yes	No	Yes	Yes	Yes	Yes	Formula and Discretionary	
<b>Virginia</b>	No - Multimodal	Department of Rail and Public Transportation (DRPT)	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary	
<b>West Virginia</b>	Constitutional	WV DOT: Division of Public Transit	Yes	Yes	No	Yes	Yes	Yes	Discretionary	
<b>California</b>	No - Multimodal	Caltrans: Division of Mass Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary	
<b>Oregon</b>	Constitutional	ODOT: Public Transit Division	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary	
<b>Pennsylvania</b>	Constitutional	PennDOT: Bureau of Public Transportation	Yes	Yes	Yes	Yes	Yes	Yes	Formula and Discretionary	

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### KENTUCKY RAIL OVERVIEW

The Kentucky Transportation Cabinet (KYTC) has three separate work units that deal with freight and passenger rail concerns. These work units fall within the Division of Planning, the Division of Right-of-Way and Utilities, and the Office of Transportation Delivery. The Division of Planning administers the Kentucky Shortline Railroad Assistance Fund. The Division of Right-of-Way administers the federally-funded rail grade crossing safety program and the railroad coordination program that addresses rail involvement on highway projects. The Office of Transportation Delivery addresses rail passenger issues.

Freight rail service in Kentucky is presently provided by five Class I railroads, one regional railroad, and seven local railroads. These railroads operate on over 2,500 miles of track. Passenger rail service in Kentucky is presently provided by Amtrak, which serves four cities in Kentucky.

Railroads operating in Kentucky pay an annual ad valorem property tax. Railroads and railroad car lines also pay corporate income taxes, where applicable. The Kentucky Constitution prohibits using highway generated revenues for non-highway purposes. Such a prohibition prevents the use of such revenues for improvement to existing rail structures, facilities, or track. However, there are some capital and maintenance costs undertaken or subsidized by the state government.

### Historical Context

Since their early days, railroads in the United States have had a strong intermodal purpose. Early U.S. railroads were built to supplement state canal systems, which had proliferated after the development of the steamboat in the early 1800s. By 1840, there were about 3,000 miles of railroad tracks in the United States. Rail was growing, but waterways still had a more expansive reach at this point in time. The early U.S. rail network was mostly incorporated as a feeder network with various waterways and ports in the eastern United States.<sup>182</sup> Rail crossed the Appalachian Mountains in the 1850s allowing the movement of goods from the East Coast by rail into the Midwest. The ability to move freight by rail from coastal areas to the midwestern United States allowed significant savings in transportation costs. According to a study published by Hofstra University, the rail transportation costs for farm goods “fell 95 percent between 1815 and 1860.”<sup>183</sup>

Unlike the state-financed canals, however, railroads were generally built with private capital. Some states (e.g., Pennsylvania, Michigan, South Carolina and Georgia), as well as local and county governments, made investments in rail transit and states even operated lines in some instances. The federal government provided land to the states to use for rail development. Most of the financing (about 70 percent) came from private sources. Still, governments made substantial capital investments, lent large sums of money to railroad developers, and the federal government gifted more than 242,000 square miles of land, mostly in western states. Between 1861 and 1890, U.S. railroads received an estimated \$350 million in direct government aid. These privately and publicly-floated companies continued rapid expansion to the western United States and established new lines all over the eastern United States.<sup>184</sup>

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<sup>182</sup> Rodrique, Jean-Paul. 2001. “Rail Track Mileage and Number of Class I Rail Carriers, United States, 1830-2008.” *The Geography of Transit Systems*. Accessed at: <http://people.hofstra.edu/geotrans/eng/ch3en/conc3en/>

<sup>183</sup> Ibid.

<sup>184</sup> Johnson, Paul. 1997. *A History of the American People*. Harper Perennial: New York, NY. Pp. 533-534.

Railroads during the mid- to late-19th Century experienced almost exponential growth. Johnson (1997) identifies six ways in which railroads were economically and legally advantaged<sup>185</sup>:

- 1) Received charters from state legislatures
- 2) Special banking privileges to raise money
- 3) Right to use eminent domain to make compulsory land purchases
- 4) State and federal tax exemptions (including tariff remissions for imported iron)
- 5) Often enjoyed monopolistic protections
- 6) Capital from federal, state, county and municipal governments

According to the Association of American Railroads, government studies have shown that railroads have already paid several times over for the land grants they received, mainly by giving discounted rates for decades on government-related passenger and freight traffic.

<b>Total Miles of Railroad Track in the United States, By Year</b>	
<b>Year</b>	<b>Track Miles</b>
<b>1840</b>	3,000
<b>1850</b>	9,000
<b>1860</b>	30,000
<b>1870</b>	53,000
<b>1890</b>	164,000
<b>1916</b>	254,000
<b>1933</b>	246,000
<b>1987</b>	163,000
<b>2009</b>	169,082*
<i>Source: Johnson (1997), except for *, which comes from the Association of American Railroads</i>	

In the late 19th Century, railroads employed more than five percent of the American workforce and accounted for more than ten percent of all U.S. capital. By 1916, more than \$21 billion had been invested in U.S. railroads.<sup>186</sup> The amount of active track reached its peak that year, with 254,000 miles of track. As late as 1930, rail transportation accounted for 65 percent of all U.S. freight tonnage.<sup>187</sup> However, the railroad industry had already reached its zenith in terms of total track infrastructure and rate of expansion. Beginning in the late 19th Century, the federal government increased its regulatory oversight of railroads. In *Wabash, St. Louis & Pacific Railway Company vs. Illinois*, the U.S. Supreme Court ruled state laws could not regulate interstate shipping rates because it violated the Commerce Clause of the Constitution. In 1887, Congress passed the Interstate Commerce Act, which required railroads to publish shipping rates and made price discrimination illegal. The act also established the Interstate Commerce Commission (ICC). Subsequent legislative acts were passed to amend and strengthen the Interstate Commerce Act. In 1903, the Elkins Act imposed steeper financial penalties on railroads and shippers accepting shipping rebates. More significant changes came in 1906 and 1910 with the Hepburn Act and Mann-Elkins Act, respectively. The Hepburn Act allowed the ICC to establish maximum shipping rates for railroads, examine the financial records of railroads, and regulate bridges, terminals, ferries, railroad sleeping cars, express companies and oil pipelines.<sup>188</sup>

<sup>185</sup> Ibid.

<sup>186</sup> Johnson, 535.

<sup>187</sup> Rodrique, Jean-Paul.

<sup>188</sup> Johnson, pp. 546, 562, 620, 683.

These regulatory changes, coupled with the emergence and growth of the automotive industry, as well as the subsequent shift of state and federal government priorities from rail to highway infrastructure, led to a decline in the use of both the freight and passenger rail systems. More than 16,000 miles of track were abandoned during the Great Depression and, by 1950, the national rail network had shrunk to 224,000 miles. The shrinking railroad industry created severe financial difficulty for several Class I railroads. Class I railroads are the larger and more financially active railroads. By 1960, nearly a third of the rail industry was failing financially, if not bankrupt. In response, Congress began deregulating the railroads. The Federal Railroad Administration was created in 1967 with the goal of enforcing regulations and providing railroad assistance programs at the same time. The first major legislative change was the Railroad Revitalization and Regulatory Reform Act of 1976, which relaxed regulations on shipping rates, railroad abandonment and company mergers.<sup>189</sup> These reforms were expanded in the Staggers Rail Act of 1980, which allowed greater freedoms in the areas of rates, abandonment and mergers. As a result of deregulation, many rails began to focus more strongly on freight business and began divestiture of passenger rail services, which were generally unprofitable.<sup>190</sup> Rail abandonment of unprofitable track led to the discontinued use of more than 100,000 miles of track. Staff reductions helped to control operating costs, changing market rates led to greater competition between modes of transportation, and mergers and acquisitions led to a more financially stable industry.<sup>191</sup> The trend toward consolidation in the industry is obvious. Class I railroads have dwindled in number, from 106 in 1960, to 56 in 1975, to 7 in 2008.<sup>192</sup>

As Class I railroads have rationalized their operations, the role of regional (or Class II) and shortline (or Class III) railroads have become increasingly important. The Surface Transportation Board classifies, for purposes of accounting and reporting, line haul freight railroads with 2010 operating revenue of \$398.7 million or more as Class I Railroads. As noted, there are currently seven such railroads (including Canadian-owned railroads). Class II railroads are those carriers with annual operating revenues of less than \$398.7 million but more than \$31.9 million. The Association of American Railroads stipulates an additional requirement of at least 350 miles of track. Class III railroads are those with annual carrier operating revenues of less than \$31.9 million, and all switching and terminal companies regardless of revenue. As of 2009, there were 568 regional and shortline railroads. According to the American Short Line and Regional Railroad Association, regional, shortline and switching and terminal operations operated 46,474 miles of track as of 2002. After the passage of the Staggers Rail Act of 1980, Class I rail organizations began to abandon unprofitable lines to regional and shortline operators. These railroads extend rail service to areas or industries that would not have it otherwise. Regional and shortline railroads are generally recognized by industry officials as complementary service providers and do not directly compete with Class I organizations.

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<sup>189</sup> Slack, Brian. "Rail Deregulation in the United States." *The Geography of Transport Systems.* Hofstra University. Accessed at: <http://people.hofstra.edu/geotrans/eng/ch9en/appl9en/ch9a1en.html>

<sup>190</sup> Ibid.

<sup>191</sup> Ibid.

<sup>192</sup> Slack and Rodrigue



New opportunities have emerged for the rail mode in the global economy of the 21st Century. A focus on intermodal transit has helped lead a recovery for the industry. Strategic emphasis on long-distance corridors connecting ports to inland freight terminals has proved successful.<sup>193</sup> Nearly all of such corridors are double-tracked and the rail industry has made significant investment in locomotives, rail cars and tracks to keep up with the increased number of imported containers from Asia.<sup>194</sup> Coal shipping to power plants and increased trade with Mexico have also boosted economic fortunes for rail companies.<sup>195</sup> In the last few years, the rail industry has seen some loss in business, mostly due to the recession and, in some cases, due to severe weather such as tornadoes in the Midwest or flooding along the Mississippi River.<sup>196</sup>

However, long-term prospects are looking better, particularly because increasing gas prices have forced shippers and major retailers to rethink freight strategies. High fuel costs and a persistent shortage of truck drivers have created an opportunity for railroads. According to the Association of American Railroads, railroads are four times more fuel-efficient than commercial trucks when it comes to hauling freight. Such efficiency results in lower greenhouse gas emissions, and lowers American demand for fuel. The Texas Transportation Institute concluded in a December 2007 study report, which was amended in March 2009, the injury rate per billion ton-miles was 17 times higher for trucks than for rail. This same study also concluded that the fatality rate per billion ton-miles was nearly 7 times higher for trucks than for rail.

The American Association of State Highway and Transportation Officials (AASHTO) identified in its “Rail-Freight Bottom Line Report” the long-term public benefits of rail freight transportation. The degree to which these benefits are realized will depend on the level of public and private investment. These benefits include transportation system capacity and highway cost savings, economic development and productivity, international trade competitiveness, and emergency response.

Railroad growth, according to a recent article about railroad trends, will depend on the ability to keep up with customer demands and the continued expansion of strategic intermodal corridors.<sup>197</sup> The U.S. Department of Transportation estimates demand for rail freight will increase by 88 percent from 2005 to 2035.<sup>198</sup> Particularly, the 52,340 miles of primary rail freight corridors will need infrastructure improvements as the majority of rail freight travels along these lines. Rail is a very capital intensive industry with much of the capital investment coming from private sources. According to a recent study, \$148 billion in investment is required for current rail infrastructure to keep up with economic expansion and consumer demand. Nearly 200 years into its existence, the success of the U.S. rail system remains irrevocably linked to successful intermodal integration and will depend on both the investment of private and public capital to meet the needs of a 21st Century economy.

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<sup>193</sup> Rodrique.

<sup>194</sup> Bowman, Robert. J. 13 June 2011. “Plagued by Bad Luck, U.S. Railroads are Staging a Comeback.” SupplyChainBrain. Accessed 13 October 2011 at: <http://www.supplychainbrain.com/content/blogs/think-tank/blog/article/font-size2plagued-by-bad-luck-us-railroads-are-staging-a-comebackfont/>

<sup>195</sup> Rodrique

<sup>196</sup> Bowman.

<sup>197</sup> Ibid.

<sup>198</sup> Cambridge Systematics. 2007. “National Rail Freight Infrastructure Capacity and Investment Study.” Prepared for the American Association of Railroads. Accessed 14 October at: [http://www.aar.org/~/media/aar/Files/natl\\_freight\\_capacity\\_study.ashx](http://www.aar.org/~/media/aar/Files/natl_freight_capacity_study.ashx)

The federal government has enacted key legislation and related programs to fund passenger and freight rail developments across the United States. The Passenger Rail Investment and Improvement Act authorized appropriations that will cover operating costs and capital investments for rail projects nationally. It created the Intercity Passenger Rail Service Corridor Capital Assistance Program, High-Speed Rail Corridor Development, and Congestion Relief Programs. The American Recovery and Reinvestment Act of 2009 (ARRA) also provides funding for some passenger rail programs. Continued funding for Amtrak is included as well.<sup>199</sup> For freight rail, the FRA oversees two loan programs, the Railroad Rehabilitation & Improvement Financing Program (RRIF) and the Transportation Infrastructure Finance and Innovation Act. Grant programs for freight rail include the Railroad Rehabilitation and Repair (for disaster relief) and the Rail Line Relocation and Improvement Capital Grant Program.<sup>200</sup> Both freight and passenger rail are eligible to receive Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant Program funding. The U.S. Department of Transportation is currently authorized to make \$600 million in grants for road, rail, transit and port projects that achieve important national objectives. The first round of funding in 2009 included \$1.5 billion. The TIGER program was authorized by ARRA.<sup>201</sup> Most federal grants and loans are administered through the FRA and can be made to states or private sector companies for rail improvements.

State governments supplement these federal funds through their programs and have created their own programs to fund rail infrastructure development. In many cases, states use federal dollars to supplement their own projects. Increasingly important is the development of public-private partnerships between state rail authorities, railroad companies and the federal government.

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<sup>199</sup> U.S. Department of Transportation. 2011. "Financial Assistance: Passenger Rail." Accessed 2 November 2011 at: <http://www.fra.dot.gov/rpd/passenger/34.shtml>

<sup>200</sup> U.S. Department of Transportation. 2011. "Freight Financial Assistance." Accessed 2 November 2011 at: <http://www.fra.dot.gov/rpd/freight/26.shtml>

<sup>201</sup> U.S. Department of Transportation. 2011. "TIGER Grants." Accessed 2 November 2011 at: <http://www.dot.gov/tiger/index.html>

# KENTUCKY

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## State Governance, Ownership and Regulation

### *Rail Oversight*

From 1880 to 2000, state regulation of railroads was handled by the Railroad Commission (RRC), which was formally attached to the Kentucky Transportation Cabinet (KYTC). While it was originally a statutorily created agency, in 1891 the state constitution established a mechanism for electing board members as opposed to having them appointed by the governor, as was originally practiced. By the 1980s, the federal government was given extensive regulatory authority over intrastate railroads, effectively stripping the RRC of its regulatory and enforcement authority. The primary responsibilities of the commission were to address rail safety by issuing administrative regulations for intrastate railroad operations, resolving complaints filed against railroad companies in Kentucky, and regulating tariff charges assessed by Kentucky rail carriers.<sup>202</sup>

In 2000, the voters approved an amendment to the Kentucky Constitution that changed Sections 201, 209 and 218. The changes transferred the traditional RRC authorities to the Division of Multimodal Programs, which was part of the Office of Intermodal Programs at KYTC. The statute was amended again in 2009 after a KYTC reorganization had taken place and charged the KYTC with the tasks of regulating the railroads. Per KRS 174.057, the Division of Planning, which is organizationally located in the Department of Highways' Office of Project Development, has been delegated with the "duties, functions, and responsibilities associated with the regulation of railroads. The division shall have all the powers previously vested in the Kentucky Railroad Commission. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this section." The Division of Planning administers the Shortline Railroad Assistance Fund.

The Utilities and Rail Branch, which is housed in KYTC's Division of Right-of-Way and Utilities, administers the Kentucky Transportation Cabinet's Railroad Crossing Safety Program and Railroad Coordination Program. The Utilities and Rail Branch's railroad coordinators are responsible for maintaining an inventory of rail crossings with public roads throughout Kentucky. They take the information garnered within the inventory to prioritize the crossings statewide based on safety needs, facilitate the programming of funds for the needed improvements, and oversee the execution of these safety projects. The purpose of the Cabinet's Railroad Coordination Program is to negotiate coordination efforts with railroad companies directly affected by a Cabinet road construction project.

KYTC's Office of Transportation Delivery is responsible for seeking grant funds; the oversight and implementation of various statewide public transportation grants; and coordinates human service transportation such as non-emergency medical transportation. It is also in charge of Passenger Rail Operations and coordinates Kentucky's transportation operations with those of Amtrak. The office also oversees high speed rail development.

### *Statutes and Regulations*<sup>203</sup>

#### *KRS Chapter 277 Railroads – Organization and Operating Regulations*

This chapter of the Kentucky Revised Statutes details circumstances under which a railroad line may be constructed, the power and duties of railroad companies regarding construction, alteration and maintenance, allocation of cost between railroad and government for elimination of grade crossings, contracts and leases for railroad operation, railroad crossing regulations, height of bridge and passways, required rail car equipment for transport of rail employees, regulations for railroad police, railroad liability for accidents and deaths, prohibitions against damage, disturbance or disruption of rail service, prohibition against train crew members having to show operator's license in investigations of accidents or operation, eligibility requirements for state rail-banking, preservation of railroad corridors, conservation easements over land adjoining or traversed by rail-trail, and duties of railroads proposing

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<sup>202</sup> Wilbur Smith Associates. 2002. *Kentucky Statewide Rail Plan*. Accessed 14 October 2011 at: <http://transportation.ky.gov/Railroads/Pages/Kentucky-Statewide-Rail-Plan.aspx>.

<sup>203</sup> Wilbur Smith Associates, 2002.

to discontinue service or abandoning railroad corridors. Penalties for non-compliance are included as well.

*KRS 174.130 – Abandonment of Rail Corridors and Rail-banking*

This statute requires KYTC to transmit information concerning the abandonment of rail corridors to the Department of Parks and Rail-trail Development Office. This information should include information about any railroad or owner having an interest in obtaining federal authority for the regulatory abandonment of a railroad corridor. KYTC shall publish an annual map illustrating the location and status of all rail lines, the owners and operators, contact information for owners and operators, whether the owner has received federal government permission to discontinue service or abandon the line, whether the line has been rail-banked and any other information KYTC deems pertinent.

*KRS 177.110-177.210 – Railroad Crossings*

This series of statutes establishes law regarding railroad crossings in Kentucky. The statutes authorize KYTC to establish crossing standards, eliminate or close grade crossings, hold hearings with railroad companies to discuss crossing plans, circumstances where KYTC may do crossing work, the bidding process, and the appeals process should railroad companies object to any ordered crossing closure or elimination.

*KRS 189.560 – Railroad crossings*

Sets forth law for motorists at a railroad crossing, circumstances under which the cabinet may designate a crossing as “unsafe,” conditions for maintaining crossings on state-maintained highways, and signage requirements.

*KRS 189.561 Investigation of certain public grade crossings not equipped with gates -- Results -- Costs.*

Sets the parameters for investigating public grade crossings where there have been accidents but there are no gates in order to determine whether gates should be installed.

*KRS 189.562 Duty of railroad company when warning device incorrectly remains activated*

If a warning device at a grade crossing is activated for a period of 30 minutes or more in the absence of an approaching train due to track maintenance or train movements in the vicinity and the railroad company responsible is unable to disengage the warning device, then the company shall position a flagman at the affected intersection.

*KRS 189.565 Operator of motor vehicle used in transporting inflammable liquids or explosives to stop vehicle at railroad crossings -- Exceptions.*

Law stating any motorist driving a vehicle used to transport inflammable liquids or explosives shall stop before crossing at-grade the main track of any railroad or interurban electric railway unless the intersection is gated or is a flag-controlled crossing. Details are in the statute.

*603 KAR 7:090 – Annual reports and maps for Office of Intermodal Programs*

This administrative regulation details regulations for annual reports and annual maps to be filed by Kentucky railroads with the Office of Intermodal Programs, notification of KYTC in the event of an accident involving a railroad, as well as penalties for non-compliance. Statutory authority is derived from KRS 174.057.

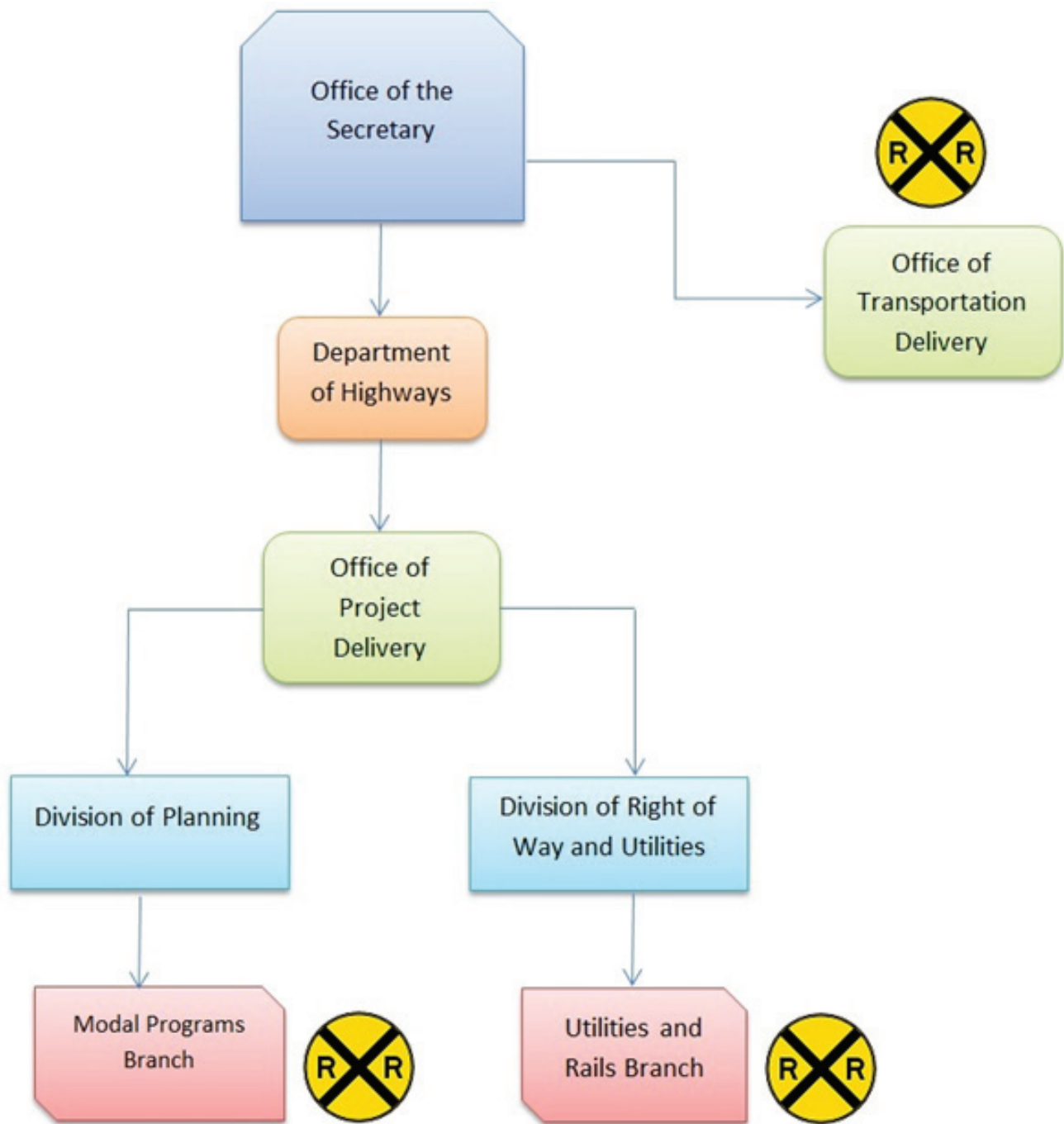
*603 KAR 9:010. Railroad Crossing Closure Procedure*

Sets forth procedures the Transportation Cabinet shall follow regarding the production of a list of railroad crossings which shall be considered for closure, the evaluation of the candidate list with respect to possible closure, and the ultimate decision to recommend closure. Statutory authority is derived from KRS 177.120.

