

THE HOUSE OF REPRESENTATIVES
Tuesday, March 4, 2008

House Bill No. 3207
As Amended

HOUSE BILL NO. 3207 - By: JETT of the House.

(railroads - amending 66 O.S., Section 304 - Railroad Revitalization Act -
powers and duties of the Department of Transportation – noncodification -
effective date)

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

1 SECTION 1. AMENDATORY 66 O.S. 2001, Section 304, is amended to read as
2 follows:

3 Section 304. A. The Department of Transportation is hereby authorized and
4 empowered:

5 1. To acquire, construct, reconstruct, repair, replace, operate and maintain railroad
6 rights-of-way and trackage projects at ~~such~~ locations and on ~~such~~ routes as it shall
7 determine to be feasible and economically sound or as specifically directed by law to
8 acquire;

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

1 3. To enter directly into agreements with owners of operating railroads or persons
2 intending to operate as common carriers by rail to sell, lease, or sell by lease-purchase
3 agreement any state-owned railroad property on such terms, conditions or amounts as
4 the Department may consider to be in the best interests of the state and to promote the
5 purposes of the Railroad Revitalization Act;

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

9 5. To acquire in the name of the Department, by purchase or otherwise on such
10 terms and conditions and in such manner as it may deem proper, or by exercise of the
11 right of condemnation, such public or private lands and personalty, including public
12 parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way,
13 trackage, property, rights, easements, and interests, as it may deem necessary for
14 carrying out the provisions of the Railroad Revitalization Act;

15 6. To make and enter into all contracts and agreements necessary or incidental to
16 the performance of its duties and the execution of its powers under the Railroad
17 Revitalization Act, and to employ rail planning and management consultants, consulting
18 engineers, attorneys, accountants, construction and financial consultants,
19 superintendents, managers, and such other employees and agents as may be necessary in
20 its judgment, and to fix their compensation; ~~provided, that all such.~~ All expenses shall be
21 payable solely from funds made available under and pursuant to the provisions of the
22 Railroad Revitalization Act or from revenues; ~~provided, further, no.~~ No attorney

1 employed by the Department, nor any member of any law firm ~~of~~ to which the member
2 may be connected, shall ever be paid any fee or compensation for any special or
3 extraordinary services;

4 7. To receive, accept and expend funds from the state, any federal agency, or from
5 private sources, for rail planning and for administration of railroad assistance projects,
6 and for or in aid of the acquisition, construction, reconstruction, replacement, repair,
7 maintenance and operation of railroad rights-of-way and trackage and for rail service
8 continuation payments to railroad companies for operating losses sustained by reasons of
9 continuing service on a line which may otherwise be abandoned or which may experience
10 a reduced level of service not in the public interest, where such continuation of service is
11 carried out under a written agreement with the Department establishing the terms and
12 conditions for such payments, and to receive and accept funds, aid or contributions from
13 any source of either money, property, labor or other things of value, to be held, used and
14 applied only for the purposes for which such funds, aid or contributions may be made;

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

21 9. To expend, not to exceed twenty percent (20%) of the funds available in the
22 Railroad Maintenance Revolving Fund during any one (1) year, at locations approved by

1 the ~~Oklahoma~~ Corporation Commission, such Oklahoma Railroad Maintenance
2 Revolving Fund monies as may be budgeted by the Department of Transportation for the
3 purposes of installing signal lights, gate arms, or other active warning devices where any
4 public road, street, or highway crosses a railroad right-of-way; provided, however,
5 nothing in this act shall negate, change, or otherwise modify any existing statutory or
6 common law duty of a railroad company;

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

9 11. To do all things necessary or convenient to carry out the powers expressly
10 granted in this act.

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

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

18 Violation of this provision shall constitute a felony and upon conviction shall be
19 punishable by incarceration in the State Penitentiary for a term not to exceed five (5)
20 years or by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five
21 Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

3 SECTION 2. NEW LAW A new section of law not to be codified in the
4 Oklahoma Statutes, reads as follows:

5 The Department of Transportation is hereby directed to acquire the railroad rights-
6 of-way and trackage which runs between the municipalities of Shawnee, Oklahoma, and
7 McAlester, Oklahoma.

8 SECTION 3. This act shall become effective November 1, 2008.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
10 TRANSPORTATION, dated 03-03-08 - DO PASS, As Amended.