

LEGISLATIVE BILL 80

Approved by the Governor February 21, 1995

Introduced by Beutler, 28

AN ACT relating to railroad safety; to amend sections 74-1302 and 74-1305, Reissue Revised Statutes of Nebraska; to eliminate the termination date for railroad transportation safety districts; to harmonize provisions; to repeal the original sections; and to outright repeal section 74-1309, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 74-1302, Reissue Revised Statutes of Nebraska, is amended to read:

74-1302. Whenever, in a county in which is located a city or cities of the primary or first class, it will be conducive to the public health, safety, convenience, or welfare (1) to move, relocate, or remove any railroad tracks or railroad right-of-way, including improvements thereon, (2) to relocate or remove any railroad yard or switch yard, or switch tracks, (3) to change, construct, eliminate, or reconstruct, including the use of protective devices of any kind or nature, any highway or street crossing of a railroad property, (4) to move, construct, or reconstruct any railroad bridge, viaduct, or subway, or (5) to acquire, negotiate, sell, or eliminate any joint trackage operating rights or any rights of other individuals or entities over, in, or on any railroad tracks, rights-of-way, switch yards, or switch tracks, or (6) to do any two or more of such things jointly the activities listed in subdivisions (1) through (5) of this section, a special district to be known as a railroad transportation safety district may be formed and may proceed, as provided in sections 74-1301 to ~~74-1309~~ 74-1308, for the purpose of inaugurating, developing, and negotiating for programs which may involve the constructing, reconstructing, leasing, maintaining, or selling of such work or works of public transportation improvement.

Sec. 2. Section 74-1305, Reissue Revised Statutes of Nebraska, is amended to read:

74-1305. Such district shall have the power, right, and authority after notice and public hearing (1) to purchase within or without such county railroad rights-of-way including the improvements thereon; (2) to purchase land not presently owned or used by any railroad company for additional right-of-way or additional switch or yard space where changes of routes or construction of interconnections or of new railroad yards is necessary or desirable, and (3) to acquire through the exercise of the power of eminent domain, but only upon the vote of the directors of such district, which vote shall require a five-sixths majority in districts governed pursuant to subsection (1) of section 74-1304 and a two-thirds majority in districts governed pursuant to subsection (2) of section 74-1304, and the written approval by each railroad involved in the contemplated relocation project, such land as set forth in subdivision (2) of this section for the purposes set forth therein in such subdivision, which acquisition shall follow the procedures set forth in sections 76-704 to 76-724.

Such land and improvements as may be acquired for the purpose of the removal of railroad trackage may be disposed of by conveying the same for reasonable consideration to a governmental entity for public purposes or by sale of the same as set forth in this section. Such new railroad rights-of-way, switches, and yards as may be obtained and constructed may be leased for use to railroads or may be sold to such railroads or may be traded to such railroads for other property belonging to such railroads.

Such property, real or personal, shall be sold in such manner and under such terms and conditions as the board shall deem in the best interests of the district; except that ~~where~~ if the fair market value exceeds five thousand dollars, it may only be sold after due notice and hearing by such board at a regular meeting upon the vote of a majority of such board.

The board of directors of such district shall also have the right and authority to enter into contracts or other arrangements with the United States Government or its departments, any department thereof, with persons, railroads, or other corporations, with political subdivisions, public and municipal corporations, and the state government of this state, making full use of the Interlocal Cooperation Act, for (1) cooperation or assistance in the design, construction, maintenance, sale, or lease of the works of the district, (2) making surveys and investigations or reports in relation to the objectives of the district, (3) cooperation or assistance in obtaining the

construction, maintenance, or operation of a work or works of public improvement within the district for any of the purposes described in section 74-1302, (4) receiving the title or possession, or both, of any property and funds ~~whatsoever that are~~ connected directly or indirectly with the purposes described in section 74-1302, (5) assuming, and becoming bound by, any obligations, promises, or covenants ~~whatsoever which are~~ so connected, or (6) holding and saving the United States or others free from damages resulting from any construction works that may be undertaken.

Prior to implementing any plans affecting matters of planning by or the interests of any planning commission located within such district, the interests of any municipality, county or state educational institution or school district a portion of which lies within such district, any agricultural society, any airport authority, any natural resources district, or any other similar political entity, and any railroads, shippers, and affected property owners, the board shall consult with and submit such plans to such entities as may be concerned for study, review, comment, and suggestion. Approval of any state or federal regulatory agency shall be secured, when necessary, prior to implementing any of the provisions contained in sections 74-1301 to ~~74-1309~~ 74-1308 and the district shall comply with the requirements of any such agency.

In developing plans for specific projects, to determine the feasibility of implementing the purposes of sections 74-1301 to ~~74-1309~~ 74-1308, the district shall examine the costs and benefits to the community or communities, the railroads, and the highway users, and shall calculate the costs and benefits by consideration being given but not limited to loss of revenue, increased operating costs, costs of installation, acquisition of real and personal property, relocation, signalization, communication, utilities, avoidance of hazards, creation of transportation efficiencies, resolving conflicts of land use, and any other ancillary or peripheral costs or benefits.

Sec. 3. Original sections 74-1302 and 74-1305, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. The following section is outright repealed: Section 74-1309, Reissue Revised Statutes of Nebraska.