*603 KAR 9:020. Automatic gates at public grade crossings*

KRS 189.561 requires the Transportation Cabinet to investigate any public grade crossing not equipped with automatic crossing gates which has an average daily traffic volume of 4000 or more vehicles and at which two or more accidents involving a train and other vehicle have occurred within a five year period. Excluded are non-fatal accidents caused by mechanical failure of the motor vehicle, accidents in which the operator of the highway motor vehicle was in violation of KRS Chapter 189A, or other non-warning signal related cause as set forth by the Transportation Cabinet in administrative regulation. This administrative regulation sets forth the list of non-warning signal related accidents.

*Organizational Structure and Staffing*



Above is a partial organizational chart for KYTC identifying, by way of the railroad crossing signs, each office, division or branch within KYTC with a role in the government’s administration of state railroad laws and programs, as well as maintaining public-private intergovernmental relationships.

<i>Railroad Track Ownership and Operations</i>			
<b>Railroad</b>	<b>Miles in KY</b>	<b>Designation</b>	<b>Class</b>
<b>CSX Transportation</b>	1,644	Class I	Class I
<b>Norfolk Southern Corp.</b>	431	Class I	Class I
<b>Canadian National Railway</b>	107	Class I	Class I
<b>BNSF Railway Company</b>	99	Class I	Class I
<b>Union Pacific Railroad Co.</b>	13	Class I	Class I
<b>Paducah &amp; Louisville Railway</b>	290	Regional Railroad	Class II
<b>R. J. Corman Railroad - Central KY Lines</b>	114	Shortline Railroad	Class III
<b>R. J. Corman Railroad - Memphis Line</b>	62	Shortline Railroad	Class III
<b>Transkentucky Transportation (TTI)</b>	50	Shortline Railroad	Class III
<b>R. J. Corman Railroad - Bardstown Line</b>	20	Shortline Railroad	Class III
<b>Fredonia Valley Railroad</b>	14	Shortline Railroad	Class III
<b>Kentucky West Tennessee Railway</b>	11	Shortline Railroad	Class III
<b>Tennken Railroad</b>	9	Shortline Railroad	Class III
<b>Kentucky &amp; Tennessee Railway</b>	2	Shortline Railroad	Class III
<b>Louisville &amp; Indiana Railroad Co.</b>	2	Shortline Railroad	Class III

*Passenger Rail*

Passenger rail service in Kentucky is presently provided by Amtrak. Amtrak trains serve four cities in Kentucky. The Cardinal serves the cities of Maysville, South Portsmouth, and Ashland and runs from Chicago, Illinois to Washington, D.C. The Cardinal runs three trains per week offering both sleeper and diner cars. The City of New Orleans provides service from Chicago to New Orleans, Louisiana, passing through Fulton. The City of New Orleans offers daily service and offers sleeper and dining cars. A Thruway motorcoach connection is provided at Louisville, connecting Louisville and Indianapolis continuing to Chicago. Thruway bus service is a passenger option providing connections between Amtrak and cities not currently served by Amtrak.

<b>Kentucky Amtrak Stations</b>		
<b>Ashland, KY (AKY)</b>	99 15th Street Ashland, KY 41101	Cardinal Route
<b>Fulton, KY (FTN)</b>	21 Newton Road Fulton, KY 42041	City of New Orleans Route
<b>Louisville, KY (LVL)</b>	Greyhound Station 720 West Muhammad Ali Blvd Louisville, KY 40203	Thruway Motorcoach
<b>Maysville, KY (MAY)</b>	West Front Street Maysville, KY 41056	Cardinal Route
<b>South Portsmouth, KY (SPM)</b>	Rte 23 & Main Street South Shore, KY 41174	Cardinal Route

## **Financial Assistance**

The state does not pay any operating costs because it does not own any railroad track or railraod facilities. The Kentucky Constitution prohibits using fuel tax revenues for non-highway purposes. Such a prohibition prevents the use of any fuel tax money for improvements to existing rail structures, facilities or track.<sup>204</sup> There are, however, some capital and maintenance costs undertaken or subsidized by the state government. Kentucky has a number of financial incentive programs for businesses looking to invest in Kentucky. The Kentucky Business Investment Program (KBI), the Kentucky Rural Economic Development Act, the Kentucky Enterprise Initiative Act and economic development bonds have all been used to support recent, current, or future projects involving the manufacture of rail equipment or investment in rail infrastructure. Here are some other statutorily established economic incentives programs that support railroads in Kentucky:

### *KRS 141.385*

#### *Nonrefundable tax credit for railroad improvement (50 percent Tax Credit)*

This 50 percent tax credit is for Class II and Class III railroads, or any person who transports property using the rail facilities of a Class II or Class III railroad located in Kentucky or furnishes railroad-related property or services to a Class II or Class III railroad located in Kentucky, to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures.

### *KRS 141.386*

#### *Nonrefundable tax credit for railroad expansion or upgrade to accommodate transportation of fossil energy resources or biomass resources (25 percent Tax Credit)*

This 25 percent tax credit is for corporations that own fossil energy resources or biomass resources and transports these resources using rail facilities; or for railway companies that serve a corporation that owns fossil energy resources to expand or upgrade railroad track, including roadbeds, bridges, and related track structures, to accommodate the transport of fossil energy resources or biomass resources.

### *KRS 174.058*

#### *Shortline Railroad Assistance Fund*

This fund is for Class II and Class III railroads for the construction, reconstruction, improvement, or rehabilitation of rail facilities, including tracks, ties, roadbeds, and related structures used for freight rail operation. Financial assistance provided from the fund is limited to grants and loans, which shall be made at or below market interest rates, including interest-free loans. This fund has been allocated \$2 million for FY 2011 and FY 2012, but no money has been disbursed in the current fiscal year.

#### *Kentucky Special Fuel Tax Exemption*

Railroads operating in Kentucky can apply for a special fuel tax refund permit. KRS 138.444 states “, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for non-highway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel.”

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<sup>204</sup> National Council of State Legislatures. *Transportation Governance and Finance: A 50-State Review of State Legislatures and Departments of Transportation*. Denver, CO: 2011.

<b>Kentucky Shortline Railroad Assistance Fund Awards Fiscal Year 2010 – Fiscal Year 2012</b>		
<b>Awardee</b>	<b>Project Title</b>	<b>Award Amount</b>
<b>R.J. Corman Railroad</b>	Midway Rail Siding	\$463,038
<b>R.J. Corman Railroad</b>	Lexington Center Expansion	\$645,828
<b>R.J. Corman Railroad</b>	Rail Rehabilitation	\$500,000
<b>Paducah &amp; Louisville Railroad</b>	Muldrough Bridge Replacement	\$1,000,000
<b>Paducah &amp; Louisville Railroad</b>	KY 1646 E-town Crossing	\$39,150
<b>Paducah &amp; Louisville Railroad</b>	KY 920 Louisville Crossing	\$34,740
<b>Paducah &amp; Louisville Railroad</b>	KY 907 Louisville Crossing	\$25,344
<b>TennKen Railroad</b>	Rail Replacement	\$196,740
<b>Louisville &amp; Indiana Railroad</b>	Ohio River Bridge Pier Repair	\$183,635
<b>TTI</b>	Tie Replacement & Rail Bed Rehab	\$359,901
<b>Kentucky Railway Museum</b>	Track & Crossing Rehab	\$190,350
<b>Total</b>		<b>\$3,638,726</b>

#### *Rail Grade Crossing Maintenance Programs*

In terms of maintenance costs, the state splits the costs of resurfacing railroad crossings. Typically the railroad will pay for the materials and labor and the state will reimburse the material costs of the upgrade. The state has an annual maintenance program operated with state funds and another Section 130 program that uses federal funds to upgrade highway-rail grade crossings.

#### *Railroad Coordination Program*

Officials in the Utilities and Rails Branch handle coordination efforts with the railroads when KYTC road projects directly affect their rail operations. When road projects adjoin or encompass rail facilities, the facility owner becomes an active partner in the project. KYTC is obligated to negotiate the project design terms and compensate the owner for their involvement in the project. The process is designed to be flexible so railroads can plan, design, inspect, and use accounting procedures in accordance with their own preferences. The terms of the project are outlined in a contract with the rail owner and guarantee specific items required by statute, regulation or legal opinion. The Utilities and Rail Branch's railroad coordinator is tasked with focusing on early and proactive communication with the Department of Highways or responsible agency. The first priority is to avoid rail facilities, but when this is not feasible, the staff will provide the road project team with the railroad's feedback. The agency works with the railroads to resolve any disputes or problems that may arise. The railroad coordinator provides the railroads with information about future KYTC projects so railroad companies can account for such contingencies in their short- and long-term planning.

<b>Kentucky FY 2012 Projected Expenditures for Rail Mode</b>	
<b>Expenditure</b>	<b>Cost</b>
<b>Office of Transportation Delivery -- Personnel</b>	\$10,276
<b>Utilities and Rails Branch -- Personnel</b>	\$256,351
<b>Division of Planning -- Personnel</b>	\$196,100
<b>Utilities and Rails – Rail Coordination</b>	\$15,050,000
<b>Utilities and Rails – Annual Maintenance*</b>	\$1,125,250
<b>Shortline Rail Assistance Fund</b>	\$2,000,000
<b>Total</b>	<b>\$18,637,977</b>
<b>*Does not include federal Section 130 appropriations for highway-rail grade crossings</b>	



## Revenues

Railroads operating in Kentucky pay an annual ad valorem property tax on all real and personal property owned or leased. Railroad car lines are also subject to annual property tax. Railroads and rail car lines are centrally assessed by the Kentucky Department of Revenue (DOR). State taxes are collected by the DOR and local taxes by the respective county sheriff. Manufacturers of rail cars are subject to real and personal property tax. The property is subject to both state and local taxation. The real property and personal equipment is assessed by the local Property Valuation Administrator. Both state and local taxes are collected by the county sheriff. The state taxes are returned to the state treasury by the county sheriff. Railroads and railroad car lines also pay corporate income taxes where applicable.

<b>FY 2011 Property Tax for Railroads and Railroad Car Lines</b>		
<b>Taxpayer</b>	<b>State</b>	<b>Local</b>
<b>Railroads</b>	\$2,400,000	\$4,900,000
<b>Railroad Carlines</b>	\$1,300,000	\$2,400,000

## Marketing and Technical Assistance

Kentucky Operation Lifesaver is a non-profit organization that works to prevent death and injuries at highway-railroad grade crossings and on railroad rights-of-way. The Kentucky Operation Lifesaver Program was organized in 1981. The organization makes public service announcements and gives presentations to civic groups and various other organizations about proper railroad crossing procedures and safety techniques.

KYTC commissioned a statewide rail plan from Wilbur Smith Associates in 2002. It contains technical information about its rail program, freight and intermodal programs, passenger rail programs, rail issues, rail safety, the Rails to Trails program, and recommendations. It can be accessed at: <http://transportation.ky.gov/Railroads/Pages/Kentucky-Statewide-Rail-Plan.aspx>. KYTC has 11 employees with full- or part-time rail-related responsibilities. The Office of Transportation Delivery has three employees with part-time responsibilities; the Utilities and Rails Branch has three employees with full-time responsibilities, and three employees with part-time responsibilities; and the Division of Planning has two employees with part-time responsibilities.

# ILLINOIS

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## **State Governance, Ownership and Regulation**

### *Rail Oversight*

The Rail Safety Section of the Illinois Commerce Commission (ICC) regulates freight and passenger rail within the state. The Illinois Department of Transportation (IDOT), through its Department of Public and Intermodal Transportation's (DPIT) Bureau of Railroads, provides financial assistance for its rail freight program as well as intercity and high-speed rail.

### *Statutory Authority*

The Illinois Commerce Commission's statutory authority comes from:

- 625 ILCS 5/Ch. 18C Sub-CH. 7
  - o Article I. Jurisdiction Over Rail Carriers
  - o Article II. Registration and Services of Rail Carriers
  - o Article III. Ratemaking (repealed)
  - o Article IV. Safety Requirements for Rail Carriers
  - o Article V. Miscellaneous Provisions

Authorization for the Rail Freight Program is contained in the Illinois Administrative Code:

- Title 92: Transportation
  - o Chapter I: Department of Transportation
    - Subchapter j: Railroads, Part 800 Rail Freight Program

Implemented and authorized by Sections 49.25d and 49.25g-1 of the Civil Administrative Code of Illinois (Ill. Rev.Stat. 1985, ch. 127, pars. 49.25d and 49.25g-1).

### *Rail Freight Loan Repayment Fund*

Public Act 094-0807 created the State Rail Freight Loan Repayment Fund. The State Rail Freight Loan Repayment Fund was created to provide railroads, economic development corporations, or owners or lessees of rail right-of-way with loans for capital projects meant to rehabilitate, improve or construct rail facilities. The funding determinations are made based on the cost-effectiveness of the project and the necessity of funding such a project in order to maintain current rail service levels. The act requires the Illinois Department of Transportation to coordinate with the Department of Commerce and Economic Opportunity's business attraction and retention programs.

## Railroad Track Ownership and Operations

	Miles Operated In Illinois in 2009
<b>Class I Railroads</b>	
BNSF Railway Company	1,552
CSX Transportation	916
Grand Trunk Corporation	1,645
Kansas City Southern Railway Co.	182
Norfolk Southern Corp.	1,260
Soo Line Railroad Co.	250
Union Pacific Railroad Co.	2,204
	<u>8,009</u>

<b>Regional Railroads</b>	
Indiana Rail Road, The	216
Iowa Interstate Railroad, Ltd.	218
Iowa, Chicago & Eastern Railroad	204
Wisconsin & Southern Railroad	90
	<u>728</u>

<b>Local Railroads</b>	
Bloomer Line, The	45
Chicago, Ft. Wayne & Eastern Railroad	6
Chicago, SouthShore, & South Bend RR	6
Effingham Railroad Co.	5
Evansville Western Railway	46
Illinois & Midland Railroad, Inc.	169
Illinois Railway	113
Illinois Western Railroad Co.	3
Kankakee, Beaverville & Southern Railroad	95
Keokuk Junction Railway	134
Toledo, Peoria & Western Railway Corp.	186
Vandalia Railroad	3
	<u>811</u>

Illinois 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	7	5,864	8,009
Regional	4	453	728
Local	12	646	811
Switching & Terminal	19	350	434
<b>Total</b>	<b>42</b>	<b>7,313</b>	<b>9,982</b>

	Miles Operated In Illinois in 2009
<b>Switching &amp; Terminal Railroads</b>	
Belt Railway Company of Chicago	27
Burlington Junction Railway	16
Central Illinois Railroad Co.	12
Chicago Port Railroad Co.	1
Chicago Rail Link	57
City of Rochelle Railroad	4
Crab Orchard & Egyptian Railroad	14
Decatur Junction Railway Co.	40
Eastern Illinois Railroad Co.	53
Indiana Harbor Belt Railroad	69
ISG South Chicago & Indiana Harbor Rwy.	8
Manufacturers Junction Railway	2
Manufacturers Railway Co.	1
Pioneer Industrial Railway Co.	8
Riverport Railroad, LLC	72
Shawnee Terminal Railway Co.	3
Tazewell & Peoria Railroad, Inc.	28
Terminal Railroad Assn. of St. Louis	17
Vermillion Valley Railroad Co.	2
	<u>434</u>

Source: Association of American Railroads

### Passenger Rail

All track in Illinois is privately owned, although Illinois owns and operates state passenger rail stations, buys equipment, operates services, etc. Most of Illinois' investment is made in Amtrak's Illinois Services to 28 down-state cities includes the following trains:

- The Illinois Zephyr (daily service between Chicago and Quincy, IL)
- Illini Service (daily service between Chicago and Carbondale, IL)
- The Saluki (daily service between Chicago and Carbondale, IL)
- The Carl Sandburg (daily service between Chicago and Quincy, IL)
- The Lincoln Service (daily service between Chicago and St. Louis, MO)

## Financial Assistance

### *Rail Freight Program*

Approximately 90 percent of the track in Illinois is dedicated to freight rail. The purpose of the rail freight program is “to ensure the continuation of rail freight services that offer a high potential for economic success.”<sup>205</sup> Typically projects require coordination and financial commitments from state and local government, railroad companies and any other loan or grant recipients. Originally, the rail freight program was developed as a grant program, but due to financial constraints it has shifted to emphasize loans instead, which allows funds to go farther.<sup>206</sup>

The primary sources of funds for the rail freight program are:

- State general revenue funds
- Rail Freight Loan Repayment Fund, which holds federal funds loaned and then repaid to the state. The federal share of these funds is placed in an interest-bearing account (Rail Freight Loan Fund) and loans and grants are made from these funds for eligible rail projects. In order to receive such funds, a 30 percent project match is required.
- The State Loan Repayment Fund holds state funds loaned and repaid to the state. The state share of these funds is placed in an interest-bearing account (State Loan Repayment Fund) and loans and grants are made from these for eligible rail projects.<sup>207</sup>

FY 2011 Rail Freight Program	
<b>Rail Freight Loan Repayment Fund</b>	\$1,045,000
<b>State Rail Freight Loan Repayment Fund</b>	\$2,700,000
<b>Rail Freight Program Total</b>	<b>\$3,745,000</b>

<sup>205</sup> Illinois Department of Transportation. 2010. *FY 2011-2015 Proposed Rail Improvement Program*. Accessed 20 October 2011 at: [http://www.dot.state.il.us/opp/2011-2015\\_percent20PRIP/2011program.pdf](http://www.dot.state.il.us/opp/2011-2015_percent20PRIP/2011program.pdf).

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<b>Illinois Rail Freight Program FY 20111 – Tentative Projects</b>				
<b>Project Location</b>	<b>Owner/Operator</b>	<b>S/F Investment</b>	<b>Private Investment</b>	<b>Project Description</b>
<b>Granite City/TCPD</b>	TRRA	\$2,500,000	\$20,000,000	Connect main loop track.
<b>Mattoon*</b>	CN	\$2,500,000	\$1,000,000,000	Construct new rail infrastructure.
<b>Alton</b>	NS	\$2,500,000	\$0	Rehabilitate and construct new track
<b>Litchfield</b>	BNSF	\$200,000	\$0	Construct spur track
<b>Venice</b>	TRRA	\$900,000	\$0	Construct new spur track
<b>South Chicago</b>	CRL	\$3,000,000	\$0	Rehabilitate rail infrastructure
<b>Polo</b>	BNSF	\$4,000,000	\$0	Construct Rail Loop
<b>Rochelle</b>	UP	\$1,000,000	\$0	Extend rail lead
<b>Zion**</b>	UP	\$4,000,000	\$3,000,000,000	Construct new rail infrastructure
<b>Cahokia</b>	A&S	\$3,500,000	\$0	Rehabilitate and construct new track
<b>LaHarpe</b>	KJRY	\$750,000	\$0	Construct new rail infrastructure
<b>Manteno</b>	CN	\$750,000	\$0	Construct new rail infrastructure
<b>Gibson City</b>	BLOL	\$19,000,000	\$0	Rehabilitate short line railroad
<b>Sterling</b>	UP	\$3,000,000	\$0	Rehabilitate and construct new track
<b>Greenville*</b>	ILW	\$3,000,000	\$0	Construct new rail infrastructure
<b>Totals</b>	<b>N/A</b>	<b>\$50,600,000</b>	<b>\$4,020,000</b>	
<b>All projects are loans unless indicated otherwise; *= grant; ** = grant/loan</b>				

### *Rail Passenger Program*

The Illinois Rail Passenger Program has three components: operating expenses, capital improvements and marketing (for marketing information, see the Marketing and Technical Assistance section).

### *Operating Expenses*

Illinois spends more money on the operating costs of its passenger rail program than any other state except California. The state spent \$24.5 million in FY 2007 and increased to \$28 million in FY 2008. All of the expenses are used to support the state-supported trains, which supplement the Amtrak national passenger rail system.<sup>208</sup>

<sup>208</sup> Ibid.

### *Capital Expenses*

The state's Station Improvement Program was used to fund projects concerning station creation and repair, as well as other infrastructure projects and repairs. Illinois was able to build nine new train stations and renovate eight existing stations between 1985 and 1999 with the help of Amtrak. Funding was cut to \$100,000 per fiscal year in 2002 and there have been no appropriations to the program since that time. Amtrak and local communities have been increasingly responsible for station improvement projects.

The IDOT has recently taken an inventory of physical conditions and cost projections for repairs at various train stations throughout the state, including interior/exterior repairs, platform and parking improvements, new station designs, major station renovations and planning for new stations. The ability to leverage matching funds from local communities has become difficult as funding has been limited due to a lack of funding for these types of capital improvement projects.<sup>209</sup>

Nevertheless, expansion of passenger rail service is something the state has attempted to do, where feasible, and Amtrak has been recently commissioned to do other feasibility studies in order to identify corridors that might be suitable for expansion or re-establishment of passenger rail service. The Illinois Jobs Now! legislation has allocated \$150 million for capital improvements to intercity passenger rail.<sup>210</sup> Funds allocated to the Capital Investment Program also allow for purchase of passenger locomotives and coaches required to operate existing passenger rail, corridor expansions and high-speed rail.

### *CREATE*

Chicago Regional Environmental and Transportation Efficiency Program (CREATE) is a large-scale program that is focused on improving rail system congestion near and in Chicago, which is the largest rail hub in the United States. The project is a public-private partnership between the federal government, the state of Illinois, the City of Chicago, Metra, Amtrak, and six of the country's seven Class I railroads.<sup>211</sup> Currently, there are 70 projects slated for the Chicago hub.

These projects are meant to clear up chokepoints in the rail infrastructure. According to CREATE, a train may spend as little as 48 hours traveling from Los Angeles to Chicago only to spend 30 hours working its way through the Chicago area. Furthermore, demand for rail freight passing through Chicago is expected to double over the next 30 years. In order to combat both existing and future congestion, the CREATE project aims to create 25 new roadway overpasses and underpasses in places where there are currently grade crossings; 6 new rail overpasses or underpasses to separate passenger and freight tracks; 37 rail projects which involve extensive track, switch and signal system upgrades; viaduct improvement projects; grade crossing safety enhancements; and an integration of dispatch systems of all major railroads into a common operational picture (COP).<sup>212</sup> The end product should be a transportation system that is more efficient and safe for all affected modes.

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<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

<sup>211</sup> Chicago Region Environmental and Transportation Efficiency Program. 2010. "About CREATE." Accessed 20 October 2011 at: <http://www.createprogram.org/about.htm>

<sup>212</sup> Ibid.

*CREATE Funding (as of February 2011)*<sup>213</sup>

*Funding Received*

- \$100 million – ARRA TIGER
- \$1.9 million - Federal Rail Line Relocation Funds
- \$90.6 million – Federal Projects of National and Regional Significance
- \$116 million - Railroad partners
- \$10 million - IL DOT
- \$4.2 million - Chicago DOT
- \$286.5 million - Pre-CREATE funding (various sources)

*Future Funding*

*CREATE Anticipated Funding - In Process*

- \$133 million – ARRA High Speed Rail
- \$300 million – Illinois Capital Bill, CREATE Program
- \$100 million – Illinois Capital Bill, Two individual grade separation projects

*Committed but not secured*

- \$25.8 million – Chicago DOT
- Additional Railroad partner contribution

*Unfunded Need*

- \$2.44 billion (2009 dollars)

*High-Speed Rail*

Illinois has been studying and planning for the eventual creation of a high-speed passenger rail line that would run from Chicago to St. Louis since 1992. The ultimate goal is to operate passenger trains with speeds up to 110 miles per hour. Running a line will require extensive equipment upgrades (tracks, signals, gates at crossings) and constructing a second track on the designated Chicago-St. Louis route. Illinois has invested more than \$70 million so far, but currently lacks sufficient state funds to complete the project. According to IDOT, the project will be completed pending more federal assistance. Illinois received \$1 billion in grants from the American Recovery and Reinvestment Act (ARRA) for FY 2009-2013, which should allow them to complete the Chicago-St. Louis high-speed rail project.<sup>214</sup>

The state is currently involved in other rail development projects, including corridor development for passenger and freight rail between Chicago and St. Louis to accommodate increased intermodal freight demand as well as increased ridership. Installation of positive train control (PTC), an advanced communication system used to enhance train safety on tracks where high-speed trains and slow-moving freight rail share the same right-of-way, has been mandated by the Federal Railroad Administration. High-speed rail equipment is also needed for the high-speed rail corridor, including six sets of passenger coaches and locomotives.<sup>215</sup>

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<sup>213</sup> Chicago Region Environmental and Transportation Efficiency Program. 2010. "Chicago Region Environmental and Transportation Efficiency Program: A Project of National and Regional Significance." Accessed 20 October 2011 at: [http://www.createprogram.org/linked\\_files/2011\\_February\\_Overview.pdf](http://www.createprogram.org/linked_files/2011_February_Overview.pdf)

<sup>214</sup> Illinois Department of Transportation, 2010.

