I

116TH CONGRESS
2D SESSION

H. R. 8926

To amend chapter 261 of title 49, United States Code, to provide for high-speed rail corridor development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2020

Mr. MOULTON (for himself, Ms. DELBENE, and Mr. BRENDAN F. BOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend chapter 261 of title 49, United States Code, to provide for high-speed rail corridor development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American High-Speed Rail Act''.

SEC. 2. AMENDMENTS TO CERTAIN HIGH-SPEED RAIL ASSISTANCE PROVISIONS.

(a) APPLICABILITY.—Amendments made by this Act, and the applications of such amendments to other persons or circumstances, to chapter 261 shall apply to any Federal assistance provided on or after the date of the enactment of this Act.

(b) HIGH-SPEED RAIL CORRIDOR PLANNING.—Section 26101 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "or group of public agencies for corridor planning for up to 50 percent" and inserting ", a group of public agencies, or a consortium composed of a public agency or group of public agencies and a private entity, for corridor planning for up to 100 percent";

(B) in paragraph (2), by striking "No less" and all that follows through the period at the end and inserting "The Secretary shall prioritize providing financial assistance for corridor planning activities with respect to which at least 20 percent of the total costs associated with eligible activities shall be from specified financial sources."; and

(C) by adding at the end the following:

"(3) In this subsection, the term 'specified financial source' means—

"(A) the Railroad Rehabilitation and Improvement Finance program under chapter V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.);

"(B) the transportation infrastructure finance and innovation program in chapter 6 of title 23;

"(C) funding provided by the government of a country that is adjacent to the international border of the United States through which the proposed corridor will cross;

"(D) a State, local, or private source; or

"(E) any combination of the sources described in subparagraphs (A) through (D).

"(4) For any funds derived from the programs described in subparagraphs (A) and (B) of paragraph (3) that are used for costs associated with eligible activities, such funds shall be repaid from State, local, or private sources.";

(2) in subsection (b)—

(A) by striking paragraph (2); and

(B) by striking "(1) A corridor" and inserting "A corridor"; and

(3) by adding at the end the following subsection:

"(d) PROJECTS OR ACTIVITIES FOR HIGHER-SPEED RAIL.—

"(1) IN GENERAL.—With respect to grants awarded under this section, the Secretary may award not more than 20 percent of grants under this section for projects or activities for higher-speed rail.

"(2) RELEVANT REQUIREMENTS.—With respect to grants under paragraph (1), the Secretary may apply requirements for high-speed rail to projects or activities for higher-speed rail, where applicable.".

(c) HIGH-SPEED RAIL TECHNOLOGY IMPROVEMENTS.—Section 26102 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d) FACTOR TO CONSIDER.—In providing financial assistance to eligible recipients under subsection (b), the Secretary may consider activities that incorporate the use of technologies that facilitate intermodal connections and connections with other passenger rail systems.".

(d) SAFETY REGULATIONS.—Section 26103 of title 49, United States Code, is amended by striking "such" and all that follows and inserting "comprehensive, performance-based regulations for all high-speed rail projects. Such regulations shall not inhibit interoperability within the high-speed rail network.''

(e) DEFINITIONS.—Section 26105 of title 49, United States Code, is amended—

(1) in paragraph (2), by striking ''of more than 125 miles per hour'' and inserting ''of 186 miles per hour or more''; and

(2) by adding at the end the following paragraph:

''(7) the term 'higher-speed'—

''(A) means all forms of nonhighway ground transportation that run on rails or electromagnetic guideways providing transportation service which is—

''(i) reasonably expected to reach sustained speeds of more than 110 miles per hour but less than 186 miles per hour; and

''(ii) made available to members of the general public as passengers; and

''(B) does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.''.

(f) HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.—Section 26106 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: ‘‘In carrying out the program, the Secretary may designate high-speed rail corridors.’’;

(2) in subsection (b)—

(A) in paragraph (1), by striking ‘‘or Amtrak’’ and inserting ‘‘, Amtrak, or a consortium of a private entity and one or more of any of the entities listed in this paragraph’’;

(B) in paragraph (2), by striking the period at the end and inserting ‘‘before the date of the enactment of MAP–21 (Public Law 112–141) or a corridor designated by the Secretary under subsection (a).’’; and

(C) in paragraph (4), by striking ‘‘of at least 110 miles per hour’’ and inserting ‘‘of 186 miles per hour or more’’;

(3) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (B)(i)—

(I) in clause (I), by adding ‘‘and’’ at the end; and

(II) in clause (II), by striking "and" at the end;

(ii) in subparagraph (B)(ii)(IV), by inserting "and" at the end; and

(iii) in subparagraph (C)(i)—

(I) in clause (IV), by inserting "electrification or" after "involve"; and

(II) in clause (V), by striking the semicolon and inserting ", including as a result of transit-oriented development, connectivity between areas of high-economic development and areas with a low cost of living, or the agglomeration of effects along a passenger rail corridor."; and

