STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 260 By: Stipe of the Senate

and

Tyler, Pettigrew,
Langmacher and Vaughn of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to railroads; amending 66 O.S. 1991, Sections 303, as amended by Section 1, Chapter 173, O.S.L. 1994, 304, as amended by Section 133, Chapter 548, O.S.L. 1997, and 306 (66 O.S. Supp. 1997, Sections 303 and 304), which relate to the Oklahoma Railroad Revitalization Act; modifying certain definition; expanding certain powers and duties; authorizing certain expenditure and providing limitation; modifying legislative intent; and providing an effective date.

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

SECTION 1. AMENDATORY 66 O.S. 1991, Section 303, as amended by Section 1, Chapter 173, O.S.L. 1994 (66 O.S. Supp. 1997, Section 303), is amended to read as follows:

Section 303. As used in ~~this act~~ the Railroad Revitalization Act:

1. "Department" means the Oklahoma ~~State~~ Department of Transportation;

2. "Railroad rights-of-ways", "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 by this state, or at any public highway railroad crossing;

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 Railroad Maintenance Revolving Fund; and

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.

SECTION 2. AMENDATORY 66 O.S. 1991, Section 304, as amended by Section 133, Chapter 548, O.S.L. 1997 (66 O.S. Supp. 1997, Section 304), is amended to read as follows:

Section 304. A. The Department <u>of Transportation</u> is hereby authorized and empowered:

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

2. To 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. To enter directly into agreements with owners of operating railroads or persons intending to operate as common carriers by rail 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~~ <u>the Railroad Revitalization Act</u>;

4. To 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. To 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~~ the Railroad Revitalization Act;

6. To 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~~ the Railroad Revitalization Act, and to employ 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~~ the Railroad Revitalization Act or from revenues; provided, further, no attorney employed by the Department, nor any member of any law firm of which ~~he~~ the member may be connected, shall ever be paid any fee or compensation for any special or extraordinary services;

7. To receive, accept and expend funds from the state, any federal agency, or from private sources, for rail planning and for administration of railroad assistance projects, and for or in aid of the acquisition, construction, reconstruction, replacement, repair, maintenance and operation of railroad rights-of-way and trackage and for 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. To adopt such rules ~~and regulations~~ 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. To expend, not to exceed twenty percent (20%) of the funds available in the Railroad Maintenance Revolving Fund during any one (1) year, at locations approved by the Oklahoma Corporation Commission, such Oklahoma Railroad Maintenance Revolving Fund monies as may be budgeted by the Department of Transportation for the purposes of installing signal lights, gate arms, or other active warning devices where any public road, street, or highway crosses a railroad right-of-way;

10. To expend income and funds from the Oklahoma Railroad Maintenance Revolving Fund in the exercise of any or all of the foregoing powers;

~~10.~~ 11. To 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, upon conviction. The fine for a violation of this provision shall be not less than Five Hundred Dollars ($500.00) and not more than Five Thousand Dollars ($5,000.00).

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

SECTION 3. AMENDATORY 66 O.S. 1991, Section 306, is amended to read as follows:

Section 306. The Legislature hereby finds and declares that the exercise of the powers granted by ~~this act will be~~ the Railroad Revitalization Act is in all respects for the benefit of the people of the state, to enhance their safety at public railroad crossings, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as such the acquisition, construction, reconstruction, repair, replacement, operation and maintenance of railroad rights-of-way and trackage projects by the Department ~~will~~ constitute the performance of essential discretionary governmental functions as set forth in Section 155 of Title 51 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 1998.

46-2-3095 RH (<time=system>)