<sup>215</sup> Ibid.

### *Midwestern Regional Rail Initiative*

The Midwestern Regional Rail Initiative consists of nine states (Illinois, Indiana, Ohio, Michigan, Wisconsin, Missouri, Iowa, Minnesota and Nebraska), Amtrak and the FRA. Since 1996, the MWRRI has been researching ways to improve passenger rail service in the region. The MWRRI has conceived of a plan for a 3,000-mile, high-speed passenger rail system that would link most major cities in the region, with Illinois serving as the hub. So far, the states have contributed more than \$2.1 million for studies. Amtrak has provided \$1.9 million and the FRA an additional \$400,000. These studies were used to establish a system design and identify the capital, operating and maintenance costs necessary to develop such a system.<sup>216</sup> The initiative has not received direct funding for corridor creation, but individual states were awarded AARA funding on a corridor-by-corridor basis.<sup>217</sup>

<b>MWRRI Corridor Funding</b>	
<b>Chicago-St. Louis-Kansas City</b>	\$1.2 billion
<b>Chicago-Milwaukee-Madison-Twin Cities</b>	\$823 million
<b>Chicago-Pontiac-Detroit</b>	\$244 million
<b>Other awards:</b>	\$400 million for Ohio's 3C corridor and \$17 million for Iowa

### *Illinois Grade Crossing Protection Fund*

The Illinois General Assembly established the Illinois Grade Crossing Protection Fund (GCPF) to assist local jurisdictions with the costs of safety improvements at grade crossings. The GCPF is appropriated to the Illinois Department of Transportation from the state's Motor Fuel Tax Fund. But the fund is administered by the Illinois Commerce Commission. The GCPF provides financial assistance for a variety of safety projects, including bridge projects, grade crossing improvements, low-cost emergency projects, experimental projects, voluntary crossing closure incentive payments and surface renewal. The Grade Crossing Protection Fund is in addition to funds managed by the Illinois Department of Transportation, including any federal Section 130 funding.<sup>218</sup>

The Illinois ICC receives many requests from local communities and railroads for assistance through the GCPF. Projects are prioritized based on several criteria, including the relative safety of the existing crossing and the volume and types of existing train and highway traffic. After projects are ranked based on those engineering requirements, the geographic location is taken into account as well so the state distributes funds as equitably as possible.<sup>219</sup>

<b>FY 2013-2016 GCPF Projects</b>		
<b>Project Type</b>	<b>Crossings Affected</b>	<b>Funding (in Millions)</b>
Bridge Projects	13	\$88.4
Grade Crossing Improvements	193	\$51.4
Low-Cost Emergency Projects; Experimental Projects; Voluntary Crossing Closure Incentive Payments; Surface Renewal	1,600	\$20.0
<b>Totals</b>	<b>1,806</b>	<b>\$159.8</b>

<sup>216</sup> Ibid.

<sup>217</sup> Ibid.

<sup>218</sup> Illinois Commerce Commission. 2011. Crossing Safety Improvement Program: FY 2012-2016 Plan. Accessed 21 November 2011 at: <http://www.icc.illinois.gov/downloads/public/rr/Crossing%20Safety%20Improvement%20Program%20FY%202012-2016.pdf>

<sup>219</sup> Ibid.



## **Marketing and Technical Assistance**

### *Technical Equipment Committee*

Illinois participates in a technical equipment committee established by the Passenger Rail Investment Act (PRIA), which has the objective of specifying common equipment regulations for nationwide rail use. Such standards would allow states to pool their equipment orders and save money. Implementing such standards would allow for lower manufacturing costs and save states money when purchasing rail cars and locomotives. The committee will also address the issue of cost distribution of purchasing rail equipment that must be adapted for different rail corridors on diverse or variable terrain.<sup>220</sup>

### *Marketing Expenses for Amtrak*

According to the Illinois Department of Transportation, “The purpose of the marketing program is to raise public awareness of the availability of passenger trains in Illinois and the advantages of rail travel, thereby increasing ridership, maximizing revenues and optimizing the state’s investment in passenger rail operations.”<sup>221</sup> Amtrak produces most the advertising materials and the state makes use of the material, particularly in the Illinois Bureau of Tourism and the Chicago Office of Tourism. IDOT’s statewide sales efforts comprise a major marketing effort. It involves coordination with Amtrak, advertising to the public, a joint marketing effort with a car rental service, and a marketing linkage between lodging and travel ads for passenger rail services in Illinois hotels. Promotional materials are distributed within a 40-miles range of all stations to increase visibility and inform the public about changes to smaller service market routes or the establishment of new routes.<sup>222</sup>

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<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

<sup>222</sup> Ibid.

## State Governance, Ownership and Regulation

### *Rail Oversight*

State rail governance is provided by the Indiana Department of Transportation's (INDOT) Rail Office. It carries out planning, coordination, and administration of various rail regulations and assistance funds and oversees the development and preservation of freight and passenger corridors throughout the state. The Rail Office is located within the Modal and Intermodal Planning and Policy Division and reports to the Deputy Commissioner of Capital Program Management. The federal highway-rail crossing program, commonly referred to as the Section 130 program, is administered by the Office of Traffic Safety. The office also coordinates with Indiana Operation Lifesaver, which is a rail crossing safety education advocate program. The Office of Traffic Safety is under the Division of Asset Management and also reports to the Deputy Commissioner of Capital Program Management. The Utilities & Rails Division coordinates with railroads in the state whenever an INDOT project may impact railroad facilities or operations. The division reports to the Engineering Support and Design Services Deputy Commissioner.<sup>223</sup>

### *Statutes and Regulations*

IC 8-3-1.5 (enacted in 1975) authorized INDOT to have regulatory control over the establishment of a state plan for rail transportation and local rail services; administration and coordination of the state plan; provision of equitable distribution of federal rail service continuation; promotion, supervision, and support of safe, adequate, and efficient rail ; employment of sufficiently trained and qualified personnel; maintenance of adequate programs of investigation, research, promotion and development; assurance that fiscal control of accounting procedures will be adopted by the state to assure proper disbursement of federal funds; and compliance with law and regulation affecting federal rail assistance.<sup>224</sup>

IC 8-3-1.7 established INDOT's administrative control over the Industrial Rail Service Fund in 1982. The fund provides loans to railroads in order to purchase property or rehabilitate existing property, grants to railroads owned and operated by a port authority, grants to Class II and Class III railroads for rehabilitation or railroad construction, and funds for rail planning and operating expenditures for the transportation department.<sup>225</sup>

IC 8-6-1-7(b) - A petition is required to be filed by a roadway agency prior to moving forward with plans to construct a new public road across an existing railroad track. A petition is also required to be filed by a roadway agency prior to the alteration of an existing public road that already crosses a railroad track. Primary examples of alteration to an existing public road include adding vehicle travel lanes or a center turn lane. (105 IAC 5-8-1 states "Submission of verified petition to establish, alter, or relocate a rail-highway grade crossing" Authority IC 8-6-1-7; IC 8-6-1-9; IC 8-23-2-6 Affected 8-6-1).

IC 8-6-1-9, IC 8-6-1-7(c) - A petition is required to be filed by a railroad company prior to moving forward with construction of a new segment of railroad that crosses an existing public roadway or prior to construction of additional railroad track(s) that intersect a public roadway where there is an existing at grade rail-highway intersection. (105 IAC 5-8-1 states "Submission of verified petition prior to the establishment, alteration, or relocation of a rail-highway grade crossing" Authority IC 8-6-1-7; IC 8-6-1-9; IC 8-23-2-6 Affected: 8-6-1).

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<sup>223</sup> Wilbur Smith Associates. 2011. Indiana State Rail Plan (Draft Final Report). Prepared for the Indiana Department of Transportation. Accessed 16 October 2011 at: [http://www.in.gov/indot/files/September\\_2011\\_Rail\\_Plan.pdf](http://www.in.gov/indot/files/September_2011_Rail_Plan.pdf)

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

*Down Grade Warning Devices*

IC 8-6-7.7-2 - A petition is required to be filed prior to a railroad company down-grading an existing train-activated warning device at a public rail-highway grade crossing. Examples include downgrading from train-activated flashers and gates to cross bucks. 105 IAC 5-7-2 states "Submission of verified petition for the removal of automatic train-activated warning signals from rail-highway grade crossings" Authority IC 8-6-7.7-2; IC 8-23-2-6 Affected: IC 8-6-7.7-1; IC 8-6-7.7-2.

*Less than Vertical and Lateral Clearance*

IC 8-8-1-11 - A petition is required prior to the construction of a "NEW" railroad track or a loading and/or unloading system that requires less than statutorily mandated vertical clearance. The statute sets the minimum clearance level at a plane established at 22 feet above the top of the rail. This petition is normally filed by a private company, railroad company or jointly. 105 IAC 5-4-1 Submission of verified petition for relief from statutory track clearance requirements. Authority: IC 8-8-1-12; IC 8-23-26, Affected IC 8-3-1-21; IC 8-8-1-11; IC 8-8-1-12.

IC 8-8-1-12 - A petition is required prior to the construction of a railroad track or loading and/or unloading system that requires less than statutorily mandated lateral clearance. The statute sets the minimum clearance at either side of the track at planes established at 8 feet on either side of the center line of rail. This petition is normally filed by a private company, railroad company or jointly. 105 IAC 5-4-1 Submission of verified petition for relief from statutory track clearance requirements. Authority: IC 8-8-1-12; IC 8-23-26, Affected IC 8-3-1-21; IC 8-8-1-12.

## Railroad Track Ownership and Operations

	Miles Operated In Indiana in 2009
<b>Class I Railroads</b>	
CSX Transportation	1,724
Grand Trunk Corporation	112
Norfolk Southern Corp.	1,514
Soo Line Railroad Co.	197
Union Pacific Railroad Co.	4
	<hr/> 3,551
<b>Regional Railroads</b>	
Indiana Rail Road, The	386
	<hr/> 386
<b>Local Railroads</b>	
Central Railroad of Indiana	119
Central Railroad of Indianapolis	33
Chesapeake and Indiana Railroad Company	33
Chicago, Ft. Wayne & Eastern Railroad	168
Chicago, SouthShore, & South Bend RR	94
Dubois County Railroad	16
Elkhart & Western Railroad Co.	9
Evansville Western Railway	78
Fulton County, LLC	13
Grand Elk Railroad, LLC	21
Hoosier Southern Railroad	25
Indiana & Ohio Railway, The	20
Indiana Eastern Railroad	23
Indiana Northeastern Railroad Co.	45
Indiana Southern Railroad, Inc.	198
Kankakee, Beaverville & Southern Railroad	76
Louisville & Indiana Railroad Co.	116
Madison Railroad	26
Ohio Valley Railroad Company	3
Southern Indiana Railway	5
Squaw Creek Southern Railroad	21
Toledo, Peoria & Western Railway Corp.	89
	<hr/> 1,231

Indiana 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	5	2,826	3,551
Regional	1	386	386
Local	22	1,076	1,231
Switching & Terminal	14	187	232
<b>Total</b>	<b>42</b>	<b>4,475</b>	<b>5,400</b>

	Miles Operated In Indiana in 2009
<b>Switching &amp; Terminal Railroads</b>	
C & NC Railroad Corp.	29
Central Indiana & Western Railroad	9
Gary Railway Company	1
Indian Creek Railroad	5
Indiana Harbor Belt Railroad	41
Indiana Southwestern Railway Co.	23
ISG South Chicago & Indiana Harbor Rwy.	6
Kendallville Terminal Railway Co.	2
Louisville, New Albany & Corydon Railroad	10
Maumee & Western Railroad Corp.	2
MG Rail, Inc.	11
US Rail Corporation	60
Vermillion Valley Railroad Co.	6
Wabash Central Railroad Corp.	27
	<hr/> 232

Source: Association of American Railroads

### Passenger Rail

Amtrak and the Northern Indiana Commuter Transportation District (NICTD) provide passenger rail services for Indiana. Amtrak intercity rail and connecting bus services are part of the national Amtrak network. As of 2008, Amtrak had seven routes that ran through Indiana, mostly clustered around the Chicago metro area. The NICTD operates commuter trains with routes between South Bend, Indiana and Chicago. Other stops include Michigan City, Gary, East Chicago and other regional communities.<sup>226</sup> The South Bend station facility and parking is owned by NICTD; all other stations are owned by Amtrak, Class I railroads, municipalities or some combination thereof.<sup>227</sup>

<sup>226</sup> Cambridge Systematics. 2009. *Indiana Rail Plan*. Prepared for the Indiana Department of Transportation. Chicago, IL. Accessed 16 October 2011 at: <http://www.in.gov/indot/2813.htm>

<sup>227</sup> Wilbur Smith Associates, 2011.

## Financial Assistance

NICTD is partially funded by the Commuter Rail Service Fund, which receives 0.14 percent of Indiana's general sales and use tax revenue.<sup>228</sup> Other funding comes from the Electric Rail Service Fund, which comes from taxes levied on distributable property held by railroads. The Indiana Industrial Rail Service Fund (IRSF) was established in 1982.

The purpose of these funds are to help upgrade Class II and III freight railroads and assist with infrastructure developments related to new business development. The IRSF provides grant and loan funding for railroad construction and rehabilitation. Funding cannot exceed 75 percent of the total project cost; however, the railroad's contribution can include federal or state funds from other sources.<sup>229</sup>

FY 2011 IRSF Grant Recipients <sup>230</sup>			
Railroad	Project	Cost	Percent Funded
<b>Indiana Eastern Railroad</b>	Bridge Rehabilitation	\$38,197.00	75 percent
<b>Chesapeake &amp; Indiana Railroad</b>	Extend siding and install switch	\$50,804.00	26 percent
<b>Perry County Port Authority</b>	Replace timber trestle bridge	\$207,175.70	25 percent
<b>Indiana Southern Railroad</b>	Resurface Hawthorn Line	\$214,235.97	39 percent
<b>MG Rail</b>	Rail upgrade and maintenance	\$241,773.84	56 percent
<b>Indiana Northeastern Railroad</b>	Change out 1.41 miles of rail	\$246,220.49	41 percent
<b>Louisville and Indiana Railroad</b>	Tie installation project	\$250,000.00	24 percent
<b>The Indiana Rail Road Company</b>	Upgrade connection track	\$250,000.00	21 percent
<b>Total</b>		<b>\$1,498,407.00</b>	

### *Railroad Grade Crossing Fund*

The Railroad Grade Crossing Fund (RRGCF) is administered by the Office of Roadway Safety. The program provides funds to make railroad crossing safety improvements for city and county jurisdictions as well as Class II and Class III railroads. The fund is divided between two programs, the Crossing Closure Program and the Other Safety Improvements Program. The Crossings Closure Program compensates communities that must close a rail crossing because the Federal Railroad Administration deems it the best safety policy. Other Highway Safety Improvements Program awards grants to communities to make safety improvements based on population, volume of rail traffic and the type of project. In FY 2008, the Indiana General Assembly appropriated \$300,000 to the Crossing Closure Program (grants range from \$15,000 to \$55,000) and the Other Highway Safety Improvements Program was given \$700,000 for FY 2008.<sup>231</sup>

<sup>228</sup> Cambridge Systematics, 2009.

<sup>229</sup> Wilber Smith Associates, 2011.

<sup>230</sup> Accessed at: <http://www.in.gov/indot/files/FebWebresultsFY11.pdf>

<sup>231</sup> Cambridge Systematics, 2009.

### *Industrial Development Grant Fund*

The Indiana Economic Development Corporation (IEDC) is an infrastructure improvement program for projects that create jobs or generate capital investment in the state. The funding goes to local governments; there must be a match with the local government and company support in order to obtain a grant. Any new company locating in Indiana or established company looking to expand is eligible for the funds, which can potentially cover the construction, extension and completion of rail spurs and sidings.

### *Indiana Rail Long-Range Investment Program*

As part of its 2011 State Rail Plan, Indiana has developed a long-term list of future rail infrastructure needs over the next 6-20 years. The projects have not been evaluated for absolute or relative merits, nor has public- or private-sector funding been identified for any of these projects. These projects include new low-emission locomotives, new rail connections, improvements to existing tracks, freight rail yard expansions, passenger rail expansion and overpass/underpasses. For the 32 projects for which there are estimates, an estimated \$258.1 million in investment is required for future rail improvements in Indiana.<sup>232</sup>

## **Marketing and Technical Assistance**

### *Indiana Operation Lifesaver*

INDOT is a partner with Indiana Operation Lifesaver, a non-profit public safety organization whose mission is to raise awareness and educate citizens in Indiana about the dangers of rail crossings and how to avoid pedestrian or automotive collisions with trains. Operation Lifesaver is a national organization that receives support from federal and state agencies, as well as various railroads throughout the United States.

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<sup>232</sup> Indiana Department of Transportation. 2011. 2011 State Rail Plan: Appendix B – Long-Range Investment Program. Accessed 22 November 2011 at: [http://www.in.gov/indot/files/September\\_2011\\_Appendix\\_B\\_C\\_Rail\\_Plan.pdf](http://www.in.gov/indot/files/September_2011_Appendix_B_C_Rail_Plan.pdf)

# MISSOURI

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## State Governance, Ownership and Regulation

### *Rail Oversight*

Railroad governance in Missouri is by the Railroad Section of the Division of Multimodal Operations, which is organizationally located in the Missouri Department of Transportation (MoDOT). Previously, the responsibility had been tasked with the Public Service Commission, Department of Economic Development and the Division of Motor Carrier and Railroad Safety.<sup>233</sup> The Division of Multimodal Operations administers freight rail regulation, passenger rail, light rail safety regulation, highway/rail crossing safety, rail/highway construction, and railroad safety inspection and outreach. The Rail Section also works with Amtrak, is responsible for improving railroad safety for railroad employees and the public, inspects railroad infrastructure (tracks, grade crossings, signals) and oversees the operating practices of each railroad.<sup>234</sup>

### *Statutes and Regulations*

Missouri Revised Statutes:

- Chapter 389 RSMo – Regulation of Railroad Corporations
- Chapter 622 RSMo – Division of Motor Carrier and Railroad Safety (division abolished in 2002, transferred to MoDOT)
- Chapter 680 RSMo – Transportation Services

Missouri State Code:

- Department of Economic Development Rules – Division 265 – Division of Motor Carrier and Railroad Safety – Chapter 8: Railroads and Street Railroads<sup>235</sup>

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<sup>233</sup> Missouri Department of Transportation. 2008. “2007 Annual Report: Multimodal Operations Railroad Section.” Accessed 18 October 2011 at: <http://www.modot.org/othertransportation/rail/documents/2007annualreport.pdf>

<sup>234</sup> Missouri Department of Transportation. 2011. “Railroads – General Information.” Accessed 18 October 2011 at: <http://www.modot.org/othertransportation/rail/>

<sup>235</sup> Missouri Secretary of State. 2001. *Rules of Department of Economic Development Division 265–Division of Motor Carrier and Railroad Safety -- Chapter 8–Railroads and Street Railroads*. Accessed 18 October 2011 at: <http://www.sos.mo.gov/adrules/csr/current/4csr/4c265-8.pdf>

*Railroad Track Ownership and Operations*

	Miles Operated In Missouri in 2009
<b>Class I Railroads</b>	
BNSF Railway Company	1,759
CSX Transportation	13
Kansas City Southern Railway Co.	396
Norfolk Southern Corp.	409
Union Pacific Railroad Co.	1,505
	<u>4,082</u>
<b>Regional Railroads</b>	
Iowa, Chicago & Eastern Railroad	210
	<u>210</u>
<b>Switching &amp; Terminal Railroads</b>	
Central Midland Railway	52
Columbia Terminal	22
Manufacturers Railway Co.	7
Missouri & Valley Park Railroad Corp.	27
Missouri North Central Railroad	4
Semo Port Railroad, Inc.	8
Terminal Railroad Assn. of St. Louis	26
	<u>146</u>

Missouri 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	5	3,327	4,082
Regional	1	167	210
Local	4	419	450
Switching & Terminal	7	137	146
<b>Total</b>	<b>17</b>	<b>4,050</b>	<b>4,888</b>

Local Railroads		Miles Operated In Missouri in 2009
Arkansas & Missouri Railroad		33
Kaw River Railroad		53
Missouri & Northern Arkansas Railroad		331
Ozark Valley Railroad, Inc.		33
		<u>450</u>

Source: Association of American Railroads

**Financial Assistance**

There are several rail programs funded partially or wholly by the state of Missouri. Here is some information on those programs:

*State Transportation Assistance Revolving Fund (or STAR Fund)*

The Missouri General Assembly created the STAR fund in 1997. It provides loans to local entities for intermodal (non-highway) projects for aviation, rail, waterways, and transit. STAR’s funds are focused on capital projects and infrastructure investment and cannot be used for operating expenses.

In order to receive STAR funds, the local district engineer and multimodal officials must endorse a project. A committee evaluates the applications and makes recommendations to the Missouri Highways and Transportation Commission. Air, water and rail projects, along with mass transit facility construction, mass transit vehicles or vehicles for elderly or handicapped persons are eligible for STAR loans.<sup>236</sup>

Projected Outlays for STAR fund:<sup>237</sup>

- FY 2010 – \$500,000
- FY 2011 – \$500,000
- FY 2013 – \$500,000
- FY 2014 – \$500,000
- FY 2015 – \$500,000

<sup>236</sup> Missouri Department of Transportation. 2009. “Statewide Transportation Assistance Revolving (STAR) Fund.” Accessed 18 October 2011 at: <http://www.modot.org/partnershipdevelopment/documents/STARprofile1-07.pdf>

<sup>237</sup> Missouri Department of Transportation, 2009. Statewide Transportation Improvement Program 2011-2015: Multimodal Operations Work Program. Accessed 18 October 2011 at: [http://www.modot.org/plansandprojects/construction\\_program/STIP2011-2015/documents/final/Sec07\\_MultimodalOperations.pdf](http://www.modot.org/plansandprojects/construction_program/STIP2011-2015/documents/final/Sec07_MultimodalOperations.pdf)



### *Railroad Program – State Supported Passenger Rail Service*

This program is used to support the Missouri River Runner passenger rail line, which runs between St. Louis and Kansas City. Operation and capital costs are covered in this funding. There is no dedicated fund, however; the state legislature must appropriate funds annually. It should be noted that the Union Pacific Railroad owns and maintains the line, but MoDOT and Amtrak are partners in improving the performance and efficiency of the passenger line.<sup>238</sup>

FY 2010 – \$8,500,000

FY 2011 – \$8,600,000

FY 2012 – \$8,800,000

FY 2013 – \$9,000,000

FY 2014 – \$9,200,000

### *Highway/Rail Crossing Safety Program*

Rail crossings are evaluated annually using a hazard exposure index. The index ranks crossings based on variables such as train traffic and speed, vehicle traffic and speed, crossing accident history and sight distance. The highway/rail crossing safety program uses both federal and state money. The average crossing costs \$200,000-\$250,000 and the state uses its \$5.9 million in FHWA funds plus its own appropriations to improve 30-35 rail crossings a year. Below are the projected appropriations:

FY 2010 – \$2,854,000<sup>239</sup>

FY 2011 – \$2,991,000

FY 2012 – \$1,363,000

FY 2013 – \$650,000

FY 2014 – \$290,000

### *Railroad Program – Station Improvements*

The state has allocated a small amount of money to Missouri Amtrak stations in several cities along the route for station repairs and improvements.<sup>240</sup>

FY 2010 – \$25,000

FY 2011 – \$25,000

FY 2012 – \$25,000

FY 2013 – \$25,000

FY 2014 – \$25,000

### **Technical and Marketing Assistance**

#### *Railroad Program – Amtrak Advertising*

Missouri funds advertising campaigns for advertising/promotional costs for the Missouri River Runner passenger line that runs from St. Louis to Kansas City. The budget shows a \$125,000 allocation for the advertising campaign per year.