(B) in paragraph (3)—

(i) by striking "The Secretary" and inserting "(A) The Secretary"; and

(ii) by adding at the end the following:

"(B) The Secretary shall not establish mandatory spending timelines for costs and activities associated with the project.";

(4) in the heading of subsection (f), by striking "FEDERAL SHARE" and inserting "FUNDING";

(5) in subsection (f),

(A) by striking "The Federal share" and all that follows and inserting "(1) FEDERAL SHARE.—With respect to the net capital cost of a project financed under this section, the Federal share of such cost may be up to 100 percent."; and

(B) by adding at the end the following new paragraph:

"(2) NON-FEDERAL SHARE.—

"(A) The Secretary shall prioritize financing capital projects in high-speed rail corridors with respect to which at least 20 percent of the project net capital cost is funded through specified financial sources.

"(B) In this section, the term 'specified financial source' means—

"(i) the Railroad Rehabilitation and Improvement Finance program under chapter V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.);

“(ii) the transportation infrastructure finance and innovation program in chapter 6 of title 23;

“(iii) funding provided by the government of a country that is adjacent to the international border of the United States through which the proposed corridor will cross;

“(iv) a State, local, or private source; or

“(v) any combination of the sources described in clauses (i) through (v).

“(C) For any funds derived from the programs described in clauses (i) or (ii) of subparagraph (B) that are used to finance costs associated with capital projects in high-speed rail corridors, such funds shall be repaid from State, local, or private sources.”;

(6) by striking subsection (g) and inserting the following:

“(g) PRESIDENTIAL BORDER PERMITS.—With respect to any project that requires construction, connection, operation, or maintenance, at the international boundaries of the United States, the Secretary of State shall provide the applicant of such project with the necessary Presidential permits required for such project, unless the Secretary of State determines that the provision of such permit would not be in the interest of national security.''; and

(7) by striking subsection (h) and inserting the following:

''(h) RAILROAD RIGHT-OF-WAY.—

''(1) IN GENERAL.—Prior to the completion of environmental reviews required for the project or corridor planning activity, the Secretary shall assist a recipient of grant under section 26101 or this section with the acquisition of a right-of-way if the acquisition of such right-of-way is otherwise permitted under Federal law.

''(2) LIMITATION ON DEVELOPMENT.—With respect to a right-of-way granted under paragraph (1), the recipient of such grant shall not develop such right-of-way until such recipient completes all required environmental reviews for the project or corridor planning activity.

''(i) PROJECTS OR ACTIVITIES FOR HIGHER-SPEED RAIL.—

''(1) IN GENERAL.—With respect to grants awarded under this section, the Secretary may award not more than 20 percent of grants under this section for projects or activities for higher-speed rail.

"(2) RELEVANT REQUIREMENTS.—With respect to grants under paragraph (1), the Secretary may apply requirements for high-speed rail to projects or activities for higher-speed rail, where applicable.".

(g) INTERSTATE COMPACTS.—Section 410(b)(2) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) is amended by striking "(except funds made available for Amtrak)".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 26104 of title 49, United States Code, is amended—

(a) by amending subsection (a) to read as follows: "(a) HIGH-SPEED RAIL CORRIDOR PLANNING.—There is authorized to be appropriated to carry out section 26101 $3,000,000,000 for each of fiscal years 2021 through 2025.";

(b) by redesignating subsection (b) as subsection (e); and

(c) by inserting after subsection (a) the following:

"(b) HIGH-SPEED RAIL TECHNOLOGY IMPROVEMENTS.—There is authorized to be appropriated to carry out section 26102 $3,000,000,000 for each of fiscal years 2021 through 2025.

"(c) HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.—There is authorized to be appropriated to carry out section 26106 $35,000,000,000 for each of fiscal years 2021 through 2025.

"(d) RESTRICTION.—Not more than 20 percent of the total funds made available under sections 26101 and 26106 for a fiscal year may be spent on projects or activities for higher-speed passenger trains.".

SEC. 4. TRANSIT-ORIENTED DEVELOPMENT PLANNING.

(a) METROPOLITAN TRANSPORTATION PLANNING.—Section 5303 of title 49, United States Code, is amended—

(1) in subsection (h)(1)—

(A) in subparagraph (A), by striking "and efficiency" and inserting "efficiency, regional land development, and economic development";

(B) in subparagraph (H), by striking "; and" and inserting a semicolon;

(C) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following subparagraphs:

"(J) decrease user travel time, decrease cost or expenses for users and the transportation system, increase in user safety, and productivity gains for the metropolitan area calculated at present value; and

"(K) decrease the public health, environmental, and other economic costs of pollution and emissions."; and

(2) subsection (i)(2)(A)(ii), by inserting ", and as the factors compare across transportation modes for," after "relate to".

