

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 64

By: Roberts of the Senate

and

Erwin of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Corporation Commission; amending 17 O.S. 1991, Sections 17 and 81, which relate to powers of railroad corporations and rules of running trains; prohibiting the removal or destruction of trackage on certain property; permitting board of county commissioners to request determination of safety of railroad crossings; directing request to the Corporation Commission; requiring response to the request within certain time; and providing an effective date.

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

SECTION 1. AMENDATORY 66 O.S. 1991, Section 7, is amended to read as follows:

Section 7. Every corporation formed under this article and every railroad corporation, authorized to construct, operate or maintain a railroad within this state, shall be a body corporate by the name designated in its articles, shall have perpetual succession, shall have the right to sue and be sued, may have a common seal and alter the same at pleasure, and shall also have power:

First. To cause such examination and surveys for its proposed railroad to be made, either within or without this state, as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damage which shall be done thereto.

Second. To take and hold such voluntary grants of real estate and other property, either within or without this state, as may be

made to it to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only. Railroad corporations shall not remove or destroy any trackage located on property originally obtained through any federal, state, local, Indian government grant or loan, or if originally acquired by the use of eminent domain.

Third. To acquire under the provisions of this article, or by purchase, all such real estate and other property, either within or without this state, as may be necessary for the construction, maintenance and operation of its railroad, and the station, depot grounds, and other accommodations reasonably necessary to accomplish the objects of its incorporation; to hold and use the same, to lease or otherwise dispose of any part or parcel thereof, or sell the same when not required for railroad uses, and no longer necessary to its use.

Fourth. To lay out its road, not exceeding one hundred (100) feet in width, either within or without this state, and to construct the same; and for the purpose of cuttings and embankments and of obtaining gravel or other material to take such land as may be necessary for the proper construction, operation and security of the road, and for the protection of such road from snow, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided by law for lands taken for the use of the corporation.

Fifth. ~~Subject to the provisions of Section 1388, to~~ To construct its railroad across, along, or upon any stream of water, watercourse, street, highway, toll or wagon road, plank road, turnpike, wharf, levee, river front, steamboat or other public landing, or canal which its route shall intersect, or touch; to carry any highway, street, toll, or wagon road, plank road, turnpike, which it shall touch, intersect, or cross, over or under its track, as may be most expedient for the public good; to change the course or direction of any highway, street, turnpike, toll or wagon road, or plank road, when made necessary or desirable to secure more easy ascent or descent by reason of an embankment or

cut made in the construction of the railroad, and take land necessary therefor: Provided, that such highway or road be not so changed from its original course more than six (6) rods, nor its distance lengthened more than five (5) rods.

Sixth. To cross, intersect, join, and unite its railroad with any railroad heretofore, or hereafter constructed, at any point on its route, and upon the grounds of such railroad corporation, with the necessary turnouts, sidings, and switches, and other conveniences in furtherance of the objects of its connections. And every corporation whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersection and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of the compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for the ascertainment and determination of damages for the taking of real property. But no corporation which shall have obtained the right-of-way and constructed its road at the point of intersection, before the application for the appointment of commissioners may be made shall be required to alter the grade or change the location of its road, or be required to bear any part of the expense of making and maintaining such crossings.

Seventh. To have and use equal room, ground, rights, privileges and conveniences for tracks, switches, sidings and turnouts upon any levee, riverbank or front, steamboat or other public landing, and upon any street, block, alley, square, or public ground within any incorporated town or city, any charter or ordinance of any such town or city to the contrary notwithstanding; and to accomplish this, may adjust, with other corporations, the ground to be occupied by each with such tracks, switches, sidings and turnouts; and if such corporations cannot agree upon such adjustment, and the amount of compensation to be paid for the purchase or necessary change of location and removal of any track previously laid, the same shall be ascertained and determined, and the common, mutual and separate rights adjusted in

the manner provided by law for the ascertainment and determination of damages for the taking of real property. The commissioners provided by law may employ a competent engineer, and define, locate and plat the ground and assign to each corporation the part for the tracks and other conveniences for each, and may require the removal or purchase of tracks previously laid, so as to settle justly the rights of each corporation upon such ground, and assess the damages to be paid under the law providing for the taking of real property.

Eighth. To take and convey persons or property over their railroad by the power or force of steam or of animals, or by any mechanical power either within or without this state, and to receive compensation therefor, and to do all the business incident to railroad corporations.

Ninth. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freight and business, subject to the statutes in relation thereto.

Tenth. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 81, is amended to read as follows:

Section 81. The Corporation Commission is given full jurisdiction over all public highway crossings, where same cross steam or electric railroads or railways within ~~the State of Oklahoma~~ this state. However, the board of county commissioners of any county of this state may request, in writing, that the Corporation Commission evaluate any crossing. Within a reasonable period of time and not to exceed sixty (60) days from the receipt of the written request, the appropriate state agency shall advise the board of county commissioners, in writing, of any proposed plan of improvement for the crossing.

SECTION 2. This act shall become effective September 1, 1997.