FY 2010 – \$125,000<sup>241</sup>

FY 2011 – \$125,000

FY 2012 – \$125,000

FY 2013 – \$125,000

FY 2014 – \$125,000

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<sup>238</sup> Ibid.

<sup>239</sup> Ibid.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

### *Operation Lifesaver*

MoDOT's Railroad Section staff members give presentations on railroad grade crossing safety issues to civic groups, particularly driver education programs, community groups, schools, commercial drivers and all other interested parties. The presentations center around hazards at highway-rail grade crossings and demonstrate how to avoid accidents. The Railroad Section does this in conjunction with Operation Lifesaver, which is a non-profit chapter of the national Operation Lifesaver organization.

## State Governance, Ownership and Regulation

### *Rail Oversight*

The Ohio Rail Development Commission (ORDC) is an independent agency within the Ohio Department of Transportation. The ORDC oversees rail development and financing and manages the grade crossing safety program. The ORDC was created in 1994 under Ohio Revised Code Chapter 4981 in order to combine all of Ohio's non-regulatory rail programs under one agency. The purpose of the ORDC is to develop, promote and support rail service that is safe, adequate and efficient throughout Ohio. The commission is also tasked with maintaining programs of investigation, research, promotion, planning and development for rail service. The ORDC is tasked with considering the recommendations of public or private planning organizations. It is also charged with providing opportunities for participation by private corporations or organizations and the public in the areas of "development, construction, operation and maintenance of rail service, and as franchises of rail service."

The ORDC has a 15-member board, which includes four non-voting members of the Ohio General Assembly. The governor appoints seven commissioners and the Ohio Senate President and Speaker of the Ohio House of Representatives each appoint one member. The Director of the Ohio Department of Transportation and the Ohio Department of Development serve on the commission in an ex-officio capacity. Two members are from each legislative chamber, with both Republican and Democratic Party members serving from each chamber. The members appointed by the governor have delegated roles. One member chairs the committee and others represent a segment of Ohio rail interests, including freight rail, passenger rail, infrastructure financing, organized labor, manufacturers and the general public. No more than four of the seven gubernatorial appointees may be from the same political party.<sup>242</sup>

The Public Utilities Commission of Ohio (PUCO) handles rail-related regulatory and safety issues. It was established by Ohio Revised Code Title 49; Chapters 4951-4999 are specific to railroads. The PUCO, in conjunction with the ORDC, handles the regulatory oversight of highway-rail grade crossings in Ohio. PUCO rail inspectors inspect warning devices at crossings and approve funding for highway-rail grade crossing improvements.<sup>243</sup>

### *Rail Ownership*

Ohio owns 223 miles of publicly owned railroad, which is operated by private railroads on lease agreements, which are administered through the ORDC. The state also owns 44 miles of railroad right-of-way, which is leased to local park authorities for trail use. In total, there are roughly 609 miles of publicly-owned, active rail lines in Ohio. Approximately 88.5 percent of Ohio's railroad miles are privately owned.

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<sup>242</sup> Ohio Rail Development Commission. 2010. Ohio Statewide Rail Plan. Accessed at: [http://www.dot.state.oh.us/Divisions/Rail/Programs/StatewideRailPlan/Documents/Ohio percent20Statewide percent20Rail percent20Plan percent20- percent20Final percent20Report percent20Complete.pdf](http://www.dot.state.oh.us/Divisions/Rail/Programs/StatewideRailPlan/Documents/Ohio%20Statewide%20Rail%20Plan%20-%20Final%20Report%20Complete.pdf), page 10.

<sup>243</sup> Ohio Rail Development Commission. 2010.

## Railroad Track Ownership and Operations

	Miles Operated In Ohio in 2009
<b>Class I Railroads</b>	
CSX Transportation	1,903
Grand Trunk Corporation	7
Norfolk Southern Corp.	2,208
Soo Line Railroad Co.	30
	<hr/>
	4,148
<b>Regional Railroads</b>	
Wheeling & Lake Erie Railway Co.	558
	<hr/>
	558

<b>Local Railroads</b>	
Ann Arbor Railroad Co.	5
Ashland Railway Co.	70
Central Railroad of Indiana	40
Chicago, Ft. Wayne & Eastern Railroad	119
Cleveland Commercial Railroad Company	11
Columbus & Ohio River Rail Road Co., The	244
Indiana & Ohio Railway, The	628
Indiana Eastern Railroad	20
Indiana Northeastern Railroad Co.	9
Ohio & Pennsylvania Railroad Co.	3
Ohio Central Railroad, Inc.	95
Ohio Southern Railroad, Inc.	38
R. J. Corman Railroad - Cleveland Line	51
R. J. Corman Railroad - Western Ohio Line	63
Youngstown & Southeastern RR Co, Inc.	30
	<hr/>
	1,426

Ohio 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	4	3,255	4,148
Regional	1	433	558
Local	15	1,256	1,426
Switching & Terminal	16	342	403
<b>Total</b>	<b>36</b>	<b>5,286</b>	<b>6,535</b>

<b>Switching &amp; Terminal Railroads</b>		Miles Operated In Ohio in 2009
Akron Barberton Cluster Railway		68
Ashtabula, Carson & Jefferson Railroad		6
Camp Chase Railroad Co.		19
Flats Industrial Railroad Co.		3
ISG Cleveland Works Railway Company		10
Lake Terminal Railroad Co.		1
Mahoning Valley Railway, The		6
Maumee & Western Railroad Corp.		49
Newburgh & South Shore Railroad		3
Northern Ohio & Western Railway		25
Ohi-Rail Corp.		43
Republic N&T Railroad, Inc.		24
US Rail Corporation		94
Warren and Trumbull Railroad Co.		6
Youngstown & Austintown Railroad, Inc.		5
Youngstown Belt Railroad Co.		41
		<hr/>
		403

Source: American Association of Railroads

### Amtrak Passenger Long-Distance Rail Routes in Ohio

- The Lake Shore Limited: (New York-Chicago) Serves the cities of Cleveland, Elyria, Sandusky, Toledo and Bryan in Ohio.
- The Capitol Limited: (Washington DC-Chicago) Serves the cities of Alliance, Cleveland, Elyria, Sandusky and Toledo in Ohio.
- The Cardinal: (NY-DC-Chicago) Serves Cincinnati, Ohio

### Publicly-Owned Rail Facilities in Ohio

- Toledo Union Station (owned by the Toledo-Luca County Port Authority)
- Cincinnati Union Terminal (owned by the Cincinnati Museums Foundation)
- Elyria Station (restored and owned by the City of Elyria)
- Sandusky (owned by the Sandusky Transit System)
- Lancaster Transload (rail-truck) is publicly owned – Lancaster Port Authority
- Cargo Facility, Toledo Shipyard, Ironville Marine Terminal (ship-rail) – Toledo Lucas County Port Authority
- Iron Highway Development Park (owned by City of Leipsic, Ohio)
- City of Greenfield-owned railroad (Highland and Clinton County) (NOTE: There are several more port authorities and local government entities around Ohio that have industrial or development sites that include rail infrastructure).

## **Financial Assistance**

### *ORDC Budget*

The ORDC's annual budget totals just under \$20 million. The grade crossing safety programs are funded at \$15 million per year and the freight grant and loan programs plus operations total another \$4.9 million. The ORDC has 16 full-time employees. The Ohio Rail Assistance Program has various components and is administered by the ORDC, although there is coordination with other state agencies in some instances. State funding for the freight development/rail spur, railroad rehabilitation, line acquisition, and crossing safety programs has declined in recent years.<sup>244</sup>

### *ORDC Freight Development/Rail Spur Program*

This program provides assistance to companies requesting funding for rail and rail-related infrastructure improvements. The goal of the freight development/rail spur program is to promote development and retain Ohio companies through providing access to rail transportation. Grants are available if the project is shown to create jobs. In situations where jobs are not created or retained, the financing will be via loans instead of grants.<sup>245</sup>

### *ORDC Railroad Rehabilitation Program*

The ORDC provides assistance for rehabilitation of rail lines in Ohio to improve safety and operating efficiency for both public and private entities. Requests for grants and loans are reviewed and awards are made based on operational benefits, safety benefits, and projected long-term usage of the rail line.<sup>246</sup>

### *ORDC Rail Line Acquisition Program*

The ORDC provides assistance for acquiring lines in order to prevent the discontinuance of service, preserve a line or right-of-way for future rail development, or enhance line viability. Funding is distributed based on the importance of the rail line and overhead traffic, the number of jobs impacted and the impact of the line respecting affected shipper transportation costs.<sup>247</sup>

### *ORDC Railroad Grade Crossing Safety Programs*

Highway-rail grade crossing safety improvements are funded through this program. Funding comes from the FHWA Highway Safety Improvement and Surface Transportation Programs, as well as from the ORDC and ODOT. The program funds all grade crossing improvements, including at-crossing equipment installation and upgrade, crossing approaches, surfacing, signs, pavement markings, visibility and roadway geometry improvements, as well as grade crossing separation and elimination projects. Other grade crossing improvements are funded by the Supplemental Assistance Program administered by PUCO.<sup>248</sup> The PUCO approved funding to install flashing lights and gates at 72 grade crossings across Ohio in 2010. Some assistance was also given for circuitry upgrades, rumble strips (and other supplemental warning measures), as well as vegetation removal.

There are four sources of funding opportunities for railroad crossing safety upgrades:

- (1) Federal Funding – PUCO and the ORC select Ohio grade crossings for federally funded safety upgrades. Crossings are prioritized according to the hazard potential for accidents at a particular intersection. Criteria include the number of tracks, average daily traffic, crash history, the number of highway lanes, train speed and number of trains per day.

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<sup>244</sup> Ohio Rail Development Commission. 2010.

<sup>245</sup> Ibid.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

(2) State Grade Crossing Upgrade Program – Crossings not eligible for state funding may receive assistance through Ohio’s Grade Crossing Upgrade Program, which shares the costs of upgrades between local communities, the state and the railroad. Communities typically pay between 30 percent and 70 percent of the costs for upgrades. The local highway authority and the railroad must approve the financial assistance proposal. PUCO will evaluate the site to determine the appropriate level of assistance.

(3) Supplemental Assistance Program – Helps communities install safety enhancements in addition to crossbuck signs, lights and gates. The program will provide up to \$5,000 for physical improvements such as rumble strips, illumination, improved signage or vegetation removal. The local highway authority must submit an application to PUCO. The costs are reimbursed to the local highway authority upon the completion and approval of the project.

(4) Consolidation Program – The FRA set a goal to close 25 percent of highway-grade crossings in the United States in 1991. PUCO works toward that end to eliminate unnecessary crossings in exchange for enhanced safety features at other crossings on the corridor. Lights, gates, signs and illumination are funded by federal, state and railroad dollars.

#### *Department of Development Logistics and Distribution Stimulus Program*

The Department of Development, in conjunction with the Ohio Department of Transportation and the Ohio Rail Development Commission, has established a loan program for transportation, logistics and infrastructure projects. Various projects have been issued funds from the \$100 million program, which provides forgivable loans to eligible capital infrastructure projects for road, rail, air and port improvements that expand access to logistics and enhance the flow of goods or improve access to new markets for businesses in Ohio.<sup>249</sup>

#### *Long-Range Investment Program*

One of the requirements of the Passenger Rail Investment and Improvement Act of 2008 (PRIA) is a long-range investment program where current and future freight and passenger rail infrastructure needs are clearly delineated in the state rail plan. The rail report should include a list of all future capital projects scheduled to be initiated and funded, at least in part, by the state. Such a report should include the anticipated public and private benefits associated with each project.

#### *Short-Term Rail Investment Program*

Rail projects funded by this program have been approved for assistance based on prospective benefits and available funds. These projects are funded by the ORDC’s Rail Assistance Program or from flexible funding available through the ARRA program.

#### *State Infrastructure Bank*

ODOT has developed a direct loan and bond financing program. The Ohio State Infrastructure Bank (SIB) was authorized under Ohio Revised Code, Chapter 5531, for the purpose of developing transportation facilities throughout Ohio. The Ohio SIB was capitalized with a \$40 million authorization of general revenue funds, \$10 million in state motor fuel tax funds, and \$87 million in Federal Title 23 Highway Funds. The funds are used to make direct loans to eligible transportation projects. The SIB is a revolving loan program that uses loan repayments to make loans for other projects.<sup>250</sup> As of September 30, 2010, the Ohio SIB has approved four railroad projects totaling \$5.7 million.<sup>251</sup>

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<sup>249</sup> Ibid.

<sup>250</sup> Ohio Department of Transportation. 2011. “State Infrastructure Bank.” Accessed 3 November 2011 at: <http://www.dot.state.oh.us/Divisions/Finance/Pages/StateInfrastructureBank.aspx>

<sup>251</sup> Ohio State Infrastructure Bank. 2010. 2010 SIB Annual Report. Accessed 3 November 2011 at: [http://www.dot.state.oh.us/Divisions/Finance/SIB\\_percent20Annual\\_percent20Statements/2010\\_percent20SIB\\_percent20Annual\\_percent20Report.pdf](http://www.dot.state.oh.us/Divisions/Finance/SIB_percent20Annual_percent20Statements/2010_percent20SIB_percent20Annual_percent20Report.pdf)

### *Benefits Calculator*

Ohio is developing a quantitative tool that will predict the monetary benefits of rail projects. This benefits calculator will be used to determine which projects would be the most efficient use of public funds. The variables used in the model are based on the U.S. Department of Transportation's Notice of Funding Availability for TIGER Discretionary Grants. Here are the types of benefits quantified and the categories of projects that are generally funded by Ohio's assistance programs:<sup>252</sup>

Benefits:

- State of good repair
- Economic competitiveness,
- Safety
- Sustainability

Project Categories:

- Branch Line Rehabilitation and Acquisition Projects
- Grade Crossing Projects
- Terminal Development
- Mainline Capacity Enhancement Projects
- Commuter Rail Service
- Intercity Passenger Rail Service

### *CSX North Baltimore Intermodal Yard and National Gateway*

The National Gateway project is a large-scale rail infrastructure improvement project designed to improve the flow of rail freight by increasing the usage of double-stack trains on routes running from Mid-Atlantic ports to the midwestern United States. A double-stack train can deliver twice the number of goods per trip, which results in lower shipping costs and more efficiency.<sup>253</sup>

The project includes the construction of two intermodal freight facilities. The first is the Northwest Ohio Terminal Facility, which was completed in 2011 and will serve as the central hub of CSX's nationwide intermodal network. The 500-acre terminal will employ 200 full-time employees.<sup>254</sup> The other intermodal facility is the Chambersburg Terminal in Chambersburg, Pennsylvania, which opened in 2007.<sup>255</sup>

Funding was made possible by a complex public-private partnership that includes several states and businesses.<sup>256</sup> In Ohio, there were \$60 million in clearance projects and \$175 million in terminal capacity development, which includes the intermodal facility in Northwest Ohio. Funding included \$10 million from Ohio's State Logistics and Distribution Program and \$20 million in ARRA funding.<sup>257</sup>

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<sup>252</sup> Details were published in the *U.S. Federal Register* Vol. 74, No. 155, on 17 June 2009.

<sup>253</sup> National Gateway. 2011. "Background." Accessed 27 October 2011 at: <http://www.nationalgateway.org/background>

<sup>254</sup> National Gateway. 2011. "Northwest Ohio Terminal Facility." Accessed 27 October 2011 at: <http://www.nationalgateway.org/background>

<sup>255</sup> National Gateway. 2011. "Chambersburg Terminal." Accessed 27 October 2011 at: <http://www.nationalgateway.org/projects/project/75>

<sup>256</sup> National Gateway. 2011. "Supporters." Accessed 27 October 2011 at: <http://www.nationalgateway.org/support/coalition-support/supporters>

<sup>257</sup> Ohio Rail Development Commission. 2010. "Fiscal Year 2009-2010 Performance Report." Accessed 27 October 2011 at: <http://www.dot.state.oh.us/divisions/rail/Pages/default.aspx>

Ohio Short-Term Investment Rail Program, 2010 Rail Report		
Project Name	Funding Source	Est. Public Share
Cleveland Commercial RR Randall Start-Up	ORDC Rehab Grant Program	\$110,000
Mercer Landmark/RJ Corman new Lima Connection	ORDC Rehab Grant Program	\$100,000
Indiana & Ohio Lancaster Track	ORDC Rehab Grant Program	\$114,310
Indiana & Ohio Midland Sub, Phase II	ORDC Rehab Grant Program	\$200,000
Ohio-Rail Bridges & Crossings	ORDC Rehab Grant Program	\$94,137
Indiana Eastern Bridge Repairs	ORDC Rehab Grant Program	\$100,000
Lebanon Scenic Rwy	ORDC Rehab Grant Program, City of Lebanon	\$75,000
Ohio Central Swing Bridge	ORDC Rehab Grant Program	\$131,015
RJ Corman Cleveland Line Rehabilitation	ORDC Rehab Grant Program	\$187,910
W&LE Maumee River Bridge	ORDC Rehab Grant Program	\$149,000
Bellaire Harbor Services Transload Facility	ORDC Eco. Dev./Spur Grant Program	\$80,000
OBM Jackson Line Spur	ORDC Eco. Dev./Spur Grant Program, Public Utilities Commission	\$106,000
ASRY Track Rehabilitation	ORDC Rehab Loan Program	\$280,000
CSX National Gateway	ARRA/TIGER/State L&D Program	60,000,000
City of Jackson Rail Line Rehabilitation	ARRA	\$2,000,000
City of Medina-Owned Line Rehabilitation	ARRA	\$950,000
City of Orrville Grade Crossing Upgrades	ARRA	\$850,000
Brier Hill Industrial Park Rail Modernization, Youngstown	ARRA	16,502,835
Cleveland Commercial RR Rehabilitation	ARRA	\$67,000
SR 79 Crossing Surface, Licking Co.	ARRA, ORDC Safety Program	\$125,000
Grade Crossing Upgrade, Macedonia	ARRA	\$168,323
Grade Crossing Upgrade, Minerva	ARRA, ORDC Safety Program	\$306,000
Crossing Improvements, North Ridgeville	ARRA, ORDC Safety Program	\$1,003,000
NS Airline Yard Project	ARRA, State L&D Program, ORDC Safety Program	\$9,500,000
NS Doublestack Clearances, Statewide	ARRA, OKI CMAQ Funds	\$4,665,000
Camp Chase Rail Bridge Rehabilitation	ARRA	\$300,000
Crossing Warning Improvements, Delphos	ARRA, ORDC Safety Program	\$1,658,033
Crossing Safety Upgrades, Montgomery/Warren	ARRA, ORDC Safety Program	\$1,303,000
RJ Corman Western Ohio Rehabilitation	ARRA	\$1,300,000
Signal Pre-emption Projects, Statewide	ARRA, ORDC Safety Program	\$2,512,000
Panhandle Line Improvements	ARRA	\$7,000,000
West Central Ohio Port Authority Track Rehabilitation	ARRA	\$1,000,000
Wheeling & Lake Erie Akron/Canton Track Rehabilitation	ARRA	\$1,200,000
WLE Hartville Crossing Upgrades	ARRA	\$600,000

### *Heartland Corridor*

The Heartland Corridor is a public-private partnership between Norfolk Southern and federal and state agencies whose objective is to increase vertical clearances in 28 tunnels and remove 24 overhead obstructions to allow double-stack container trains to travel between the Port of Virginia and Columbus, Ohio.<sup>258</sup>

<sup>258</sup> Norfolk Southern. *Heartland Corridor Fact Sheet*. Accessed 27 October 2011 at: [http://www.thefutureneed-us.com/images/uploads/Heartland\\_Corridor\\_Fact\\_Sheet.pdf](http://www.thefutureneed-us.com/images/uploads/Heartland_Corridor_Fact_Sheet.pdf)



## Funding Sources

### Federal government:

- \$83.3 million for tunnel clearances
- \$27.7 million for Rickenbacker Intermodal Facility

### Commonwealth of Virginia:

- \$9 million for tunnel clearances in Virginia

### State of Ohio:

- \$836,355 for overhead obstruction clearances

### Norfolk Southern:

- \$97.8 million for tunnel clearances
- \$42.3 million for Rickenbacker Intermodal Facility

The Heartland Corridor Project Extension mitigates five rail line impediments between Rickenbacker, Ohio, and Sharonville, Ohio. Combined with on-site improvements at the intermodal terminal at Rickenbacker, the project will allow movement of double-stack containers between Columbus and Cincinnati. Norfolk Southern projections show such improvements will eliminate 79.45 truck trips and 13 million truck miles traveled in Ohio.<sup>259</sup>

## Technical and Marketing Assistance

### *Ohio Operation Lifesaver*

Ohio Operation Lifesaver (OHOL) is a public service education program dedicated to preventing and reducing fatalities and injuries at highway-rail grade crossings and along railroad rights-of-way. OHOL gives free presentations to the public about railroad crossing safety and provides vital information about the dangers of trespassing on railroad property. OHOL gets involved in rail engineering projects to improve public safety and works with law enforcement officials to reduce grade crossing accidents and rail property trespassing. OHOL is a state chapter of the national organization, Operation Lifesaver, Inc.

### *Other Assistance*

The ORDC provides grants, loans, and other assistance to:

- perform a vital economic development function by assisting businesses locating or expanding in Ohio with rail spurs and other rail infrastructure;
- help rehabilitate light density branch lines on small short-line and regional railroads;
- assist in the acquisition and continued operation of branch lines;
- address special rail problems such as mainline congestion and assist businesses with rail-related issues;
- assist with promotion of the rail-related tourism industry.

The ORDC serves as a single resource for all non-regulatory rail matters in the state. The ORDC staff often assists Ohio's railroads in working with state and local agencies, and vice versa. The ORDC recently completed a State Rail Plan and an accompanying Benefits Calculator, available online at [rail.ohio.gov](http://rail.ohio.gov).

The ORDC uses its website and press releases to raise awareness of the importance of rail to Ohio's economy. The ORDC partners with the Ohio Department of Transportation and the Ohio Department of Development to market Ohio's railroad assets. The structure of the agency, with its 11 private commissioners and four legislative members, provides statewide representation with leaders in a number of different fields.

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<sup>259</sup> Ohio Rail Development Commission. 2010.

# TENNESSEE

## State Governance, Ownership and Regulation

### *Rail Oversight*

Tennessee has four agencies responsible for rail governance within the Tennessee Department of Transportation (TDOT). In the Multimodal Transportation Resources Division, the Office of Freight and Rail Transportation operates the state's short line railroad rehabilitation program and the Rail Safety Oversight Section is responsible for the enforcement of passenger rail safety regulation. The Office of Project Safety, which is in the Project Planning Division, handles the Highway-Rail Grade Crossing Program. The rest of railroad enforcement is handled by the Office of Rail Regulatory and Safety, which is organizationally located in TDOT's Maintenance Division.

### *Statutes and Regulations*

Statutory authority is derived from Tennessee Code Annotated (TCA) Title 65 (Public Utilities and Carriers), 65-1-113, entitled "Enforcement Duties of Authority" and TCA 65-1-3, which is entitled "Regulation of Railroads by Department of Transportation."

### *Railroad Track Ownership and Operations*

	<b>Miles Operated In Tennessee in 2009</b>
<b>Class I Railroads</b>	
BNSF Railway Company	144
CSX Transportation	1,006
Grand Trunk Corporation	145
Kansas City Southern Railway Co.	5
Norfolk Southern Corp.	848
Union Pacific Railroad Co.	14
	2,162
<b>Local Railroads</b>	
Caney Fork & Western Railroad	60
Chattooga & Chickamauga Railway Co.	4
East Tennessee Railway, LP	14
Kentucky West Tennessee Railway	58
Nashville & Eastern Railroad Corp.	126
NC Railroad	43
R. J. Corman Railroad - Memphis Line	36
R. J. Corman Railroad - TN Terminal LLC	9
Sequatchie Valley Railroad	8
South Central Tennessee Railroad, LLC	52
Tennessee Southern Railroad Co., Inc.	109
Tennken Railroad	42
Walking Horse & Eastern Railroad	8
West Tennessee Railroad	182
	751

<b>Tennessee 2009 Totals</b>	<b>Number of Freight Railroads</b>	<b>Miles Operated</b>	
		<b>Excluding Trackage Rights</b>	<b>Including Trackage Rights</b>
Class I	6	1,824	2,162
Regional	0	0	0
Local	14	748	751
Switching & Terminal	5	63	63
<b>Total</b>	25	2,635	2,976

	<b>Miles Operated In Tennessee in 2009</b>
<b>Regional Railroads</b>	
(none)	
<b>Switching &amp; Terminal Railroads</b>	
East Chattanooga Belt Railway Co.	4
Heritage Railroad Corp.	16
Knoxville & Holston River Railroad Co.	20
Mississippi Central Railroad Co.	6
Nashville & Western Railroad Corp.	17
	63

Source: Association of American Railroads

### *Passenger Rail*

Tennessee does not own any freight rail track. However, the state does support a heavy passenger rail operation on a short line. The Music City Star Regional Rail line provides service between Lebanon and Nashville, Monday through Friday and during peak rush hours.<sup>260</sup> It is operated by the Regional Transportation Authority. Amtrak also has a presence in the state. The City of New Orleans line runs from New Orleans to Memphis to Chicago, and makes a stop in Newbern, TN.<sup>261</sup>

### **Financial Assistance**

#### *Short Line Rehabilitation Program*

The Short Line Rehabilitation Program provides financial assistance to short line railroads with track and rail bridge rehabilitation. The annual budget for the program varies, because it is funded with money from the fuel tax levied on diesel fuel used by railroads. This tax generated \$11.37 million in FY 2010.

