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EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
MAY 19, 2004

SUBJECT: FEDERAL LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATIONS ON FEDERAL LEGISLATION

RECOMMENDATION

Adopt the following positions:

- A. S.2276 (Boxer) - A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system. **SUPPORT**
- B. S.2273 (McCain) – A bill to provide \$1.2 billion in funding to meet immediate security needs for intercity and freight rail transportation providers. **WORK WITH AUTHOR**
- C. S.2289 (Sessions) A bill to ensure that railroad carriers and mass transportation providers receive the same protection under federal criminal law. **SUPPORT**

ATTACHMENTS:

- A. S.2276 (Boxer)
- B. S.2273 (McCain)
- C. S.2289 (Sessions)

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BILL: S. 2276

AUTHOR: U.S. SENATOR BARABARA BOXER (D-CA)

SUBJECT: RAILROAD AND MASS TRANSPORTATION PUBLIC PROTECTION PROGRAM ACT

STATUS: INTRODUCED ON APRIL 1, 2004. REFERRED FOR ACTION TO THE SENATE COMMERCE COMMITTEE

ACTION: SUPPORT

RECOMMENDATION:

Staff recommends that the MTA Board of Directors adopt a support position on S. 2276.

PROVISIONS:

Current law provides limited federal grants for the express purpose of enhancing the security of our nation's rail network. To date, the Department of Homeland Security has made \$115 million in grants for rail transportation security.

S. 2276 would:

- Establish the Railroad and Mass Transportation Public Protection Program Act and would allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of America's rail and mass transportation systems.
- Authorize funding of \$500 million annually from 2005 to 2009
- Designate one third of the bill's funding for Amtrak. Two thirds would be designated for mass transportation and other rail providers.

IMPACT ANALYSIS:

This legislation would expand the MTA's opportunity to secure federal grants for the express purpose of safeguarding both its light and heavy rail systems. The current sources for federal rail security grants are limited and clearly not adequate to safeguard the MTA's entire rail system.

BILL: S. 2273

AUTHOR: U.S. SENATOR JOHN McCAIN (R-AZ)

SUBJECT: RAIL SECURITY ACT OF 2004

STATUS: INTRODUCED ON APRIL 1, 2004. PASSED BY THE SENATE COMMERCE COMMITTEE ON APRIL 8, 2004.

ACTION: WORK WITH AUTHOR

RECOMMENDATION:

Staff recommends that the MTA Board of Directors adopt a work with author position on S. 2273.

PROVISIONS:

Current law provides limited federal grants for the express purpose of enhancing the security of our nation's rail network. To date, the Department of Homeland Security has made \$115 million in grants for rail transportation security.

S. 2273 would:

- Provide \$1.2 billion in funding to meet immediate security needs for intercity and freight rail transportation providers.
- Earmark \$679 million for protection, fire safety and emergency exit enhancements for tunnels used by Amtrak in the Northeast Corridor – New York, NY, Baltimore, MD and Washington, DC.
- Provide \$185 million in grants to railroads, state and local governments and others to upgrade security across the entire railroad system, including hardening infrastructure, hiring additional police and canine units, and improving explosive detection capabilities.
- Provide up to \$128.5 million in funding for Amtrak to implement measures contained in Amtrak's security plan.
- Provide up to \$100 million to improve the security of hazardous materials transportation, including structural modification or replacement of rail cars transporting high hazard commodities.
- Provide \$100 million for research and development initiatives including explosive detection, tamper resistant sealing of freight cars, enhanced communication, and improved emergency response techniques and technologies.
- Require the Department of Homeland Security to complete, within 180 days of the bill's enactment, a vulnerability assessment of America's rail transportation network.

- Require the Department of Transportation to conduct a pilot program of random security screening at five stations served by Amtrak.
- Provide funding for Amtrak Security in California and States outside of the Northeast Corridor.
- Ensure that state and local entities that own rail stations and tracks used by Amtrak would be eligible for security grants.
- Mandate a “Grade Crossing Security Study” to examine to what extent roads and highways are made inaccessible to emergency responders because of rail crossings.

IMPACT ANALYSIS:

This legislation would have a minimal impact on the MTA because it provides funding for intercity and freight rail security. More specifically, freight rail and tunnels utilized by Amtrak in New York, NY, Baltimore, MD and Washington, DC would be the major beneficiaries of this bill. The bill includes no general provisions for mass transit systems, like those operated by the MTA. Amtrak in California could potentially benefit from the security grants provided for in this legislation.

BILL: S. 2289

AUTHOR: U.S. SENATOR JEFF SESSIONS (R-AL)

SUBJECT: RAIL SECURITY

STATUS: INTRODUCED ON APRIL 6, 2004. REFERRED FOR ACTION TO THE SENATE JUDICIARY COMMITTEE

ACTION: SUPPORT

RECOMMENDATION:

Staff recommends that the MTA Board of Directors adopt a support position on S. 2289.

PROVISIONS:

S.2289 will ensure that railroad carriers and mass transportation providers receive the same protection under federal criminal law. Current law includes a number of inconsistencies with respect to penalties for acts committed on railroads and mass transportation systems.

S. 2289 would:

- Extend to mass transportation systems a provision in the existing wrecking trains statute¹ that makes it a crime to undermine or make the use of the mass transportation infrastructure hazardous or unworkable. In addition, the bill would add “track” and “electro-magnetic guideways” to the list of types of mass transportation infrastructure protected.
- Make it a crime to cause the release of a hazardous material or a biological agent or toxin on or near the property of a railroad or mass transportation provider with the intent to endanger the safety of any person or with a reckless disregard for the safety of human life. This is a new prohibition that does not exist in current law.
- Strengthen or clarify the penalties for certain violations. The bill would make it an “aggravated offense” to commit prohibited acts against a train or a mass transportation vehicle that carries a passenger or employee, radioactive waste, spent nuclear fuel, or designated hazardous materials. The general penalty for aggravated offenses would be a fine, or imprisonment for a term of years or life

¹ The wrecking trains statute was enacted in 1940 and contains terminology that is not as expansive as that used in modern Federal criminal statutes. The bill would update the language used in referring to acts targeted at railroads (e.g., replacing the term "explosive substance" with "biological agent or toxin, destructive substance, or destructive device"). And more types of railroad property and equipment would be explicitly protected (guideways, locomotive tenders, and on-track equipment). The definitions of the mass transportation statute would be slightly modified to reflect the addition of railroads, and terrorist acts involving hazardous materials including radioactive materials and spent nuclear fuel. (Testimony of Mark. Lindsey, Chief Counsel of the Federal Railroad Administration – April 8, 2004)

imprisonment, or both. A sentence of either life imprisonment or capital punishment would apply where the offense has resulted in the death of another person. Currently, the maximum penalty under the mass transportation statute is life imprisonment.

IMPACT ANALYSIS:

This bill would provide harsher penalties for individuals who commit acts of terrorism against America's rail network, including MTA's heavy and light rail system.

