



# Found Money

BY FRANK N. WILNER

## FRA authorizes \$1 billion in loans and loan guarantees for shortline capital improvements

It took the Federal Railroad Administration two years to translate congressional intent into a final rule, but come Labor Day railroads will have access to \$3.5 billion in any combination of low-interest government loans and loan guarantees. Interest rates should be at least as high as the government receives for selling Treasury bills but lower than interest rates sought by privately owned commercial banks.

The Railroad Rehabilitation and Improvement Financing Program, which reserves \$1 billion of the total for shortline railroads, was authorized by the 1998 Transporta-

tion Equity Act for the 21st Century. Shortlines are defined by the Surface Transportation Board as having annual revenue from freight operations of less than \$21 million. Depending upon the interest of larger railroads, shortlines could be eligible for more than \$1 billion of the \$3.5 billion total.



CHAMBERS

The final rule, which goes into effect 60 days from its July 6 publication in the Federal Register, defines who is eligible and how to apply. The FRA will announce seminars around the nation to assist shippers, shortlines, local governments, port authorities and other public agencies in filing for the loans and loan guarantees. Congress intended

that the program reduce the interest cost for rail-related capital improvements aimed at eliminating highway-rail grade crossings, upgrading track and rail bridges, improving the efficiency of rail-truck transfer facilities, rehabilitating rail equipment and enhancing intermodal service to small communities and rural areas. The program also may be used to refinance higher-cost debt if the original loan was used for infrastructure improvements.

"We've already had inquiries from railroads and communities," said FRA Deputy Administrator Jack Wells, who helped draft the 1998 enabling legislation as a Democratic aide to the House Transportation and Infrastructure Committee. "Until now there has been no mechanism" for public-private partnerships to improve rail infrastructure, he said.

Also helping to write the enabling legislation was shortline lobbyist Ray Chambers, who said the program is intended to

## OMB caused the delay

The two-year delay in finalizing the Railroad Rehabilitation and Improvement Financing Program rests primarily with the White House Office of Management and Budget.

The OMB sought unsuccessfully to strip the loan and loan-guarantee program from the Transportation Equity Act for the 21st Century, prevailed upon Transportation Secretary Rodney Slater to delay release of a preliminary rule and then sought to hamstring the program's effectiveness by insisting upon restrictive language. The OMB may have been encouraged to enfeeble the program by the AFL-CIO Transportation Trades Department as retaliation for alleged anti-union bias by the American Short Line and Regional Railroad Association, which was instrumental in selling Congress on the program.

While Congress was deliberating TEA-21 in 1998, the OMB said it opposed "establishing a separate program for providing credit to private railroads." Congress nonetheless created the program, but the Federal Railroad Administration did not issue a preliminary rule for almost a year afterward — and then only after the bipartisan leadership of the House Transportation and Infrastructure Committee threatened Slater with an oversight hearing.

But when the FRA did publish its preliminary rule, it contained a provision insisted upon by the OMB to require applicants prove they could not obtain a loan — regardless of the



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interest rate — on their own in the private sector. Such a restriction was not contained in the legislation and, according to program supporters, would have destroyed the program's effectiveness.

FRA Administrator Jolene Molitoris, who supports the loan and loan-guarantee program, declined, for political reasons, to criticize the OMB publicly but was reported by senior staff to be fighting aggressively against Clinton administration opposition to the program. Indeed, when the final rule was published last week, the lender-of-last-resort restriction was rewritten "to be meaningless," said an FRA official who asked not to be named. It now merely requires that an applicant provide a letter from one commercial bank denying a loan at a similar low interest rate as might be obtained from the federal government or with a federal loan guarantee.

Also changed was an earlier requirement that applicants produce audited financial statements going back four years. **Most shortlines don't have their financial statements audited because of cost, said shortline consultant Michael Sussman.** The final rule requires audited financial statements only if they are available.

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