#### *Highway-Rail Grade Crossing Program*

The Tennessee Office of Project Safety, specifically the Safety Project Section, helps to eliminate transportation hazards, particularly on roads. The Highway-Rail Grade Crossing Program is administered by this section. Funding particulars were not available.

#### *Memphis Intermodal Facility/Crescent Corridor*

As part of the Crescent Corridor Project, the \$105 million Memphis Regional Intermodal Facility will be built on a 312-acre site in Rossville, TN. The facility is supposed to open in 2007, and is projected to handle more than 327,000 containers and trailers a year and will employ 50 people. It will utilize new automation technology designed to shorten the waiting time for commercial trucks at the terminal.<sup>262</sup> TDOT's financial contribution is estimated to be \$600,000 in FY 2011 and \$360,000 in FY 2012.<sup>263</sup>

The Memphis Intermodal Facility is part of the \$2.2 billion Crescent Corridor Project, which runs from New Orleans and Memphis to New Jersey. The project is a partnership between Norfolk Southern, the federal government and Alabama, Georgia, Delaware, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia. The project includes funds for constructing and expanding terminals, building passing lanes and double tracks, straightening curves and adding signals to facilitate more efficient freight rail movement.<sup>264</sup> Tennessee's total investment is unknown, but cumulatively states are expected to invest \$163 million.<sup>265</sup>

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<sup>260</sup> Regional Transportation Authority. 2010. "About Us." Accessed 31 October 2011 at: <http://www.musiccitystar.org/aboutus.html>

<sup>261</sup> The Tennessee Association of Railroad Passengers. "Tennessee's AMTRAK Stations." Accessed 31 October 2011 at: <http://www.tarprail.org/amtrak.php>

<sup>262</sup> Norfolk Southern. 2011. "Memphis Regional Intermodal Facility." Accessed 31 October 2011 at: <http://www.thefutureneedsus.com/project-updates/memphis-regional-intermodal-facility/>

<sup>263</sup> Eastern Federal Lands Highway Division. 2011. "Memphis Regional Intermodal Facility Project: Initial Financial Plan." Accessed 31 October 2011 at: <http://www.efl.fhwa.dot.gov/files/projects/crescent-corridor/Fin-Plan/TN-Plan.pdf>

<sup>264</sup> Norfolk Southern. 2011. "Crescent Corridor: Two Futures Are Out There." Accessed 31 October 2011 at: <http://www.thefutureneedsus.com/crescent-corridor/>

<sup>265</sup> Richards, Gregory. 2007. "Norfolk Southern proposes \$2 billion-plus rail corridor." Virginia Pilot Online. Accessed 31 October 2011 at: <http://hamptonroads.com/node/278191>

## **Marketing and Technical Assistance**

### *Railroad Crossing Safety Campaign*

TDOT unveiled a new railroad crossing safety campaign in 2011 designed to remind drivers and pedestrians to make careful, safe decisions at crossings and around railroad tracks. The campaign includes the display of 16 billboards and 94 large, digital posters at rotating locations near rail crossings with high volumes of traffic. The program is funded via the “Ton Mile Tax,” which is assessed and collected by TDOT from railroads operating in Tennessee. Revenues from the tax are used for safety-related programs.<sup>266</sup>

### *Tennessee Operation Lifesaver*

Operation Lifesaver Tennessee is a statewide, non-profit public awareness and education program dedicated to ending tragic collisions, fatalities, and injuries at highway-rail grade crossings and on railroad property. Volunteers provide safety information to professional truck drivers and bus drivers, school bus drivers, driver education classes, elementary school students, law enforcement and emergency responders, and other civic organizations.

### *State Rail Plan*

Tennessee’s latest rail plan was prepared by Arcadis in 2003. It can be accessed at <http://www.tdot.state.tn.us/publictrans/RailPlan/index.htm>.

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<sup>266</sup> Clarksville Online. 2011. “TDOT Unveils New Railroad Crossing Safety Campaign.” Accessed 31 October 2011 at: <http://www.clarksvilleonline.com/2011/03/31/tdot-unveils-new-railroad-crossing-safety-campaign/>

# VIRGINIA

## State Governance, Ownership and Regulation

### Rail Oversight

The Department of Rail and Public Transportation (DRPT) is the state agency responsible for rail, transit and transportation demand management (TDM) in Virginia. Currently, DRPT is a standalone agency. Until 1992, it was under jurisdiction of the Virginia Department of Transportation, after which it became an independent agency.

### Statutes and Regulations

The following statutes establish the DRPTs operating authority:

- Code of Virginia, §33.1-391.4- sets out the general powers of DRPT
- Code of Virginia, §33.1-391.5- describes the responsibilities of DRPT
- Code of Virginia, §33.1-221.1:1– establishes the construction of industrial access railroad tracks fund.
- Code of Virginia, §33.1-221.1:1.1- establishes the Rail Enhancement Fund
- Code of Virginia, §33.1-221.1:1.2 – establishes the fund for the Railway Preservation and

Development fund

- Code of Virginia, §33.1-221.1:1.3 – establishes the Intercity Passenger Rail Operating and Capital Fund

### Railroad Track Ownership and Operations

	Miles Operated In Virginia in 2009
<b>Class I Railroads</b>	
CSX Transportation	1,054
Norfolk Southern Corp.	2,079
	<u>3,133</u>
<b>Regional Railroads</b>	
(none)	
<b>Local Railroads</b>	
Bay Coast Railroad	68
Buckingham Branch Railroad Co.	275
Chesapeake & Albemarle Railroad Co.	29
Commonwealth Railway, Inc.	19
Shenandoah Valley Railroad	20
Winchester & Western Railroad	29
	<u>440</u>

Virginia 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	2	2,772	3,133
Regional	0	0	0
Local	6	436	440
Switching & Terminal	1	4	4
<b>Total</b>	<b>9</b>	<b>3,212</b>	<b>3,577</b>

	Miles Operated In Virginia in 2009
<b>Switching &amp; Terminal Railroads</b>	
North Carolina & Virginia Railroad Co.	4
	<u>4</u>

Source: Association of American Railroads

All railroads in Virginia are privately owned. Virginia is constitutionally prohibited from owning or operating a railroad.

Route Name	Major Cities Served	Region
<b><u>Auto Train</u></b>	Lorton, VA (Washington, DC) – Sanford, FL (Orlando)	Northeast, South
<b><u>Cardinal</u></b>	New York – Washington, DC – Cincinnati – Indianapolis – Chicago	Midwest, Northeast
<b><u>Carolinian</u></b>	New York – Raleigh – Charlotte	South, Northeast
<b><u>Crescent</u></b>	New York – Atlanta – New Orleans	South, Northeast
<b><u>Northeast Regional</u></b> <b><u>Northeast Regional – Springfield</u></b>	Boston – Springfield/Providence – New York – Washington, DC – Newport News - Lynchburg	Northeast
<b><u>Palmetto</u></b> <b><u>Silver Meteor</u></b> <b><u>Silver Star</u></b>	New York – Washington, DC – Charleston – Savannah – Jacksonville – Orlando – Tampa/Miami	South, Northeast

### Financial Assistance

In FY 2011, the DRPT budgeted \$110.8 million in funding for passenger and freight rail improvements. The largest share went to passenger rail, with \$76.3 million in expenditures. The freight rail program received \$22.4 million. Port-related projects got \$5.6 million, the Shortline Program \$3.5 million, and the Rail Industrial Access Program \$3 million.<sup>267</sup> The rail division of the DRPT has 8 employees and 3 vacancies, making the full complement of employees 11 in total.

### Passenger Rail Program

Passenger rail service in Virginia does not have dedicated rail. It operates on track owned or leased by freight rail companies. There are two state-supported Amtrak regional routes, four regional routes and five long-distance routes. The regional routes currently receive no financial support from the state, but that will change in 2013 when the PRIA requires states to begin funding regional Amtrak routes. Passenger rail projects do benefit indirectly from expenditure on freight rail enhancements which improve rail infrastructure. In 2011, the Virginia General Assembly created the Intercity Passenger Rail Operating and Capital Fund (IPOC). The fund is supposed to provide a dedicated revenue stream for operating and capital expenses for intercity passenger rail. Currently there is no revenue source for IPOC, but the General Assembly and the Commonwealth Transportation Board have the ability to allocate funding when available. The DRPT recently completed a study and suggests several mechanisms for funding the IPOC. Recommendations included increasing the rental car tax rate or creating a separate sales tax, privatizing the state’s alcoholic beverage control (ABC) stores and using a proportion of the tax revenues, increased license plate and vehicle registration fees, or changing the allocation of the Transportation Trust Fund (TTF) to allow for funding of capital projects for rail in general, and operating costs for passenger rail in particular. Currently, rail is the only transportation mode not partially or fully funded through the TTF.<sup>268</sup>

<sup>267</sup> Virginia Department of Rail and Public Transportation. 2011. “Annual Budget Fiscal Year 2012.” Accessed 28 October 2011 at: [http://www.drpt.virginia.gov/about/files/FY\\_percent202012\\_percent20DRPT\\_percent20Agency\\_percent20Budget\\_percent20Final.pdf](http://www.drpt.virginia.gov/about/files/FY_percent202012_percent20DRPT_percent20Agency_percent20Budget_percent20Final.pdf)

<sup>268</sup> Virginia Department of Rail and Public Transportation. 2010. “Funding Strategies for State Sponsored Intercity and High Speed Passenger Rail.” Accessed 28 October 2011 at: [http://www.drpt.virginia.gov/activities/files/SJ63\\_percent20Final\\_percent20Report.pdf](http://www.drpt.virginia.gov/activities/files/SJ63_percent20Final_percent20Report.pdf)

### *Rail Enhancement Fund*

This program constitutes the first dedicated source of funding for passenger and freight rail in Virginia history. Created in 2005, the program allows the DRPT to administer the fund and distribute grants to railroads operating in Virginia. The grants shall be used for “acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole.”<sup>269</sup>

The program has a Rail Advisory Board (RAB) that makes recommendations to the Commonwealth Transportation Board, which has the ultimate oversight authority. The Director of DRPT develops the recommendations in consultation with the RAB and disburses the funds upon approval. Projects require officials to determine a public benefit be served by providing the grant, and 30 percent matching funds from a railroad, regional authority, local government or combination thereof is required.<sup>270</sup>

### *Rail Industrial Access Grants*

This program helps connect businesses to freight rail service by funding rail infrastructure construction or improvements to existing tracks which make it possible to serve industrial or commercial sites where rail is needed or there is anticipation of such need in the future. Grants may be disbursed to businesses, localities or industries seeking freight rail. Funds are limited to 15 percent of the capital outlay, with a maximum of \$300,000 for unmatched funds and \$450,000 with matching funds. There are override mechanisms available for these limits, however, in cases where the CTB or DRPT director deem additional funding necessary due to unanticipated problems with the project.<sup>271</sup>

### *Rail Preservation Grants*

The Rail Preservation program provides funding for shortline railroads in Virginia, although Class I railroads may be eligible as well. The funds may be used for projects deemed important to Virginia’s statewide transportation system. Considerations include “the acquisition, lease, improvement, or assistance to appropriate entities in the acquisition, lease, or improvement of railways, and equipment, and the purchase of abandoned railway rights-of-way for transportation purposes that the CTB determines are for the common good of the Commonwealth or a region of the Commonwealth.”<sup>272</sup> This program loans funds to local governments, authorities, agencies, Transportation District Commissions or rail operators. There is a 70 percent state maximum and minimum 30 percent local match. Loan interest rates are determined by the DRPT director and the CTB.<sup>273</sup>

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<sup>269</sup> Virginia Department of Rail and Public Transportation. 2008. “Rail Enhancement Fund Application Procedures.” Accessed 28 October at: [http://www.drpt.virginia.gov/projects/files/REF percent20Application.pdf](http://www.drpt.virginia.gov/projects/files/REF%20Application.pdf)

<sup>270</sup> Ibid.

<sup>271</sup> Virginia Department of Rail and Public Transportation. 2011. “Rail Industrial Access Program: Application Guidance and Procedures FY 2011.” Accessed 28 October 2011 at: [https://olga.drpt.virginia.gov/Documents/forms/RIA percent20Appl percent20Procedures percent2010 percent2014 percent2011.pdf](https://olga.drpt.virginia.gov/Documents/forms/RIA%20Appl%20Procedures%2010%2014%2011.pdf)

<sup>272</sup> Virginia Department of Rail and Public Transportation. 2009. “Rail Preservation Program: FY 2011 Application Procedures.” Accessed 28 October 2011 at:

<sup>273</sup> Ibid.

### *Rail Safety Crossing Program*

In Virginia, grade crossing safety responsibilities are shared by the Virginia Department of Transportation (VDOT) and DRPT. VDOT administers the federally funded safety program, known as the Section 130 Grade Crossing Safety Program. The DRPT's Rail Preservation Fund is also used for crossing upgrades on shortline railroads. Virginia has received \$6.7 million in Section 130 funds since 1993 and also receives Section 148 Highway Safety Improvement Program funds from the FHWA, which are also used to make improvements to rail-highway grade crossings.<sup>274</sup>

Virginia has recently organized or completed several major rail initiatives, including the following:

### *Washington, DC/Richmond Rail Improvements Program*

This project encompassed improvements to the Quantico Creek Bridge and six corridor improvement projects between Richmond, VA and Washington, DC, which improved the quality of passenger rail service in the area. During a 10-year period, the project had \$370 million in investments.<sup>275</sup>

### *Southeast High-Speed Rail Project*

This project is a study which examines the logistics of advancing high-speed rail between Virginia, North Carolina, South Carolina and Georgia. Virginia received \$44.3 million in federal high-speed rail grants to complete its Tier II Draft Environmental Impact.<sup>276</sup>

### *Amtrak Virginia*

Virginia's 2008 Statewide Rail Plan and Statewide Resource Allocation Plan identified the I-81/Route 29 and I-95 corridors as candidates for enhanced rail service. Virginia then partnered with Amtrak to create new intercity passenger rail services along those corridors. The Lynchburg Amtrak Virginia service, which runs from Lynchburg to Washington, DC, went online in October 2009.

### *Roanoke Region Intermodal Facility*

One component of the Heartland Corridor project includes a rail improvement initiative to improve infrastructure between West Virginia, Virginia and Ohio to reduce shipping time to Chicago. Several improvements were made in Virginia, one of them being an intermodal rail freight facility in Roanoke, Virginia. This facility provides both east-west and north-south freight capacity for freight traffic on the I-81 and Route 460 rail corridors.<sup>277</sup>

### *Richmond/Hampton Roads Passenger Rail Project*

This project will include rail improvements or new rail in order to accommodate passenger trains through the Richmond/Hampton Roads area. The study has evaluated potential routes from Richmond to Petersburg to South Hampton Roads Corridor along Route 460 and to the existing Amtrak Corridor, which runs from Richmond to Williamsburg along I-64. New rail service could ultimately connect to the Southeast, Northeast and Mid-Atlantic regions as an extension of the Southeast High Speed Rail Corridor (SEHSR), which is currently under study. In 2010, the CTB selected a route, known as Alternative 1, as the preferred route for the project.<sup>278</sup>

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<sup>274</sup> Virginia Department of Rail and Public Transit. 2008. "Statewide Rail Plan." Accessed 29 October 2011 at: [http://www.drpt.virginia.gov/activities/files/Final\\_percent20Statewide\\_percent20Rail\\_percent20Plan\\_percent202008.pdf](http://www.drpt.virginia.gov/activities/files/Final_percent20Statewide_percent20Rail_percent20Plan_percent202008.pdf)

<sup>275</sup> Virginia Department of Rail and Public Transportation. 2011. "Major Rail Initiatives." Accessed 28 October 2011 at: [http://www.drpt.virginia.gov/activities/Major\\_Rail\\_Initiatives.aspx](http://www.drpt.virginia.gov/activities/Major_Rail_Initiatives.aspx)

<sup>276</sup> Ibid.

<sup>277</sup> Ibid.

<sup>278</sup> Ibid.



## **Marketing and Technical Assistance**

The DRPT's Rail Division does all rail-related promotions. All of the DRPT's communication efforts aim to raise public awareness of rail programs, services and projects supported by the agency. The DRPT has a formal marketing plan to promote state-supported passenger rail routes (Amtrak Virginia) in order to help achieve ridership and revenue goals. The marketing program is overseen by the Communications and Policy Division and consultants are used to assist with the execution of the marketing plan. Initiatives taken under the marketing plan include advertising, social media and web campaigns, public relations and traditional grass roots techniques.

### *Rail Planning*

The Rail Planning Division involves providing input on state and federal rail policy and regulations, track abandonment, freight, and passenger rail feasibility analysis, identification of freight rail needs and updates on rail studies, maps and plans. The division also includes the DRPT liaison for Operation Lifesaver Virginia.<sup>279</sup>

### *Operation Lifesaver Virginia*

Operation Lifesaver Virginia is a non-profit organization, established in 1979, to address the need in Virginia to eliminate death and injuries at highway-rail grade crossings and on other railroad rights-of-way and property. It is the Virginia chapter of the national organization, Operation Lifesaver, Inc.<sup>280</sup>

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<sup>279</sup> Virginia Department of Rail and Public Transit. 2011. "Rail." Accessed 29 October 2011 at: <http://www.drpt.virginia.gov/activities/rail.aspx>

<sup>280</sup> Operation Lifesaver Virginia. 2009. "About Operation Lifesaver Virginia." Accessed 29 October 2011 at: <http://www.va-ol.org/>

### **State Governance, Ownership and Regulation**

#### *Rail Oversight*

In West Virginia, rail safety regulation is handled by the Rail Division of the Public Service Commission. The highway/railroad grade crossing improvement fund is administered by the Railroad and Utilities Section of the Division of Highways. The West Virginia State Rail Authority, originally known as the West Virginia Railroad Maintenance Authority, was created by the West Virginia state legislature in 1975 to facilitate railroad transportation and commerce in the state. In 1989, it was made a division of the then-new West Virginia Department of Transportation and received its current name in 1994.<sup>281</sup>

The authority does the following:

- Maintains an inventory of rail lines within the state
- Monitors proposed line abandonments and helps shippers find alternative routes or assistance via short line carriers whenever lines are abandoned
- Administers federal grants and other forms of aid to rail transportation in West Virginia
- Owns and operates the South Branch Valley Rail Road
- Owns and operates the West Virginia Central Railroad
- Assists in establishing short-line and tourist railroad operations and promotes rail tourism
- Maintains two train stations in the Eastern Panhandle and leases a third station for commuter use
- Establishes “rail-banks” for abandoned lines that could be used again if economic conditions warrant such an action and encourages interim use of banked lines as trails for public recreation

#### *Statutes and Regulations*

The operating authority for the West Virginia State Rail Authority is established by West Virginia Code Chapter 29, Article 18, which is also known as the West Virginia State Rail Authority Act. State regulation is governed by State Code Chapter 24, which defines the administrative responsibilities and powers of the Public Service Commission.

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<sup>281</sup> West Virginia Department of Transportation

*Railroad Track Ownership and Operations*

	Miles Operated In West Virginia in 2009
<b>Class I Railroads</b>	
CSX Transportation	1,295
Norfolk Southern Corp.	833
	2,128
<b>Regional Railroads</b>	
Wheeling & Lake Erie Railway Co.	10
	10
<b>Local Railroads</b>	
Appalachian & Ohio Railroad	158
R. J. Corman Railroad / West Virginia Line	16
South Branch Valley Railroad	52
West Virginia Central Railroad	90
Winchester & Western Railroad	25
	341

West Virginia 2009 Totals	Number of Freight Railroads	Miles Operated	
		Excluding Trackage Rights	Including Trackage Rights
Class I	2	1,879	2,128
Regional	1	5	10
Local	5	341	341
Switching & Terminal	1	6	6
<b>Total</b>	<b>9</b>	<b>2,231</b>	<b>2,485</b>

	Miles Operated In West Virginia in 2009
<b>Switching &amp; Terminal Railroads</b>	
Little Kanawha River Rail	6
	6

Source: Association of American Railroads

The state owns and operates the South Branch Valley Railroad and the West Virginia Central Railroad. All other railroads are privately owned. So, approximately 93 percent of the track miles in the state are privately owned. There are no lines currently dedicated to passenger rail; all miles are owned by freight rail operators.

*Passenger Rail*

*Intercity Service:* Amtrak’s “Capitol Limited” operates daily between Washington, DC and Chicago. It passes through West Virginia’s Eastern Panhandle with stops in Harpers Ferry and Martinsburg. Amtrak’s “Cardinal” operates three days a week between Washington, DC and Chicago. It passes through the southern part of the state with stops at White Sulphur Springs, Alderson, Hinton, Prince, Thurmond, Montgomery, Charleston and Huntington.

*Commuter Service:* Maryland Rail Commuter (MARC) train service operates Monday through Friday between Martinsburg, WV and Washington, DC. The West Virginia State Rail Authority maintains stations at Harpers Ferry and Duffields.

**Financial Assistance**

The annual budget for the State Rail Authority (SRA) is currently \$959,365. Of that, \$259,365 comes from the state of West Virginia, and \$750,000 comes from federal funds. The South Branch Valley Railroad (SBVR) has \$4,587,654 in total expenditures. Capital projects underway total \$2,313,945 and there are \$2,273,709 in operating expenses. The West Virginia Central Railroad (WVCR) has \$1,041,335 in total expenditures. Capital projects total \$900,000 and operating expenditures equal \$141,335. The total spending comes to approximately \$6.6 million, which does not include \$1 million in re-appropriated funds. There are 5.5 employees dedicated to the SRA and 18.5 employees dedicated to the SBVR. The WVCR has an operator that pays most of the operating costs. The South Branch Valley Railroad operating costs are covered entirely by the state. According to the State Railroad Authority’s 2010 Annual Report, the SBVR generated \$2.1 million in revenue in 2010. These revenues are used toward the operating expenses for the railroad.<sup>282</sup> The railroad does not generate enough revenue to cover

<sup>282</sup> Gibbons & Kawash, Certified Public Accountants. 2010. “West Virginia State Rail Authority Annual Financial Report. Accessed 30 October 2011 at: <http://www.transportation.wv.gov/business-manager/Finance/Financial%20Reports/SRAFinalF-SFY2010.pdf>

all operating and capital expenditure costs, so the state appropriates general fund revenue to subsidize capital expenditures.<sup>283</sup>

The \$2.4 million in state appropriations in 2010 was used for capital improvement projects on the SBVR and WVCR, upkeep of train stations on the MARC line and general SRA operating expenditures. Most capital projects meant to help rehabilitate the SBVR were scheduled to be completed by June 2011, at which time more capital expenditures would be transferred to the WVCR.<sup>284</sup>

No information was available for highway-rail grade crossing improvements administered by the Public Service Commission.

## **Marketing and Technical Assistance**

### *Rail Plan*

West Virginia is currently in the process of developing a state rail plan. The Passenger Rail Investment and Improvement Act of 2008 tasks states with developing statewide rail plans to set policy for freight and passenger rail.

### *Operation Lifesaver West Virginia*

West Virginia Operation Lifesaver is a nonprofit, public safety education group. Its goal is to prevent injuries and fatalities at highway-rail grade crossings in West Virginia and prevent injuries and fatalities to trespassers on railroad property. The group consists of transportation and education professionals who volunteer to speak with West Virginians each year about rail safety.

