

ENGROSSED HOUSE
BILL NO. 3273

By: Satterfield and Voskuhl
of the House

and

Stipe of the Senate

An Act relating to railroads; amending 66 O.S. 1991, Section 304, as amended by Section 548, Chapter 133, O.S.L. 1997 (66 O.S. Supp. 1997, Section 304), which relates to powers and duties of Oklahoma Department of Transportation; requiring legislative approval for acquisition of railroad rights-of-way and trackage; granting certain authority to Contingency Review Board; and providing an effective date.

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

SECTION 1. AMENDATORY 66 O.S. 1991, Section 304, as amended by Section 548, Chapter 133, O.S.L. 1997 (66 O.S. Supp. 1997, Section 304), is amended to read as follows:

Section 304. A. The Department 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;

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;

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, 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 or from revenues; provided, further, no attorney employed by the

Department, nor any member of any law firm of which he 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 income and funds from the Oklahoma Railroad Maintenance Revolving Fund in the exercise of any or all of the foregoing powers; and

10. 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.

D. The Legislature shall approve, by joint resolution, any acquisition of, or agreement to acquire, any railroad rights-of-way or trackage as provided in this section regardless of the source of funds to be used to acquire the railroad rights-of-way or trackage. In the event the Legislature is not in session, the Contingency Review Board shall have authority to approve the acquisition of, or agreement to acquire, any railroad rights-of-way or trackage as provided in this section.

SECTION 2. This act shall become effective November 1, 1998.

Passed the House of Representatives the 9th day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President

of the Senate