(b) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Subsection (d)(1) of section 5304 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "and efficiency" and inserting "efficiency, regional land development, and economic development";

(2) in subparagraph (H), by striking "; and" and inserting a semicolon;

(3) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following subparagraphs:

"(J) decrease user travel time, decrease cost or expenses for users and the transportation system, increase in user safety, and productivity gains for the State calculated at present value; and

"(K) decrease the public health, environmental, and other economic costs of pollution and emissions.".

(c) PILOT PROGRAM.—Section 20005(b) of the Moving Ahead for Progress in the 21st Century Act (23 U.S.C. 101 note) is amended by adding at the end the following:

"(4) SPECIAL CONSIDERATION.—With respect to eligible projects involving high-speed rail corridor development, the Secretary shall give greater consideration to communities in which such projects are proposed to occur.

"(5) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2021 through 2025.".

SEC. 5. PAYMENTS OF CREDIT RISK PREMIUMS.

Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

"(5) AVAILABILITY OF GRANT AMOUNTS.—Amounts provided under the heading 'Office of the Secretary—National Infrastructure Investments' in the Department of Transportation Appropriations Act, 2016 (title I of division L of Public Law 114–113), the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2018 (title I of division L of Public Law 115–141), or any subsequent appropriation Act may be used to pay credit risk premiums under this subsection.

"(6) REFUND OF PREMIUM.—The Secretary shall repay the credit risk premium required under this subsection not later than 60 days after the date on which all obligations attached to each such loan have been satisfied.".

SEC. 6. PRIVATE ACTIVITY BONDS.

(a) NATIONAL LIMITATION.—Section 142(m)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "$15,000,000,000" and inserting "$30,000,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allocations made on or after the date of the enactment of this Act.

SEC. 7. ACQUIRING FREIGHT TRAIN RIGHT OF WAY.

(a) IN GENERAL.—Chapter 261 of title 49, United States Code, is amended by adding at the end the following:

"§ 26107. Acquiring freight rail right-of-way

"(a) Sale of Property.—A rail carrier may sell, grant an easement on, or lease real property to a recipient of financial assistance under section 26101 or section 26106.

"(b) Grants for Acquisition of Additional Real Property Along Right-of-Way.—In the case of a rail carrier that sells, grants an easement, or leases property under subsection (a) and that acquires additional real property along the portion of the right-of-way subject to such sale, grant, or lease, the Secretary of Transportation shall make one or more grants to such rail carrier which, in the aggregate, shall not exceed the aggregate amounts received by such rail carrier pursuant to such sale, grant, or lease.

"(c) Tax Treatment.—

"(1) Exclusion of gain, etc.—Any gain on the sale of any interest in real property described in subsection (a) (including the granting of an easement on such real property), or any payment made under any lease of such real property, shall not be includible in the gross income of such rail carrier for purposes of the Internal Revenue Code of 1986.

"(2) Exclusion of grant amounts.—The amount of grant provided under subsection (b) shall not be includible in the gross income of the recipient of such grant for purposes of the Internal Revenue Code of 1986.

"(3) EXCLUSION OF CERTAIN CAPITAL IMPROVEMENTS.—Any capital investment or improvement (including turnouts, passing track, signaling, crossings, and barriers) made pursuant to section 26101 or section 26106 by a recipient of financial assistance under such section on any real property owned by the rail carrier referred to in subsection (a) shall not be includible in the gross income of such rail carrier for purposes of the Internal Revenue Code of 1986.

"(d) APPLICABILITY OF LAW.—Section 28103 shall apply to property described in subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 261 of title 49, United States Code, is amended by adding at the end the following:

"26107. Acquiring freight rail right-of-way.".

SEC. 8. OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS.

Section 22905(b) of title 49, United States Code, is amended—

(1) in the heading by striking "OPERATORS" and inserting "COVERED PERSONS";

(2) by striking "A person that" and all that follows through "chapter" and inserting "(1) IN GENERAL.—A covered person";

(3) by striking "as defined in Section 10102(5)" and all that follows through "applies" and inserting "only for the purposes of making it subject to the laws of the United States referred to in section 10501(c)(3)(A) of title 49, United States Code";

(4) by redesignating paragraphs (1), (2), and (3) as (i), (ii), and (iii); and

(5) by adding at the end the following new paragraph:

"(2) COVERED PERSON DEFINED.—In this subsection, the term 'covered person'—

"(A) means—

"(i) a person that conducts passenger rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter; and

"(ii) a person that performs work for, or in support of, passenger rail operations that is work performed by employees in crafts and classes recognized under section

2 of the Railway Labor Act (45 U.S.C. 152);

"(B) does not include—

"(i) an employer engaged primarily in the building and construction industry (as such term is used in section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f))) who is solely performing work as a contractor for a rail carrier;

"(ii) an employer solely performing work as a contractor or subcontractor for—

"(I) a railroad that owns, uses, or is contracted to perform work on, rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter; or

"(II) an operator that uses such infrastructure,

consistent with a collective bargaining agreement between the railroad or operator and a union representing employees in a craft or class recognized under section 2 of the Railway Labor Act (45 U.S.C. 152).''.

○