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<sup>283</sup> Ibid.

<sup>284</sup> Ibid.

## OTHER STATES

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In addition to the states surrounding Kentucky, three other states were examined to determine the whether any of these strategies could be considered “innovative.” The states chosen were: North Carolina, Michigan, and Texas.

## NORTH CAROLINA

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### *Passenger and Freight Rail Programs*

North Carolina has a large rail program. Its FY 2007-2008 budget was \$43.9 million and the North Carolina Department of Transportation (NCDOT) Rail Division has 53 employees.<sup>285</sup> The state’s latest rail program has projections of future rail development needs through 2035 and even contains a master passenger rail map that shows passenger development plans through 2050. NCDOT has a number of rail programs and sources of funding. The state has six passenger rail lines that serve 16 cities throughout the state. Two of those lines, the *Piedmont* and *Carolinian*, are subsidized by state funds.<sup>286</sup> The state invests heavily in rail line improvements, station improvements, safety programs, planning, and corridor preservation. In fact, the state buys up abandoned rail corridors and preserves them for future or interim use. Like several other states, NCDOT has industrial access programs and short line infrastructure assistance programs.<sup>287</sup> Another interesting feature of the rail program’s funding structure is an annual contribution from the state’s Highway Trust Fund. In 2007-2008, the Rail Division received \$5 million from the Highway Trust Fund in order to fund economic alternatives to highway congestion.<sup>288</sup> North Carolina, like Virginia, Tennessee and Illinois, does not have a constitutional prohibition against using fuel taxes for non-highway or intermodal purposes.<sup>289</sup>

### *Involvement in Multistate Partnerships and Associations*

North Carolina’s Rail Division is also active in seeking and leading multi-state partnerships in the rail industry. North Carolina is one of 14 states involved in the Crescent Corridor project. The state’s component of the project includes a \$104 million, 200-acre intermodal facility in Charlotte.<sup>290</sup> North Carolina is also active in the American Association of State Highway and Transportation Officials’ Standing Committee on Rail, as well as the States for Passenger Rail Coalition.

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<sup>285</sup> North Carolina Department of Transportation. 2009. “2009 Rail Plan: Executive Summary.” Accessed 1 November 2011 at: [http://www.bytrain.org/quicklinks/reports/2009\\_railplanexecsum.pdf](http://www.bytrain.org/quicklinks/reports/2009_railplanexecsum.pdf)

<sup>286</sup> Ibid.

<sup>287</sup> Ibid.

<sup>288</sup> Ibid.

<sup>289</sup> Rall, Jaime, Alice Wheet, Nicholas J. Farber and James B. Reed. 2011. “Transportation Governance and Finance:

<sup>290</sup> Norfolk Southern. 2010. “Benefits For North Carolina.” Accessed 1 November 2011 at: <http://www.thefutureneedsus.com/crescent-corridor/state-profiles/north-carolina/>

### *Rail Operations*

Michigan is another state that has made significant investments in passenger rail. Since Amtrak began operating passenger rail service in the United States in 1974, Michigan has invested more than \$100 million in state, federal, and local funds in passenger rail improvement projects, with \$60 million of the funds coming from the state. Most of the improvement projects have been initiated within the last 20 years.<sup>291</sup> Michigan also owns approximately 530 miles of state-owned rail lines, which are managed by its Capital Development Program. The program provides rail access to businesses that would not have it otherwise. Ultimately, the program seeks to return the rail to private sector use or for use in publicly subsidized passenger rail operations.<sup>292</sup>

### *Economic Development Programs for Passenger and Freight Rail*

The state has also initiated a number of economic development programs and has recently expanded a number of existing programs in order to incentivize transit-oriented development (TOD). The legislative package of bills enacted in December 2010 allows eligible municipalities to form development authorities and receive tax incentives for corridor improvements and brownfield redevelopment. P.A. 244 of 2010 includes transit-oriented infrastructure as eligible for Commercial Redevelopment Act tax abatements.<sup>293</sup> The Commercial Redevelopment Act, originally passed in 1978, allows for the abatement of property taxes generated from eligible investments for up to 12 years.<sup>294</sup> Tax increment financing is another option available for passenger rail investment under this package of legislation.

Michigan has several other funding programs for freight rail. The Freight Economic Development Program provides low interest loans that can possibly be converted to grants. Loans are competitive and awarded based on a number of factors, including expected job creation, local economic impacts, and viability of other transportation options. Projects that include multiple rail users and investments that lead to greater industrial access and development are given priority. Average loans are \$215,000 per project, cover 50 percent of the cost for eligible infrastructure, typically have low interest rates and can be forgiven incrementally if certain car loading requirements are met.<sup>295</sup>

The Michigan Rail Loan Assistance Program (MiRLAP) is a revolving loan program designed to promote and preserve freight rail infrastructure in Michigan. The program awards interest-free loans on a competitive basis to fund infrastructure preservation projects and can cover as much as 90 percent of eligible project costs. The program did not receive appropriations in the last year, as its funds were transferred to the state's General Fund due to budget shortfalls for FY 2010.<sup>296</sup> This was a one-time transfer; however, the program has resumed collecting loan payments and taking applications for future loans.

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<sup>291</sup> HNTB Corporation. 2011. "Michigan State Rail Plan." Accessed 1 November 2011 at:

<sup>292</sup> Ibid.

<sup>293</sup> Ibid.

<sup>294</sup> Michigan Economic Development Corporation. "Commercial Redevelopment Act." Accessed 2 November 2011 at: [http://www.michiganadvantage.org/cm/Files/Fact-Sheets/Com\\_Redev\\_Act-255.pdf](http://www.michiganadvantage.org/cm/Files/Fact-Sheets/Com_Redev_Act-255.pdf)

<sup>295</sup> Michigan Department of Transportation. 2010. "Loan Programs." Accessed 2 November 2011 at: [http://www.michigan.gov/mdot/0,4616,7-151-11056\\_22444\\_56500---,00.html](http://www.michigan.gov/mdot/0,4616,7-151-11056_22444_56500---,00.html)

<sup>296</sup> HNTB Corporation, 2011.

### *State Infrastructure Bank*

Michigan also has a State Infrastructure Bank (SIB) program, which complements traditional funding techniques by establishing a revolving loan program which takes loan payments and re-loans them for subsequent projects. Such a model enhances the number of transportation projects that can be undertaken at one time. The Michigan SIB Program makes use of both federal and state dollars. The current SIB program for federally capitalized SIBs was established in 2005 by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).<sup>297</sup> The program has recently been opened to rail companies but so far has made no disbursements.

### *Property Tax Credit for Railroads*

According to Michigan taxation laws, credits may be issued to offset property tax assessments made against railroads. According to Michigan Compiled Laws Chapter 207, Section 13(2), “A railroad company is allowed a credit against the tax imposed by this act for the tax year in an amount equal to 25 percent of the amount expended for the maintenance or improvement of rights-of-way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the railroad company in this state during the calendar year immediately preceding the tax year but not to exceed the total liability for the tax under this act. Railroads claiming such a credit are required to file an annual report with the state board of assessors which must include detailed information about right-of-way work conducted in the state during the previous calendar year.”<sup>298</sup>

### *Major Rail Projects*

Michigan is also currently pursuing a number of major rail projects. The Detroit Intermodal Freight Terminal (DIFT) is in the planning stage, with MDOT recently completing the Final Environmental Impact Statement. The project’s preferred alternative would consolidate rail operations of CSX, Norfolk Southern and Canadian Pacific in Southwest Detroit at the Livernois-Junction Yard. The project is expected to increase intermodal freight capacity in Southeast Michigan.<sup>299</sup>

The Southeastern Michigan Council of Governments (SEMCOG) is planning to improve transit services along the 38-mile rail corridor between downtown Detroit and Ann Arbor. The project was initiated in 1999 and the preferred alternative has been selected that would create passenger rail service connecting Woodward Avenue/M1 light rail corridor in Detroit. However, the project’s proposed service estimates do not meet federal requirements to receive funding for the project. The state has decided to move forward with the project and try to qualify for federal funding after the completion of a demonstration project.<sup>300</sup>

Another passenger rail project in the works is the Washtenaw Livingston Rail Line (WALLY). This proposed service would run 27 miles between Ann Arbor and Howell, Michigan. It would be operated by the Ann Arbor Transportation Authority and would run four trips in the morning and four return trips in the afternoon. Half of the funding has been secured through MDOT, which is buying and refurbishing 15 former Chicago Metra rail coaches. The cost is approximately \$500 million and the line would work to ease traffic congestion and promote economic development in Livingston and Washtenaw Counties.<sup>301</sup>

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<sup>297</sup> AASHTO Center For Excellence In Project Finance. 2008. “State Infrastructure Banks.” Accessed 2 November 2011 at: [http://www.transportation-finance.org/funding\\_financing/financing/credit\\_assistance/state\\_infrastructure\\_banks.aspx](http://www.transportation-finance.org/funding_financing/financing/credit_assistance/state_infrastructure_banks.aspx)

<sup>298</sup> Michigan Legislative Internet Technology Team. Michigan Compiled Laws, Section 207.13. Accessed 2 November 2011 at: [http://www.legislature.mi.gov/\(S\(g2di3t45ocixnfe1xsqtf55\)\)/mileg.aspx?page=getObject&objectName=mcl-207-13](http://www.legislature.mi.gov/(S(g2di3t45ocixnfe1xsqtf55))/mileg.aspx?page=getObject&objectName=mcl-207-13)

<sup>299</sup> HNTB Corporation, 2011.

<sup>300</sup> Ibid.

<sup>301</sup> Ibid.

Texas has more total rail miles than any U.S. state, with 10,405 miles as of 2009 (excluding trackage rights). As a result, the state also has the most rail industry employees.<sup>302</sup> The state has 16 intermodal facilities owned by Class 1 railroads, with another planned facility in Dallas to be built by the Burlington, Northern and Santa Fe Railway.<sup>303</sup> Texas has several intercity passenger rail lines and a large freight network. Its shared border with Mexico creates a number of international logistics issues, such as new international bridges and lots of long-range planning requirements, such as the need to assess needs and impacts of the Panama Canal Expansion Project on Texas rail and port activity. Rail oversight in Texas is provided by the Rail Division in the Texas Department of Transportation (TxDot). The main state-funded programs are the Railroad Relocation and Improvement Fund, State Infrastructure Bank, Texas Emissions Reduction Program, Texas Economic Development Bank and the Transportation Reinvestment Zone.<sup>304</sup>

### *Railroad Relocation and Improvement Fund*

This fund was created in 2005 when Texas voters approved a constitutional amendment that established the fund and enables TxDOT to plan, design and implement passenger and freight rail relocation and improvement projects.<sup>305</sup> The Texas Transportation Commission (TTC) administers the revolving fund, which finances relocation, construction, reconstruction, acquisition, improvement and expansion of rail facilities. The legislation allows the TTC to finance state-owned rail projects and partially fund private sector rail projects.<sup>306</sup> The Texas legislature had appropriated \$182 million to fund the program, but there have been delays due to questions raised by the attorney general and questions posed to the state comptroller's office, which have not been resolved as of November 2010.<sup>307</sup>

### *State Infrastructure Bank*

Texas was part of the federal government's pilot program for SIBs in 1995 and has resumed the program. Since 1997, it has been administered by TxDOT with loan approvals going through the TTC. The governing body has approved 90 loans totaling more than \$382 million from the SIB program. These loans have helped leverage more than \$3.5 billion in transportation projects for the state. Transit and highway projects under Title 23 federal programs can be funded through the program as well.<sup>308</sup>

### *Texas Emissions Reduction Program*

The Texas Legislature created the Texas Emissions Reduction Program (TERP) in order to improve air quality in the state, particularly in the nonattainment areas. The funding for the program is established through fees and surcharges established by the legislature. Funding for grants depends on the program's cash flow. Proposed projects must reduce nitrogen oxide emissions by at least 25 percent and the claims must be certified and verified by the EPA. Activities already required by federal and state laws, regulations, or other legally binding documents are not eligible. From FY 2001 to FY 2008, the Texas Commission on Environmental Quality funded 4,844 projects totaling \$712 million.<sup>309</sup>

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<sup>302</sup> Association of American Railroads. 2009. State Rankings. Accessed 2 November 2011.

<sup>303</sup> Center for Transportation Research at University of Texas at Austin and Cambridge Systematics for the Texas Department of Transportation Rail Division. 2010. Texas Rail Plan. Accessed 2 November 2011 at: [ftp://ftp.dot.state.tx.us/pub/txdot-info/rail/plan/plan\\_cover.pdf](ftp://ftp.dot.state.tx.us/pub/txdot-info/rail/plan/plan_cover.pdf)

<sup>304</sup> Ibid.

<sup>305</sup> Ibid.

<sup>306</sup> Ibid.

<sup>307</sup> Ibid.

<sup>308</sup> Ibid.

<sup>309</sup> Ibid.



*Texas Economic Development Bank*

Texas Economic Development Bank funds can be used to fund rural rail development projects. Under the program, banks may provide grants or financing to TxDOT for the implementation of TxDOT's powers and duties relating to rural rail development. The bank is allowed to allocate resources as necessary in cooperation with the TxDOT. In FY 2009, \$4.2 million was appropriated to the economic development bank.<sup>310</sup>

*Transportation Reinvestment Zones*

Texas legislation allows metropolitan areas operating freight or passenger rail facilities to diversify funding options to ensure the rail system is successful by making use of a transportation reinvestment zone (TRZ). TRZs fund transportation projects by capturing a percentage of the increased property values, which come from the investment in transportation infrastructure. The municipalities dedicate incremental tax revenues to create a revenue stream used for transportation funding or investments.<sup>311</sup>

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<sup>310</sup> Ibid.

<sup>311</sup> Ibid.

## RAIL SUMMARY AND OPPORTUNITIES

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State funding and assistance with the rail mode can be quite varied, which should be expected given that the vast majority of railroad track, facilities and infrastructure are owned by private sector railroads. The essence of state government assistance for freight railroads is generally two-fold: help coordinate short- and long-term planning efforts for infrastructure maintenance and expansion and provide financial incentives for railroads to improve or expand service with a mix of loans, grants, capital investments and tax incentives. A few states own and operate shortline or regional railroads, but such endeavors are the exception, not the rule. Passenger rail assistance is typically more involved from a governance standpoint as states must provide operating assistance, capital assistance, logistical planning, etc. For large-scale freight or passenger rail projects, partnerships with Class I railroads, rail agencies in other states, and the Federal Railroad Administration are crucial.

States have employed various programs to help maintain and improve freight rail infrastructure in the states. All states reviewed have shortline or freight rail assistance programs for shortlines or all state railroads. These programs are generally a mix of loans and grants for various rail projects, such as bridge reconstruction, new rail track, repairs, etc. These programs are generally complemented with railroad rehabilitation programs, rail coordination programs and rail safety programs, the last of which typically use a mix of state and federal funds to upgrade equipment or materials at highway-rail grade crossings. Among the more innovative approaches are those states who have managed to secure a dedicated source of revenue for rail, such as an allocation from the state transportation trust fund, as in North Carolina or Virginia. However, such funding for Kentucky may require a constitutional change, which would allow highway revenues to be spent on non-highway modes of transportation.

Another approach is to establish a state infrastructure bank in order to fund transportation projects of all sorts. As of 2008, there were 32 SIBs, although not all states have actively financed many projects in such a manner. In fact, more than half of all projects financed as of 2008 were initiated in Pennsylvania, Ohio, Michigan, Florida and Texas.<sup>312</sup> The vast majority of the projects are highway-related. Rail projects have only been financed sporadically as private sector railroads and other eligible entities have preferred to take advantage of other state programs offering grants or interest-free loans. However, as federal and state budgets tighten and transportation funding becomes increasingly scarce, SIBs could play a key role. Furthermore, most of the SIBs are capitalized with federal dollars from various federal transportation agencies. States receiving FRA money could possibly be more effective if they were to put it in an SIB account and begin a revolving loan program funded by a mix of federal funds, state funds and loan repayments. Given the difficulty of obtaining funding for the mostly private rail industry relative to other transportation modes, such an approach could be very beneficial.

Passenger rail programs are less directly applicable to Kentucky as the state does not operate any passenger rail services. Amtrak operates routes going through Kentucky, but they are part of national corridors so Kentucky does not have to subsidize any regional routes. Regional Amtrak passenger routes are frequently budget cut fodder in Congress, and there is great anxiety about future federal subsidies for those lines.<sup>313</sup> However, states wishing to upgrade passenger rail service have benefitted from both the Bush and Obama administrations' interest in high-speed rail network development and extending existing passenger rail corridors. The Passenger Rail Improvement and Investment Act (PRIA) has provided, and continues to provide, \$13 billion in passenger rail funding.<sup>314</sup> In order to provide a stable source of passenger rail funding, Michigan has created a passenger rail

<sup>312</sup> AASHTO Center For Excellence in Project Finance. 2011. "State Infrastructure Banks." Accessed 4 November 2011 at: [http://www.transportation-finance.org/funding\\_financing/financing/credit\\_assistance/state\\_infrastructure\\_banks.aspx](http://www.transportation-finance.org/funding_financing/financing/credit_assistance/state_infrastructure_banks.aspx)

<sup>313</sup> Messina, Debbie. 16 September 2011. "U.S. budget plan cuts Amtrak funding for local routes." Virginia Pilot Online. Accessed 4 November 2011 at: <http://hamptonroads.com/2011/09/us-budget-plan-cuts-amtrak-funding-local-routes>

<sup>314</sup> Conkey, Christopher. 3 October 2008. "Bush to Sign Bill to Nearly Double Amtrak Funding." The Wall Street Journal. Accessed 4 November 2011 at: <http://online.wsj.com/article/SB122298615110699903.html>

trust fund using federal funds for passenger and high-speed rail. Kentucky has taken some initiative here and has taken part in a three-state study for a potential high speed rail corridor that would run between Louisville and Atlanta, with a stop in Chattanooga.

Tax incentives are another way for states to spur development of freight rail infrastructure. Kentucky already offers tax credits for industrial access (for railroads as well as companies who provide rail infrastructure for regional and shortline railroads) and owners of fossil fuel energy resources who use rail to transport those resources. Other states, such as Michigan, have tax incentives which can be applied to Class I railroads as well. The Michigan tax incentive allows a tax credit equal to 25 percent of the amount expended for the maintenance or improvement of rights-of-way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the railroad.

In summary, the review of how other states govern, fund, and provide technical and marketing assistance for rail has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Securing a dedicated source of revenue for rail, such as an allocation from the state transportation trust fund, as in North Carolina or Virginia.
- Establishing a state infrastructure bank in order to fund transportation projects. As of 2008, there were 32 SIBs, although not all states have actively financed many projects in such a manner. In fact, more than half of all projects financed as of 2008 were initiated in Pennsylvania, Ohio, Michigan, Florida and Texas.<sup>315</sup> The vast majority of the projects are highway-related, but can be used for other modes. Rail projects have only been financed sporadically as private sector railroads and other eligible entities have preferred to take advantage of other state programs offering grants or interest-free loans.
- Creating a passenger rail trust fund using federal funds for passenger and high-speed rail. Kentucky has taken part in a three-state study for a potential high speed rail corridor that would run between Louisville and Atlanta, with a stop in Chattanooga.
- Offering tax incentives, such as Michigan has done, which can be applied to Class I railroads. The Michigan tax incentive allows a tax credit equal to 25 percent of the amount expended for the maintenance or improvement of rights-of-way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the railroad. Kentucky already offers tax credits for industrial access (for railroads as well as companies who provide rail infrastructure for regional and shortline railroads) and owners of fossil fuel energy resources who use rail to transport those resources.
- Seeking private-public partnerships with the federal government, other states and privately owned railroads. The state can invest resources in the development of rail and other non-highway transportation infrastructure along with partners it recruits for large-scale projects. Major intermodal transportation projects, such as Norfolk Southern's Heartland and Crescent Corridor projects in the eastern U.S., illustrate the advantage of multi-state initiatives.
- Updating the state rail plan with short-term and long-term plans for the development of rail infrastructure in the state. Virtually all other states reviewed during this study have updated their state rail plans within the last two years, as the PRIA legislation allows the USDOT to set standards for the preparation and revision of state rail plans. Kentucky's rail plan has not been updated since 2002.
- Identifying potential partners for freight rail and passenger rail initiatives by taking a more active role in interstate associations such as AASHTO's Standing Committee on Rail or the States for Passenger Rail Coalition.

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<sup>315</sup> AASHTO Center For Excellence in Project Finance. 2011. "State Infrastructure Banks." Accessed 4 November 2011 at: [http://www.transportation-finance.org/funding\\_financing/financing/credit\\_assistance/state\\_infrastructure\\_banks.aspx](http://www.transportation-finance.org/funding_financing/financing/credit_assistance/state_infrastructure_banks.aspx)

RAIL MODE							
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	State Loans/Grants for Shortline RR (FY 2011 or FY 2012)	State-Supported Passenger Rail Service	State Infrastructure Bank	Most Recent State Rail Plan	Dedicated Trust Fund For Rail <sup>1</sup>
<b>Kentucky</b>	Constitutional	Division of Planning <sup>2</sup>	\$2,000,000	No	No	2002	No
<b>Illinois</b>	No - Multimodal	Department of Public and Intermodal Transportation – Bureau of Railroads <sup>3</sup>	\$3,700,000 <sup>4</sup>	Yes	No	2010	Yes <sup>5</sup>
<b>Indiana</b>	Statutory	INDOT Rail Office	\$1,500,000 <sup>6</sup>	Yes	Yes, not active	2009	No
<b>Missouri</b>	Constitutional	Division of Multimodal Operations – Railroad Section	\$500,000 <sup>7</sup>	Yes	Yes, active	2011 <sup>8</sup>	No
<b>Ohio</b>	Constitutional	Ohio Rail Development Commission <sup>9</sup>	\$4,700,000 <sup>10</sup>	No	Yes, active	2010	No
<b>Tennessee</b>	No - Multimodal	Multimodal Transportation Resources Division – Office of Freight and Rail Transportation <sup>11</sup>	\$11,370,000 <sup>12</sup>	Yes	Yes, not active	2003	Yes <sup>13</sup>
<b>Virginia</b>	No - Multimodal	Department of Rail and Public Transportation	\$3,500,000	Yes	Yes, not active	2008	Yes
<b>West Virginia</b>	Constitutional	Public Service Commission – Rail Division	\$2,400,000	Yes	No	2009	No
<b>North Carolina</b>	No - Multimodal	NCDOT Rail Division	\$1,000,000 <sup>14</sup>	Yes	Yes, not active	2009	Yes
<b>Michigan</b>	No - Multimodal	Intermodal Policy Division <sup>15</sup>	-\$5,700,000 <sup>16</sup>	Yes	Yes, active	2011	Yes
<b>Texas</b>	Other <sup>17</sup>	TxDOT – Rail Division	No data available	Yes	Yes, active	2010	No

- 1 Includes dedicated funding for passenger or freight rail.
- 2 Some rail responsibilities are handled by the Utilities and Rail Branch, as well as the Office of Transportation Delivery.
- 3 Illinois Commerce Commission has regulatory oversight.
- 4 Rail Freight Program Funds are available to Class I railroads as well.
- 5 No state trust fund; trust funds for high-speed rail and passenger rail have been created for federal funding.
- 6 Industrial Rail Service Funds are available to Class I railroads as well.
- 7 STAR Program Funds can be used to fund any non-highway mode project
- 8 The Missouri Plan is actually a Statewide Transportation Improvement Program that includes a chapter on rail projects, but is not a rail-specific planning document. A new state rail plan is currently in progress.
- 9 The Public Utilities Commission of Ohio handles safety and regulatory oversight.
- 10 Includes operating costs and grants and loans to Class I railroads.
- 11 Rail Safety Oversight Section, Office of Project Safety and Project Planning Division also have rail-related responsibilities.
- 12 For Fiscal Year 2010
- 13 The Short Line Rehabilitation Program is funded with money from the fuel tax levied on diesel fuel used by railroads. However, this funding source may disappear due to legal challenges to Alabama and Tennessee's diesel tax laws. CSX challenged the Alabama Department of Revenue over the a law which applied the state's sales and use tax on diesel fuel tax on diesel fuel because it exempted most of the trucking and waterways industry from the tax. Railroads, on the other hand, were not exempt. CSX argued it violated the Railroad Revitalization and Regulatory Reform Act of 1976 (also referred to as RRRR), which prevents discriminatory taxes from being levied against railroads. In CSX Transportation, Inc. v. Alabama Department of Revenue (2010), the U.S. Supreme Court reversed and remanded a decision by the U.S. Court of Appeals for the Eleventh Circuit, and held the tax invalid because it violated RRRR by allowing exemptions for transportation industry competitors but not for railroads. The Tennessee law is being challenged on the same basis, but the federal district judge delayed the case pending the outcome of the Alabama case. Given the Supreme Court ruling, it appears both states will have to revisit that law and either eliminate exemptions for competitors or eliminate that particular diesel fuel tax.
- 14 North Carolina dedicates these funds to shortlines in the form of grants, but there are other freight rail programs for which a shortline might compete for financial assistance.
- 15 Other agencies with roles in rail programs: Statewide Transportation Planning Division; Freight Services and Safety Division; Passenger Transportation; Transportation Planning; Finance and Administration; Office of High Speed Rail and Innovative Project Advancement.
- 16 Appropriations were suspended and the fund's entire balance was transferred to the state's General Fund to help with budgetary shortfalls in FY 2010.
- 17 The Texas Constitution restricts use of fuel taxes to roadways and administration of traffic laws; a quarter of the revenues, however, are allocated to the Available School Fund.

