

ENROLLED SENATE
BILL NO. 1192

By: Herbert, Bell, Williams
(Penny) and Gustafson of
the Senate

and

Adair, Davis, Toure and
Stottlemire of the House

An Act relating to railroads and tourism and recreation; creating the Oklahoma Tourism and Passenger Rail Act; providing short title; defining terms; prescribing powers, duties and function of certain entity; fixing penalties for violation of act; creating the Oklahoma Tourism and Passenger Rail Revolving Fund; stating revenue sources; prohibiting expenditure of state funds; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 321 of Title 66, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Tourism and Passenger Rail Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 322 of Title 66, unless there is created a duplication in numbering, reads as follows:

The purpose of the Oklahoma Tourism and Passenger Rail Act shall be to do all things necessary to restore passenger rail service to the state, to enhance the state's position as a tourist destination site and to improve the quality of life for residents of this state by offering an alternative mode of intrastate and interstate travel.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 323 of Title 66, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Department" means the Department of Transportation;
2. "Railroad rights-of-way", "trackage" or "projects" shall include within their meaning, but shall not be limited to: any roadbed, drains, fences, ties, switches, rails, ballast, signs, signals, lights, equipment, bridges, tools, crossings, underpasses, overpasses, construction and administration buildings and any and all other property, rights, easements and interests whether owned in fee or leased;
3. "Owner" shall include all individuals, copartnerships, associations, corporations, companies, transportation companies, public service corporations, the United States or any agency or instrumentality thereof, common carriers by rail and railroad

companies having any title or interest in any real or personal property rights, easements and interest authorized to be acquired, leased or used by this act;

4. "Income" and "funds" and "revenue" shall include such money as may be appropriated, dedicated, granted or donated to the Department to accomplish the purposes of this act together with any funds otherwise dedicated to the Oklahoma Tourism and Passenger Rail Revolving Fund as created by Section 5 of this act;

5. "Intermodal transportation" shall mean the linking of two or more modes of transportation including highway, mass transit, railroad, aviation or waterway transportation of all transportation-related industries in this state; and

6. "Passenger rail service" shall mean interstate or intrastate passenger rail service, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 324 of Title 66, unless there is created a duplication in numbering, reads as follows:

A. The Department of Transportation is hereby authorized and empowered to:

1. Acquire, construct, reconstruct, repair, replace, operate and maintain railroad rights-of-way and trackage projects at such locations and on such passenger routes as it shall determine to be feasible and economically sound;

2. Enter into agreements with the owners of operating railroads for the acquisition and/or use of railroad rights-of-way and trackage on such terms, conditions, rates or rentals as the Department may consider to be in the best interests of the state;

3. Enter directly into agreements with owners of operating passenger railroads to sell, lease, or sell by lease-purchase agreement any state-owned railroad property on such terms, conditions or amounts as the Department may consider to be in the best interests of the state and to promote the purposes of this act;

4. Acquire and hold real or personal property in the exercise of its powers for the performance of its duties as authorized by this act. Surplus property may be disposed of by the Department;

5. Acquire in the name of the Department, by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation, such public or private lands and personalty, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, trackage, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this act;

6. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ passenger rail planning and management consultants, consulting engineers, attorneys, accountants, construction and financial consultants, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from funds made available under and pursuant to the provisions of this act or from revenues; provided, further, no attorney employed by the Department, nor any member of any law firm of which he or she may be connected, shall ever be paid any fee or compensation for any special or extraordinary services;

7. Receive, accept and expend funds from the state, any federal agency, or from private sources, for passenger rail planning and for

administration of passenger railroad assistance projects, and for, or in aid of the acquisition, construction, reconstruction, replacement, repair, maintenance and operation of passenger railroad rights-of-way and trackage and for passenger rail service continuation payments to railroad companies for operating losses sustained by reasons of continuing service on a line which may otherwise be abandoned or which may experience a reduced level of service not in the public interest, where such continuation of service is carried out under a written agreement with the Department establishing the terms and conditions for such payments, and to receive and accept funds, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such funds, aid or contributions may be made;

8. Adopt such rules and to do any and all things necessary to comply with rules, regulations or requirements of the United States Department of Transportation, any successor thereof, the Interstate Commerce Commission or any federal agency administering any law enacted by the Congress of the United States or having funds available for the purpose of the Department that are not inconsistent with or contrary to the prohibitions and restrictions of Oklahoma law or public interest;

9. Expend income and funds from the Oklahoma Tourism and Passenger Rail Revolving Fund created in Section 5 of this act in the exercise of any or all of the foregoing powers; and

10. Do all things necessary or convenient to carry out the powers expressly granted in this act.

B. It shall be unlawful for any member, officer or employee of the Department to transact with the Department, either directly or indirectly, any business for profit of such member, officer or employee; and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer or employee.

Violation of this provision shall constitute a felony and, upon conviction, shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the custody of the Department of Corrections for not more than five (5) years, or by both such fine and imprisonment.

C. All meetings of the Department shall be open public meetings, and all records shall be public records, except when considering personnel.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325 of Title 66, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasurer's office a revolving fund for the Department of Transportation, to be designated the "Oklahoma Tourism and Passenger Rail Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be composed of all revenues generated pursuant to the federal Intercity Passenger Rail Trust Fund Act of 1995, together with any federal grants, or financial assistance payments or contributions by any state or agency thereof or any authority constituted by the state, private donation or the proceeds from any rail property sale or payments for the use of any rail property and any accumulated interest thereon. All monies accruing to the credit of the fund are hereby appropriated and may be

budgeted and expended by the Department of Transportation in furtherance of the provisions of this act.

SECTION 6. This act shall become effective July 1, 1996.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 13th day of May, 1996.

President of the Senate

Passed the House of Representatives the 22nd day of May, 1996.

Speaker of the House of Representatives