### KENTUCKY WATERWAYS OVERVIEW

The U.S. Army Corps of Engineers (USACE) is responsible for constructing, operating, and maintaining the nation's lock and dam infrastructure and the navigation channels that allow transportation on the inland waterways. Kentucky governs waterways through the Division of Planning, which is a unit of the Kentucky Transportation Cabinet (KYTC).

Kentucky has over 1,250 miles of navigable waterways. These waterways include the Ohio River, Tennessee River, Cumberland River, Green River, Licking River, Big Sandy River, and a portion of the Mississippi River. In 1965, the Kentucky General Assembly authorized local governments to initiate and develop public port authorities. The state has seven operational public riverports, five additional public ports with a 'developing port' status, and over 300 private ports. Several of the nation's larger barge towing companies have their corporate or regional offices along Kentucky waterways.

In 2010, the General Assembly established the Kentucky Water Transportation Advisory Board, which provides guidance to the Governor's Office, the General Assembly, the Kentucky Transportation Cabinet, and the Cabinet for Economic Development. In 2010, the General Assembly also authorized capital improvement and marketing assistance trust funds for public ports. To date, no funding has been appropriated for these trust funds. Kentucky does collect a commercial watercraft property tax, which in 2009 generated \$11.2 million. Of this total revenue, \$7.6 million was returned to local governments located along the inland waterways and \$3.6 million was directed to the Kentucky General Fund.

### Historical Context

The United States (U.S.) has a wide array of waterway transportation options, including coastal deepwater ports, intra-coastal waterways, the Great Lakes and inland waterways. The U.S. waterway system is interconnected as coastal ports serve as hubs between ocean going cargo and inland waterways, intra-coastal waterways and/or land side transport. Both coastal port and navigable waterways are connected to the Great Lakes through St. Lawrence Seaway.

The U.S. waterways system is of great value to the nation. Nearly one-sixth of all intercity cargo is shipped on U.S. inland waterways and twenty five percent of all U.S. trade is handled at coastal or Great Lakes ports.<sup>316</sup> In addition to being vital to U.S. domestic and foreign trade, waterway transport is the most fuel efficient and environmentally sustainable mode of freight transportation.<sup>317</sup>

States view inland waterways as a means of economic development, hoping that a good port infrastructure will entice capital investment in the state and bring industrial and shipping jobs into port communities. Through support for public port infrastructure, commercially navigable river adjacent states hope to bolster their economy by increasing waterborne commerce and fostering economic benefits of the subsequent industrial clustering and economic multipliers.

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<sup>316</sup> USACE. 2000. Inland navigation: Value to the nation. Available at [http://www.spn.usace.army.mil/value\\_to\\_the\\_nation/InlandNavigation.pdf](http://www.spn.usace.army.mil/value_to_the_nation/InlandNavigation.pdf) (26 October 2011)

<sup>317</sup> Texas Transportation Institute. 2009. A modal comparison of domestic freight transportation effects on the general public.

The U.S. has 25,000 miles of inland and intra-coastal waterways, 12,000 miles of which are navigable and commercially active.<sup>318</sup> Inland waterways transportation is a uniquely governed mode of transport. Inland waterways infrastructure is exclusively established and maintained by the federal government. The United States Army Corps of Engineers (USACE) serves as the primary manager of river navigation infrastructure in the U.S., such as the lock and dam system, channel dredging, and reservoirs. USACE waterway improvements are the reason that most major U.S. river systems are navigable. The Corps dredges channels to a navigable depth, which is established by Congress, and controls the lock and dam system. In addition to navigation, USACE infrastructure impacts many water uses, including: drinking water, irrigation, flood control, recreation and fisheries.

With governance and maintenance of navigable river channels falling under the purview of the federal government, states are limited to providing land-side waterways infrastructure support by establishing a variety of funding mechanisms and support programs. The most common form of waterway support is the establishment of public ports along navigable rivers. These vary widely among states ranging from state to locally funded public port authorities. These port authorities facilitate the establishment of intermodal terminals that serve as interfaces between waterborne commerce and landside transport. States can do a great deal to support waterways, despite their inability to dredge channels and upgrade lock and dam infrastructure.

States also support inland waterway transportation infrastructure upgrades by working with multi-state stakeholder coalitions to influence federal funding for USACE lock and dam infrastructure improvements. Multi-state stakeholder groups include Ohio River Basin Alliance, Ohio River Valley Water Sanitation Commission (ORSANCO) and Ohio River Basin Congressional Caucus. Many of these organizations have members that sit as representatives for specific state governments in an ex-officio capacity. The Inland Waterway Users Board, a key set of waterways stakeholders, is a congressionally authorized board, established by the Water Resources Development Act of 1986, made up of waterborne freight carriers and shippers that provide advice to USACE regarding infrastructure needs on the inland waterways. The Inland Waterway Users Board established a subcommittee that recently completed a comprehensive review of investment plans for the rehabilitation of the entire lock and dam system for navigable U.S. inland waterways and made recommendations for restructuring the funding mechanism.<sup>319</sup>

In general, state supported infrastructure improvements for waterways transport are often prohibited or constrained by constitutional or statutory restrictions on fuel tax appropriations. Kentucky and four adjacent states exclusively fund highway projects with fuel tax revenues. Tennessee, Illinois and Virginia are allowed to use fuel taxes to fund general or multi-modal transportation purposes.<sup>320</sup>

Mississippi and Louisiana provide innovative examples of overcoming constitutional restrictions for funding waterway infrastructure. The Mississippi legislature, through the state courts, currently interprets the constitutional restriction to mean that only Mississippi Department of Transportation (DOT) projects can be funded with fuel taxes. They justify this by noting that when the constitutional provision was established, the state simply had a Highway Department and not the multi-modal DOT that exists today. Louisiana chose to have a statewide referendum on a constitutional amendment to expand funding to non-highway modes. The amendment passed and approximately \$15 million in fuel tax revenues are spent on port improvement programs.<sup>321</sup>

<sup>318</sup> USACE. 2000. Inland navigation: Value to the nation. Available at [http://www.spn.usace.army.mil/value\\_to\\_the\\_nation/InlandNavigation.pdf](http://www.spn.usace.army.mil/value_to_the_nation/InlandNavigation.pdf) (26 October 2011)

<sup>319</sup> Inland Marine Transportation System Capital Investment Strategy Team (2010). *Inland Marine Transportation Systems (IMTS) Capital Projects Business Model*. 2010. Available at [http://www.waterwayscouncil.org/WCIExtras/IMTS\\_IWUB\\_ExecSummary.pdf](http://www.waterwayscouncil.org/WCIExtras/IMTS_IWUB_ExecSummary.pdf) (26 October 2011)

<sup>320</sup> National Conference of State Legislatures. 2011. *Transportation Governance and Finance A 50-State Review of State Legislatures and Departments of Transportation*. Available at [http://www.transportation-finance.org/pdf/50\\_State\\_Review\\_State\\_Legislatures\\_Departments\\_Transportation.pdf](http://www.transportation-finance.org/pdf/50_State_Review_State_Legislatures_Departments_Transportation.pdf) (26 October 2011)

<sup>321</sup> Hanson Professional Services Inc. 2008. *Kentucky Riverport Improvement Project*.

In most states, the legislative branch of government is responsible for delegating authority for ports and waterways. The two predominate ways that state legislatures delegate authority for waterways are public port authorities or waterways offices within the state DOT. Some states have state-wide port authorities, while other states confer the power to enact port authorities to local and regional governments. State DOTs engage waterways in a variety of organizational iterations, ranging from having no waterways office to placing waterways transport as a joint division with rail to situating the state port authority under the auspices of the DOT.

Financial assistance to waterways usually comes through port infrastructure grants. Port financing varies by state and can include the state offering grants, loans and bonding authority to public port authorities. Additionally, some states divert federal stimulus funds to waterways, offer state tax credits for companies utilizing waterborne transport and some use fuel taxes and property taxes to fund waterways.

There are few technical and marketing programs for waterways that are directly supported by the states. While some states have authorized mechanisms in place for providing marketing support to public ports, they are often unfunded or intermittently funded accounts. Most technical assistance for waterways comes from freight diversion and economic development reports produced by a state agency, which incorporate waterways into a section of the report. Many states work to establish partnerships between public ports, state universities, DOTs and the private sector to conduct technical studies.

#### *Kentucky Waterways*

Kentucky has over 1,250 miles of navigable waterways. These waterways include the Ohio River, Tennessee River, Cumberland River, Green River, Licking River, Big Sandy River, and a portion of the Mississippi River. US-ACE indicates that over \$10 billion of commodities flowed through Kentucky's rivers in 2008. Kentucky is at the heart of the nation's inland waterways transportation system, serving as an important part of the national economy and a large economic force within the Commonwealth. The state has seven operational public riverports, five additional public ports with a 'developing port' status, and over 300 private ports. Paducah is currently home to 23 barge companies and a waterway industry that employs 5,000 people directly and 10,000 more indirectly.<sup>322</sup>

In 1998, the Kentucky legislature conferred the responsibility for Kentucky waterways and riverports to the Kentucky Transportation Cabinet (KYTC). This legislative directive also placed the responsibility of developing a long-term development plan for public riverports with KYTC. In 2000, KYTC commissioned Wilbur Smith and Associates to conduct a study of public riverport development and intermodal access for Kentucky. This study highlighted the capital needs for Kentucky's public ports.<sup>323</sup>

In 2008, Hanson Professional Services conducted a study for KYTC to assist the Cabinet in creating a development plan to make Kentucky public riverports more competitive. The study examined benchmark waterway projects in other states, which led to a series of recommendations for governance and financing restructuring. A primary recommendation for the state was to implement a waterways advisory board. Legislation to establish a waterways transportation advisory board was initially proposed in 2009.<sup>324</sup> This bill passed the House of Representatives, but never left the Senate appropriations committee.

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<sup>322</sup> Gauvin, Brian. 2010. Paducah thrives from vessels and crews operating on its many rivers. Professional Mariner Issue

131. Available at <https://professionalmariner.com/ME2/dirmod.asp?sid=&nm=Archives&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=E33ACF27B38E49F89A877924E29A182C> (26 October 2011)

<sup>323</sup> Wilbur Smith Associates. 2000. *Kentucky water transportation corridors: Public riverport development and intermodal access*.

<sup>324</sup> Kentucky Legislature, 09RS HB 491



The bill was re-introduced in the House of Representatives on January 5, 2010 as House Bill 10RS HB 28. This bill was approved by the General Assembly and subsequently signed by Governor Beshear on April 6, 2010. This bill established the Kentucky Water Transportation Advisory Board, a riverport marketing trust fund, and a riverport Financial Assistance Trust Fund.<sup>325</sup> Even though these trust funds have been established, no funding has been appropriated.

Section 1 and 2 of 10RS HB 28 establishes the Kentucky Water Transportation Advisory Board. This seven member board is composed of four representatives from the public riverports, two at-large members from the waterways industry, and one member from Kentuckians for Better Transportation (KTB). Each member is to be appointed by the governor from a list supplied by the Kentucky Association of Riverports (KAR) and KBT. After the initial appointment, each term will be four years, with members eligible for immediate reappointment to the board. The board is charged with advising KYTC, the Cabinet for Economic Development, the Governor's Office, and the General Assembly on issues regarding water transportation. The board is also responsible for accepting and evaluating applications for the two trust fund grants. The initial Kentucky Water Transportation Advisory Board members were appointed during the 2010 interim legislative session. Additionally, the legislature established an interim sub-committee on waterways.

Section 3 of 10RS HB 28 creates the riverport marketing assistance trust fund, which is to be administered by the Cabinet for Economic Development. This fund is designed to provide the Commonwealth assistance for marketing and publicizing Kentucky's public riverports to industry and commercial clients to foster economic development. This fund allows riverports to receive grants up to \$15,000 per project and \$30,000 per applicant to promote public riverports. The project must come up with 50 percent matching funds and be completed within a year of gaining the grant.

Section 4 of 10RS HB 28 establishes the riverport financial assistance trust fund. This fund, administered by KYTC, is designed to provide financial assistance to public riverports for capital infrastructure improvements. This includes new construction and major replacement and repair projects. Regular maintenance and operation projects are not eligible for the grant. These grants require 20 percent matching funds and priority is given to those projects identified in a pre-existing master plan and that have already secured proper project permits.

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<sup>325</sup> Kentucky Acts Chapter 56



## KENTUCKY

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Kentucky has over 1,250 miles of navigable waterways, the second most in the United States (after Alaska).<sup>326</sup> These waterways include the Ohio River, Tennessee River, Cumberland River, Green River, Kentucky River, Licking River, Big Sandy River, and a portion of the Mississippi River. The state has seven operational public riverports, five additional public ports with a ‘developing port’ status, and over 300 private ports.

### **State Governance, Ownership, and Regulation**

Kentucky administers waterways through the Kentucky Transportation Cabinet (KYTC), Division of Planning. Ferries and riverports are designated as part of the Multimodal Freight Transportation office in the Division of Planning. Six of the ten ferries in the state are operated by this office. KYTC also assists the Kentucky Water Transportation Advisory Board, which was established in 2010 by the state legislature.<sup>327</sup>

In 1965, the state legislature authorized the establishment of twelve local public port authorities, seven of which are currently in operation.<sup>328</sup> The Kentucky Association of Riverports (KAR) was established in 1985 to act as a non-profit advocacy organization for Kentucky’s waterways and public riverports.<sup>329</sup> In 1998 the legislature assigned the responsibility for public riverports to KYTC.<sup>330</sup> KAR still serves as an advocacy and advisory organization for Kentucky waterways transportation.

As previously stated, the operations and maintenance of inland waterways lock and dam infrastructure fall under the purview of USACE rather than state jurisdiction.

### **Financial Assistance**

Kentucky has a constitutional dedication of fuel tax revenues exclusively to highway and road purposes.<sup>331</sup>

The Commonwealth of Kentucky has a commercial watercraft property tax. The state assesses a tax of \$.45 per \$100 of value on commercial waterway carrier assets. The local tax rate is \$.954 per \$100 of value on these same assets. In 2009, these property taxes generated over \$11.2 million in tax revenues. The state retained over \$3.6 million in the general fund and \$7.6 million was distributed among local river adjacent counties.<sup>332</sup> Rather than putting these funds back into waterway infrastructure, local governments allocate these funds to their general county and city funds and to support public goods and services, such as the public school system, county health fund, public libraries and fire departments.

The state legislature established a Riverport Financial Assistance Trust Fund<sup>333</sup> that provides a mechanism for distributing grants for public riverport capital and infrastructure improvements. Grants require a 20 percent match and are reviewed and awarded annually. There was, however, no funding appropriated for the Financial Assistance Trust Fund. KAR did contribute \$10,000 to the fund as a good faith gesture.

### **Technical Assistance and Marketing Assistance**

In 2010, the state legislature established a Riverport Marketing Assistance Trust Fund<sup>334</sup> to provide marketing

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<sup>326</sup> Wilbur Smith Associates.2000. *Kentucky water transportation corridors: Public riverport development and intermodal access.*

<sup>327</sup> Kentucky Revised Statute 174.200

<sup>328</sup> Kentucky Revised Statute 273

<sup>329</sup> Kentucky Revised Statute 273.161-273.400

<sup>330</sup> Kentucky Revised Statute 65.520

<sup>331</sup> Kentucky Constitution, Section 230

<sup>332</sup> Kentucky Department of Revenue .2009. Commercial Watercraft Collection and Distribution

<sup>333</sup> Kentucky Revised Statute 174.210 (Revised 2010)

grants for Kentucky public riverports. Grants must not exceed \$15,000 a project or \$30,000 per port in a single year. The marketing grants require a 50 percent in matching funds. Grants will be reviewed by the Water Transportation Advisory Board and awarded semiannually, if funds are available. Priority will be given to those projects with the largest amount of matching funds.

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<sup>334</sup> Kentucky Revised Statute 154.80-140

## ILLINOIS

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The state of Illinois has 1,118 navigable miles of waterways running through or adjacent to the state. Illinois waterways connect to both the Atlantic Ocean, through the Great Lakes and the Saint Lawrence Seaway, and the Gulf of Mexico, via the Mississippi and Illinois Rivers. The state has 13 regional port districts.

### **State Governance, Ownership, and Regulation**

While waterways are considered as a tangential aspect of freight movement in the larger context of Illinois freight flow, the state of Illinois has no official government agency for waterways. There is no waterways office or division in the state DOT, nor is there a state public port authority. The state does allow the establishment of local public port districts.

### **Financial Assistance**

Illinois state statute allows fuel tax revenues to be used for general or multimodal transportation purposes.<sup>335</sup>

The Illinois legislature provides a port development loan program through the Department of Commerce and Community Affairs to local public port districts in the state. The Port Development Revolving Loan Program<sup>336</sup> is part of the Illinois Small Business Development Act and can be used for infrastructure improvements, including administrative costs of improvements. Illinois appropriates \$3 million annually for the program. Ports are required to pay the loan back within 20 years at a 5 percent interest rate. Applications are ranked based on cost-benefit ratio, economic feasibility, and a ports ability to repay the loan.

### **Technical and Marketing Assistance**

There is no mechanism for waterways technical or marketing assistance from the state of Illinois.

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<sup>335</sup> Illinois Compiled Statutes (ILCS) Chapter 65 5/20 and Chapter 30, 105/8.3

<sup>336</sup> Illinois Compiled Statutes (ILCS) 750/9-11

## INDIANA

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Indiana has 400 miles of navigable waterways with two Ohio River state public ports and one Lake Michigan state public port.

### **State Governance, Ownership, and Regulation**

Indiana governs and funds its waterways through port authorities, as authorized in the Indiana Constitution.<sup>337</sup> The Ports of Indiana (POI) is a quasi-governmental state-wide port authority that was established in 1961 as the Indiana Port Commission. The Ports of Indiana is governed by a seven member bipartisan commission whose members are appointed by the governor. There are three ports operated by POI – two on the Ohio River and one on Lake Michigan.

The Indiana Constitution also allows for local port authorities to operate independent of the POI. These local port authorities can be established by municipalities, counties, or consortium of multiple local governments. The port authorities are authorized to operate under municipal authority, so long as the local governments that establish it have a population between 400,000 and 700,000 residents. Indiana has several local port authorities that are separate from the POI system. These local port authorities are not eligible for state funds.

Currently, POI is seeking to establish intermodal rail terminal in the state to encourage freight movement by multiple modes. During the 2003 legislative session, the Indiana legislature passes legislative code on ports allowing for POI to establish multimodal terminals throughout the state, including rail terminals. The legislation states, “in order to promote the agricultural, industrial, and commercial development of the state and to provide for the general welfare by the construction and operation [...] of a modern port system with terminal facilities to accommodate *water, rail, truck, air-borne, and other forms of transportation*, the Ports of Indiana is hereby authorized and empowered to construct, maintain, and operate [...] without limitation public ports with terminal facilities and traffic exchange points *throughout Indiana for all forms of transportation* [...]”.<sup>338</sup> While no rail terminals have been established yet, the POI is considering the creation of a multimodal rail port for the state.

### **Financial Assistance**

Indiana has a statutory dedication of fuel tax revenues exclusively to highway and road purposes; therefore, none of these revenues may be used for waterway purposes.

The POI has a foreign trade zone (FTZ) designation and operates a development financing program to encourage the development of industry in the state.

Development financing is not restricted to firms located within the three POI ports. In 2003, the Indiana legislature allowed POI to expand its development financing beyond port purposes. The POI acts like a bonding authority to build or expand facilities on behalf of private companies in the state. The companies are allowed to repay the bond as a monthly operational payment, through a lease agreement with POI. POI uses non-recourse bonds, to minimize the financial risk for the debt. Issuance fees for the bonds serve to fund the three POI ports, while the development financing stimulates the state economy. Indiana cites a similar bonding program in Ohio as their benchmark for non-recourse development bonding.

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<sup>337</sup> Indiana Constitution, Title 8, Article 10, Utilities and Transportation, Ports.

<sup>338</sup> Indiana Code 8-10-1-1, 2011; emphasis added

### **Technical and Marketing Assistance**

The state does not currently have a formal mechanism in place by which to fund technical assistance to waterways. However, POI partners with Purdue University to host the Indiana Logistics Conference, which serves to bring government, academic, and private sectors together to discuss freight and logistics in Indiana. This annual conference serves as a means of informal technology transfer and technical assistance.

Indiana does not have a specific mechanism in place for funding the marketing of the state's waterways. However, POI state-wide port authority employs many marketing avenues. POI has established an informative website, videos explaining different aspects of Indiana waterways, a publication that focuses on the state ports, and an Indiana multimodal logistics guide. The focus of these marketing messages is economic development and intermodal logistics, playing on the state's "Crossroads of America" motto. The state's port system is also heavily marketed by the Indiana Economic Development Corporation.

## MISSOURI

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The state of Missouri has 200 port facilities and 14 public port authorities along the state's two navigable waterways--the Mississippi and the Missouri Rivers. The state has 1,033 miles of navigable waterways.

### **State Governance, Ownership, and Regulation**

Missouri has a waterways unit situated in the Multimodal Operations Division of the Department of Transportation. The Multimodal Operations Division, which incorporates rail, water and aviation transport modes, reports directly to the state's chief engineer.

The state legislature authorizes every city and county adjacent to a navigable waterway to establish a local port authority.<sup>339</sup> The local port authority must file an application with MoDOT. If the port authority gains MoDOT approval, it may apply for operational and infrastructure improvement grants from the state legislature. The grant program is also administered by MoDOT.

### **Financial Assistance**

Missouri has a constitutional dedication of fuel tax revenues exclusively to highway and road purposes; therefore, none of these revenues may be used for waterway purposes.

Three port improvement funding programs are administered by MoDOT. Unlike most port funding programs, Missouri allows operational cost to be included in port improvement grants.<sup>340</sup>

(1) The Port Authority Administrative Grant may be used to fund staff salaries, planning, research, marketing, and general operations. This operational fund is aimed at developing ports to allow them to better establish themselves. There are no matching requirements for these grants. The funding is appropriated by the state legislature and comes from vehicle sales tax revenues.

(2) The Port Capital Improvement Program is an infrastructure improvement grant. This grant requires a 20 percent local match. The fund has an anticipated appropriation of \$3-\$4 million annually for the 2009 through 2015 fiscal years.

(3) A Transportation Assistance Revolving Fund was established by Missouri in 1997 and initially funded with \$2.5 million.<sup>341</sup> This fund is designated for air, water, rail, freight or mass transit infrastructure. Highway improvements are prohibited with this grant. Most of these grants, however, have been awarded to airport projects that are not eligible for other federal and state funds.

Missouri public ports may issue bonds for infrastructure improvements.<sup>342</sup>

### **Technical and Marketing Assistance**

The Port Authority Administrative Grant can be utilized by public port authorities for marketing purposes.

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<sup>339</sup> Missouri Revised Statute 068 (Revised 2010)

<sup>340</sup> Missouri Revised Statute 068.035

<sup>341</sup> Missouri Revised Statute 226.191

<sup>342</sup> Missouri Revised Statute 068.040



Ohio has 716 miles of navigable waterways, 451 of which are on the Ohio River. The remaining 265 miles are along the coast of Lake Erie. Ohio has 30 public ports along the Ohio River and Lake Erie and 141 private ports: nine deep draft private ports along Lake Erie and 132 shallow draft commercial ports along the Ohio River.

The ‘21st Century Transportation Priorities Task Force’, a task force commissioned by the governor of Ohio, made a recommendation to “invest in the maintenance, enhancement and expansion of Ohio’s maritime infrastructure, including the Ohio River lock system, bulk heading, channel depths and intermodal connectivity” in the long term.<sup>343</sup> However, some of these waterway infrastructure maintenance activities and upgrades fall under the purview of USACE rather than state transportation authorities.

### **State Governance, Ownership, and Regulation**

The Ohio Department of Transportation (ODOT) has created a relatively new Maritime and Freight Mobility work unit, which falls under the Division of Planning. In February 2009, this work unit was created based on recommendations from the report *21st Century Transportation Priorities Task Force*. In 1980, prior to this reorganization, ODOT supported waterways transportation with the Division of Water, however this division was disbanded in the early 1990s. Between 1990 and 2009 Ohio had no waterways support from a state work unit.

The state has 30 public port authorities. These port authorities are established by local governments and operated by a board of directors, whose members are appointed by an elected official.<sup>344</sup> There are five classifications of port ownership in Ohio, “local governments, public port authorities which do not own facilities, public port authorities which own facilities, private operators of public use terminals, and private operators of private use terminals.”<sup>345</sup> The cities of Cleveland and Toledo are the only port authorities in Ohio that own their own facilities.

### **Financial Assistance**

Ohio has a constitutional dedication of fuel tax revenues exclusively to highway and road purposes. ODOT administers Transportation Review Advisory Council (TRAC) funding, which is revenue generated from fuel taxes. The Ohio fuel tax must be split between the state, county, townships and municipalities. Ohio state code prohibits using these funds for any mode of transportation other than highway related projects, making waterway projects ineligible.

The ODOT Maritime and Freight Mobility work unit spent \$60 million of Ohio’s American Recovery and Reinvestment Act (ARRA) stimulus funds to make infrastructure improvements to five multi-modal terminals along the Ohio River and Lake Erie in 2009. Mark Locker, manager of this work unit has noted that, “ARRA has been a huge and timely shot in the arm. The maritime industry and public port authorities have been under-served and forced to fend for themselves for a long time. The stimulus has ignited a renewed Ohio focus on water as a means of moving freight and people”.<sup>346</sup>

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<sup>343</sup> Ohio’s 21st Century Transportation Priorities Task Force .2009. *Moving Ohio into a Prosperous New World*.

<sup>344</sup> Ohio Revised Code Chapter 4582

<sup>345</sup> Ohio Department of Transportation .2004. *Access Ohio 2004-2030: State wide transportation plan*. Available at [http://www.dot.state.oh.us/Divisions/Planning/SPR/StatewidePlanning/Documents/Final\\_Document1.pdf](http://www.dot.state.oh.us/Divisions/Planning/SPR/StatewidePlanning/Documents/Final_Document1.pdf) (26 October 2011)

<sup>346</sup> The Ohio Contractor.2009. *Maritime office extends ODOT’s multimodal philosophy*. Available at <http://ohio-contractor.turn-page.com/> (26 October 2011)

ODOT also administers the State Infrastructure Bank (SIB) fund, which is appropriated from the state general revenue fund, state motor fuel taxes and Federal Title 23 Highway Funds. Any project eligible for Federal Title 23 Highway Funds, as well as any “aviation, rail and other intermodal transportation facilities” can be funded.<sup>347</sup>

### **Technical and Marketing Assistance**

Ohio does provide some technical assistance through the Ohio Department of Transportation. ODOT has provided in-kind staff time support for intermodal studies with large waterway components and has representatives that actively participate in the Lake Erie Commission and Ohio Port Authority Council.

The state of Ohio does not have a specific mechanism in place for funding the marketing of the state’s waterways.

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<sup>347</sup> Structural Infrastructure Bank, 2011 Available at <http://www.dot.state.oh.us/Divisions/Finance/Pages/StateInfrastructureBank.aspx> (26 October 2011)

The Tennessee Department of Transportation (TDOT) and the USACE sponsored a series of three waterway assessments between 2007 and 2011, resulting in recommendations for the state's Waterways Program Development.<sup>348</sup> Currently, Tennessee is in the process of implementing this waterways development plan to support the state's 1,062 miles of navigable inland waterways.

### **State Governance, Ownership, and Regulation**

TDOT administers the Tennessee waterways programs through the Office of Freight and Rail in the Division of Multimodal Transportation Resources which is under the Environment and Planning Bureau. According to its mission statement, "TDOT is a multimodal agency with responsibilities in aviation, public transit, *waterways* and railroads. Our involvement ranges from airport improvements to funding transit buses to planning for river ports".<sup>349</sup>

### **Financial Assistance**

Tennessee state statute allows fuel tax revenues to be used for general or multimodal transportation purposes.<sup>350</sup> In addition, TDOT is appropriated approximately \$100,000 of barge fuel taxes annually, a portion of which is invested back in the waterways industry. These funds are used to finance waterways research such as port feasibility studies.

As part of the TDOT Waterways Program Development master plan, a capital improvements grant and loan program is currently being developed to assist investment in port and waterway infrastructure. The master plan also calls for developing an incentive program to divert freight from highways to the waterways system. The target completion date of both projects is 2018.<sup>351</sup> In addition to TDOT's riverport funding, Tennessee provides funding for the Tennessee-Tombigbee Waterway Development Authority. The purpose of the Tennessee-Tombigbee is to promote economic development and increase waterway freight and river tourism in the region.<sup>352</sup>

### **Technical and Marketing Assistance**

Currently, TDOT is working to establish a Waterways Advisory Board, similar to the one implemented by Kentucky. Additionally, the agency has an intermediate-term goal to create an organizational mechanism that would allow for local governments, metropolitan planning organizations (MPO), and regional planning organizations (RPO) to work with TDOT. The purpose of this group is to provide technical planning assistance for future riverport sites.

The Waterways Program Development master plan also calls for TDOT to develop a marketing program for Tennessee waterways. This intermediate-term plan comes from the recommendations of the TDOT and USACE sponsored research.<sup>353</sup>

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<sup>348</sup> Hanson Professional Services, Inc. 2007. *Tennessee Waterways Assessment Study*; Hanson Professional Services, Inc. 2008. *Tennessee Waterways Study – Phase II*; Center for Transportation Research at the University of Tennessee. 2011. An Evaluation of the Potential for Commercial Navigation to Additionally Contribute to Freight Transportation in the Tennessee River Basin.

<sup>349</sup> Tennessee Department of Transportation Website .2011. *About*. Available at <http://www.tdot.state.tn.us/more.htm> ; emphasis added; (26 October 2011)

<sup>350</sup> Tennessee State Statute 9-4-207 and 67-6-103

<sup>351</sup> Tennessee Department of Transportation Waterways Development Program .2009. Available at <http://www.tdot.state.tn.us/publictrans/docs/WaterwaysDevelopmentProgram.pdf> (26 October 2011)

<sup>352</sup> Tennessee Department of Transportation.2005. *Long Range Transportation Plan*. Available at <http://www.tdot.state.tn.us/plango/pdfs/plan/ProjEvalSys.pdf> (26 October 2011)

<sup>353</sup> Hanson Professional Services, Inc. 2008. *Tennessee Waterways Study – Phase II*.

## VIRGINIA

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Virginia has 675 miles of both coastal and inland waterways. Virginia is the only adjacent state that has deep-water coastal ports. It also has over 200 miles of navigable waterways with the James River. The state port authority has both coastal and inland ports.

### **State Governance, Ownership, and Regulation**

The Virginia Ports Authority (VPA) is charged with developing global trade in the state by operating, marketing and securing the Ports of Virginia. In the early 1970s, the Virginia Ports Study Commission recommended that the three general cargo terminals at Hampton Roads be merged into one state-operated terminal. The goal of the state acquisition was to end fierce internal competition among the ports. The state legislature studied this merger and decided that a unified port system for Virginia would stimulate economic development, allowing the state to market a unified general cargo port system. Currently the VPA is comprised of four state-owned ports: Newport News Marine Terminal, Norfolk International Terminals, Portsmouth Marine Terminal, and the Virginia Inland Port in Front Royal.

In 1982, the VPA established Virginia International Terminals, Inc. (VIT), a non-stock, non-profit, private corporation that operates the VPA terminals. VIT is not a state entity, takes no state funds, and can therefore be more effective at operating the terminals. VIT can enter into agreements with unions, which state entities are not allowed to do in Virginia, and VIT does not fall under the auspices of the Freedom of Information Act (FOIA) allowing them to keep shipping information proprietary.

### **Financial Assistance**

Virginia state statute allows fuel tax revenues to be used for general or multimodal transportation purposes.<sup>354</sup>

In an effort to grow the Ports of Virginia, the Commonwealth Port Fund (CPF) was established in 1986. The CPF “is funded from a portion of the state sales tax, and motor vehicle fuel and related taxes and fees. CPF revenues are limited to use for capital and maintenance related expenditures only.”<sup>355</sup> As a result of the success and large revenue increases for the Virginia Ports Authority, the VPA ended its \$14 million a year support from the state’s General Fund in 1997. The VPA currently operates with no funding from the Virginia general fund, as all operating costs are paid by VPA revenue. In lieu of local property taxes, VPA pays a service fee to local governments. This service fee cost is split between VPA revenue (52 percent) and the state general fund (48 percent).

In an effort to incentivize increased waterways shipping, the state of Virginia has established three new tax credits for modal shifts, specifically modal shifts that bolster waterborne commerce in the state. The first tax credit is for companies that increase the volume of manufactured goods shipped through a Virginia Port Authority terminal by 5 percent from the previous year. The state has allotted \$3.2 million a year for this tax credit with an annual limit of \$250,000 per company.<sup>356</sup> The second tax credit provides a \$3,000 credit for each job created by an import-export company, provided the company also increases its shipping through VPA terminals by 10 percent.<sup>357</sup> The third tax credit gives a \$50 credit per container for goods that are shipped via rail and barge.<sup>358</sup> Virginia believes this \$50 per container tax credit will make the VPA competitive with other coastal ports in the Southeast. Currently, two national rail companies and one inland barge line are likely to benefit from the third tax credit. These tax credits were signed into law on June 20th, 2011.

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<sup>354</sup> Virginia Code 33.1-23.03:2

<sup>355</sup> Virginia Ports Authority.2009. *Strategic Plan*. Available at [http://www.portofvirginia.com/media/441/strategic\\_plan\\_2009.pdf](http://www.portofvirginia.com/media/441/strategic_plan_2009.pdf) (26 October 2011)

<sup>356</sup> Virginia State Bill 1481

<sup>357</sup> Virginia State Bill 1136

<sup>358</sup> Virginia State Bill 1282

### **Technical Assistance and Marketing Assistance**

The Commonwealth of Virginia does not have a technical assistance program in place. The VPA does conduct technical studies, such as economic impact studies and port infrastructure reports, but those are designed for internal use by the Ports of Virginia and the VPA.

Waterway transportation marketing is under the auspices of the Virginia Ports Authority charge and is funded in the VPA operational budget.

## **WEST VIRGINIA**

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West Virginia has 682 miles of navigable waterways. The state has six port districts under the auspices of a state public port authority, including the Port of Huntington Tri-State, which is the nation's largest inland waterway port by tonnage.

### **State Governance, Ownership, and Regulation**

West Virginia governs their state waterways through the West Virginia Public Port Authority (WVPPA), which was established in 1991.<sup>359</sup> The state port authority is housed as an agency in the West Virginia Department of Transportation. One of the goals of WVPPA is to assist in the development and operation of public port and intermodal facilities throughout West Virginia for economic and recreational enhancement.

### **Financial Assistance**

West Virginia has a constitutional dedication of fuel tax revenues exclusively to highway and road purposes. However, the state has established a special public port authority operations fund. All public port proceeds and revenues are allocated to this special revolving fund. At the end of each fiscal year, all unexpended funds are re-appropriated to the revolving fund for the next year.<sup>360</sup>

### **Technical and Marketing Assistance**

The WVPPA does not provide direct marketing assistance to individual ports. However, it does fund some state-wide public outreach projects that highlight West Virginia's inland rivers. This includes a WVPPA jointly funded project with the maritime industry to introduce local public school students to the importance of waterway transportation to the state. The program, entitled *Kanawha: Navigation Through History*, gives students a first-hand, interactive experience with waterway navigation. The Public Port Authority also sponsors the television programs *Connecting WV and the World* and *Spotlight West Virginia* on the Public Broadcast System (PBS), in an effort to promote public ports and the waterway industry in the state.

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<sup>359</sup> West Virginia Code Chapter 16-B

<sup>360</sup> West Virginia State Statute 17-16B-7. Special West Virginia public port authority operations fund.

## OTHER STATES

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In addition to the states surrounding Kentucky, four other states were examined to whether any of the strategies adopted by other could be considered “innovative.” The states chosen were: Alabama, Minnesota, Oklahoma, and Oregon.

### ALABAMA

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Alabama waterways are administered through the Alabama State Port Authority (ASPA). In 2000, Alabama restructured their governance of waterways. Prior to 2000, Alabama State Dock was the state agency and the executive director was appointed by the governor. State legislation established the Alabama State Port Authority (ASPA) with a board of directors who were authorized to appoint the executive director.<sup>361</sup> In 2009, the state examined creating a waterways division of the Department of Transportation. However no division was created.

Similar to Virginia, Alabama has the advantage of having a coastal port at the mouth of their inland waterways system. The state does help fund ASPA port infrastructure improvements. The Port of Mobile, Alabama has recently undergone infrastructure improvements utilizing federal, state, and private funding. A large part of the capital improvement project for Alabama’s coastal port was the construction of a container-on-barge (COB) terminal, allowing shippers to load coastal freight straight onto inland barges.<sup>362</sup>

### MINNESOTA

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Despite only having 258 miles of navigable river, Minnesota is cited as a benchmark for technical assistance and state governance by many other state waterways programs. The Minnesota Department of Transportation has been producing nationally recognized waterways research for 25 years. The MnDOT Ports and Waterways Section has the resources and staff to conduct quality research in waterway transportation and disseminate their findings to state stakeholders.

In 1996, the state established a Port Development Assistance Program for public ports.<sup>363</sup> Since then, the state has allocated \$21 million in loans for Minnesota public ports. The loan is an 80 percent state loan with a 20 percent local match.<sup>364</sup> The program is a revolving fund that is administered by the Minnesota Transportation Commissioner.

### OKLAHOMA<sup>365</sup>

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The Oklahoma Department of Transportation has an independent Waterways Branch, which serves as a resource for the two public ports in Oklahoma. In 1986, the Waterways Branch started in the Oklahoma Department of Commerce. The branch then moved to the Oklahoma DOT and was merged with the newly established Waterways Advisory Board in 1993. The branch does waterways outreach work, such as a K-12 curriculum and classroom activity packets to teach students about the history and benefits of U.S. inland waterways as a mode of transportation.<sup>366</sup>

<sup>361</sup> Hanson Professional Services, Inc. 2009. Alabama freight mobility study – Phase II – Volume 3

<sup>362</sup> Hanson Professional Services, Inc. 2009. Alabama freight mobility study – Phase II – Executive Summary.

<sup>363</sup> Minnesota State Statute Chapter 457A

<sup>364</sup> Minnesota Department of Transportation .2010. Available at <http://www.dot.state.mn.us/ofrw/waterways.html> (26 October 2011)

<sup>365</sup> Oklahoma DOT Waterways Branch is currently rebuilding their website and request for documents from ODOT were not received within the timeframe to be consider for the report.

<sup>366</sup> Oklahoma Department of Transportation Waterways Branch .2010. Inland Waterways Fact Sheet.

## OREGON

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Waterways in Oregon are not administered by the Department of Transportation, rather the state funds waterways and ports through the Infrastructure Finance Authority (IFA), as a division of the Oregon Business Development Commission. This innovative approach to waterways governance situates waterways as an economic development issue rather than a strictly transportation issue. The IFA supports three financial funds:<sup>367</sup>

*Marine Navigation Improvement Fund:* This program provides local matching funds for USACE projects that improve navigation (i.e., channel dredging).

*Port Revolving Loan Fund:* Construction and infrastructure improvement loans for waterways, aviation and multimodal ports.

*Port Planning and Marketing Fund:* This fund was established to finance planning and marketing initiatives in an attempt to stimulate economic activity.

The Port Revolving Loan Fund and the Port Planning and Marketing Fund are open to all port authorities and port districts as defined by Oregon state law.<sup>368</sup>

Oregon allows ports to assess property taxes at the local level. Each port levies its own local taxes, thereby allowing rates to vary across the state. The average local port tax across the state is \$.18 per \$1,000 of assessed value.<sup>369</sup>

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<sup>367</sup> Oregon Infrastructure Finance Authority.2011. Available at <http://www.orinfrastructure.org/Learn-About-Infrastructure-Programs/Interested-in-a-Port-Project/> (26 October 2011)

<sup>368</sup> Oregon Revised Statutes Chapter 777 and Chapter 778

<sup>369</sup> Parsons Brinckerhoff.2000. Ports 2010: A New Strategic Business Plan for Oregon's Statewide Port System. Available at <http://www.orinfrastructure.org/assets/docs/IFA/2010PortPlan.pdf> (26 October 2011)

## WATERWAYS SUMMARY AND OPPORTUNITIES

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Despite the federal government's exclusive ability to dredge channels and upgrade lock and dam infrastructure, states that have commercially navigable rivers running through or adjacent to their borders use a variety of mechanisms to support and fund waterway transportation and waterborne commerce. Viewing inland waterways as a means of economic development, states invest in port infrastructure to entice capital investment into the state. By supporting public port infrastructure, states hope to stimulate economic development.

### *Governance*

States govern inland waterways in one of three ways: (1) through the state DOT, (2) through the state department of economic development, or (3) the state has no agency-based waterway governance program. However, the operations and maintenance of inland waterways lock and dam infrastructure fall under the purview of the USACE rather than state jurisdiction.

State governments delegate authority for waterway support and funding through public port authorities and/or waterway offices within the state DOT. State DOTs support waterways transportation through a variety of organizational work units including an independent waterways office, a joint office with rail and/or freight, or a state port authority under the auspices of the DOT. The most common form of state waterway transportation support is the establishment of public riverports along commercially navigable rivers. Some states have state-wide public port authorities, while other states authorize the creation of local public port authorities. Public ports receive some combination of local and/or state funds and other large public ports are financially self-sustainable.

### *Financial Assistance*

The ability of a state to provide support and funding for infrastructure improvements and waterway transport is often prohibited or constrained by constitutional or statutory restrictions on fuel tax appropriations. Kentucky, Indiana, Missouri, Ohio and West Virginia exclusively fund highway projects with fuel tax revenues. Tennessee, Illinois and Virginia are allowed to use fuel taxes to fund general or multi-modal transportation purposes. Financial assistance to a state's waterways usually comes through port infrastructure financing, which varies by state and includes state grants, state loans, and/or bonding authority to public port authorities.

Most states have little to no dedicated funding for capital and infrastructure improvements to inland ports. Instead, many states fund waterway transportation through legislative appropriations to waterway revolving loan funds and waterway loan/grant trusts. These funds often go toward port authority infrastructure development projects, with little funding for marketing and technical assistance. In some cases, where property or fuel taxes are assessed, these revenues often go to local governments in port communities rather than going back into port infrastructure.

### *Summary of State Specific Programs*

Kentucky governs waterways through the Kentucky Transportation Cabinet's Multimodal Freight Transportation Office in the Division of Planning and a Waterways Transportation Advisory Board. Kentucky has a constitutional dedication of fuel tax revenues exclusively to highway and road purposes, which does not allow waterways to be funded through fuel tax revenues. However, Kentucky has a commercial watercraft property tax that generated over \$11 million in tax revenues in 2009. These revenues were allocated to local governments and not dedicated back into waterways. Lastly, Kentucky has established a Riverport Financial Assistance Trust Fund and Riverport Marketing Assistance Trust Fund which provides a mechanism for distributing grants for public riverport capital and infrastructure improvements. However, no funding has been appropriated for the trust funds.

Missouri allows operational and administrative cost to be funded through their trust fund granting program. The other states do not allow these costs to be included in loan and grant applications. Ohio has diverted federal stimulus funds to waterways, some offer state tax credits for companies utilizing waterborne transport, and some



use fuel taxes and personal property taxes to fund waterways. Oregon situates their waterways program in their department of economic development. This reflects the view of many states, that waterway infrastructure acts as a mechanism for economic development. Lastly, Virginia is the most innovative in their approach to state waterway transportation support. Their new ‘smart tax credit’ for waterways freight serves to incentivize inland waterway shipping and foster economic development near ports. Virginia does have the advantage of having a coastal port where freight can be directly loaded from ocean vessel to inland barge.

In summary, the review of how other states govern, fund, and provide technical and marketing assistance for water transportation has revealed some opportunities for Kentucky. These opportunities for consideration include:

- Establishing a dedicated water transportation or maritime unit in the state’s transportation agency. This has been done in Missouri, Minnesota, Ohio, and Oklahoma. Alabama, Indiana, Virginia, and West Virginia have statewide port authorities.
- Making constitutional or statutory changes to provide support and funding for infrastructure improvements and waterway transport using fuel tax revenues. Currently, Kentucky, Alabama, Indiana, Minnesota, Missouri, Ohio, Oregon, and West Virginia exclusively fund highway projects with fuel tax revenues. Illinois, Oklahoma, Tennessee, and Virginia are allowed to use fuel taxes to fund general or multi-modal transportation purposes.
- Dedicating state funding for capital, infrastructure improvements, and marketing projects at inland ports. Many states fund waterway transportation through legislative appropriations to waterway revolving loan funds and waterway loan/grant trusts. These funds often go toward port authority infrastructure development projects, with little funding for marketing and technical assistance. In some cases, where property or fuel taxes are assessed, these revenues go to the state general fund and local governments in port communities rather than going back into port infrastructure.
- Allowing port operational and administrative costs to be funded through a trust fund granting program. Missouri currently allows this.
- Offering state tax credits for companies utilizing waterborne transport. Virginia is currently being most innovative in their approach to state waterway transportation support. Their new ‘smart tax credit’ for waterways freight serves to incentivize inland waterway shipping and foster economic development near ports. Virginia, however, has the advantage of having a coastal port, where freight can be directly loaded from ocean vessel to inland barge.
- Organizationally locating the state waterways program in the state economic development office, such as has been done in Oregon. This reflects the view of some states, that waterway infrastructure acts as a mechanism for economic development.

WATERWAYS MODE							
State	Dedication of Fuel Tax Revenues to Highway Modes	State Agency	Financial Support <sup>^</sup>	Bonding Authority#	Dedicated Funding	Technical and/or Marketing Support	Public Port Authority
Kentucky	Constitutional	DOT	Trust Fund Grants*	Yes	No	Trust Fund Grant* Advisory Board	Local
Illinois	No - Multimodal	None	Revolving Loan	Yes	Yes	None	Local
Indiana	Statutory	State Port Authority	Non-Recourse Bonds	Yes	No	Port Authority Marketing	State & Local
Missouri	Constitutional	DOT	Trust Fund Grants** Revolving Loan	Yes	No	Marketing Grants	Local
Ohio	Constitutional	DOT	State Infrastructure Loan	Yes	No	ODOT Technical Staff	Local
Tennessee	No - Multimodal	DOT	Fuel Tax Investment into Grants and Loans	Yes	Yes	Advisory Board	Local
Virginia	No - Multimodal	State Port Authority	Tax Credits	Yes	Yes	Port Authority Technical Studies	State
West Virginia	Constitutional	State Port Authority (Under DOT)	Revolving Loan	Yes	No	State-wide Education Program	State
Alabama	Constitutional	State Port Authority	Special Appropriations	Yes	No	Port Authority Marketing	State
Minnesota	Constitutional	DOT	Revolving Loan	Yes	No	MNDOT Technical Staff	Local
Oklahoma	No - Multimodal	DOT	---	Yes	Yes	State-wide Education Program	Local
Oregon	Constitutional	Economic Development	Revolving Loan Trust Fund Grants	Yes	No	Trust Fund Grants	Local

# Bonding Authority Vested in Public Ports

\*Trust Funds are currently unfunded by State Legislature

<sup>^</sup> Infrastructure/Capital Improvements

\*\* Grants allow operational and administrative cost to be funded