

LEGISLATIVE BILL 919

Approved by the Governor May 20, 1971

Introduced by Wally Barnett, Jr., 26th District; Fern Hubbard Orme, 29th District; William F. Swanson, 27th District; Roland A. Luedtke, 28th District; Harold D. Simpson, 46th District

AN ACT relating to railroads; to provide for the formation and termination of Railroad Transportation Safety Districts as prescribed; to provide for administration, powers, and duties; and to declare an emergency.

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

Section 1. It is declared to be the policy of this state to reduce the number of fatalities and injuries caused by collisions between motor vehicles and railroad trains; to eliminate as far as possible unnecessary conflicts between railroad transportation and highway transportation; to improve the movement of both rail and highway traffic by eliminating grade crossings; and to assist in relocation of railroad facilities that bisect the central portions of municipalities, thus hampering the growth of both the municipality and the railroad services; the effect of such policies being to benefit and enhance the community as a whole. These policies shall not be implemented in any manner without just compensation to all damaged parties, including both railroads and shippers, and, where appropriate, alternate routes for affected railroads.

Sec. 2. Whenever, in a county in which is located a city of the primary 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, a special district to be known as a Railroad Transportation Safety District may be formed and may proceed, as provided in this act, 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. 3. Such a district shall be formed by the adoption of a resolution of formation, after a finding that such district is conducive to the public health, safety, convenience, or welfare, by the city council of the city and by the county commissioners of any county in which such city is located. Such district shall then come into existence in accordance with the date set in the resolutions of formation.

Sec. 4. Such district shall be governed by a board of directors made up of three members from the city council of such city adopting such resolution, which members shall be designated by such council, and of three members from the county commissioners of such county adopting such resolution, which members shall be designated by such county commission. In each instance such designated individual shall be an elected member of such body. No additional compensation shall be paid to such directors, but such directors shall be paid their actual expenses while engaged in the business of the district. Such directors shall be appointed annually by the respective bodies, or when a vacancy shall earlier occur.

Sec. 5. Such district shall have the power, right and authority after notice and public hearing to purchase within or without such county railroad rights-of-way including the improvements thereon, and the power to purchase additional right-of-way where changes of routes or construction of interconnections is necessary or desirable. 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 as may be obtained and constructed may be leased for use to railroads or may be sold 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 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 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 2 of this act, (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 2 of this act, (5) assuming, and becoming bound by, any obligations, promises, or covenants whatsoever which are so connected, or (6) to hold and save 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 watershed conservancy district or soil and water conservation 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 this act 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 this act, the districts shall examine the costs and benefits to the community, 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. 6. Before July 1 of each calendar year, the board of directors shall prepare an itemized budget of funds needed for the next fiscal year which are necessary to carry out the authorities granted under sections 2, 3, and 5 of this act. The board of directors shall transmit such budget to the county governing board. The county board shall levy a tax sufficient to produce the amount of funds requested but not to exceed three-fourths of one mill on the dollar upon the assessed value of all taxable property in the county, except intangible property. Such levy shall be in addition to all other levies authorized or limited by law. The tax so levied shall be collected in the same manner as other property taxes and the proceeds therefrom shall be kept in a separate account identified by the official name of the transportation district. The county treasurer shall transfer such funds to the district as requested by the board of directors.

Sec. 7. For carrying out the purposes and powers set forth in sections 2, 3, and 5 of this act, including paying the cost thereof, the district may:

- (1) Borrow money and issue its negotiable general obligation bonds upon such terms and conditions as the board of directors may determine and without a vote of the electors except that no such bonds shall be issued more than ten years after the creation of such district;
- (2) issue warrants to contractors and others furnishing services or materials or in satisfaction of other obligations created under section 2, 3, or 5 of this act, such warrants to be issued in such amounts and on such terms and conditions as the board shall determine, and to be redeemed and paid upon the sale of bonds or receipt of other funds available for such purpose; and
- (3) establish a sinking fund for the payment of such bonds as may be issued under this section.

Sec. 8. (1) The board of directors shall annually elect a president, vice president, secretary, and such other officers as may be necessary. The board shall cause to be kept accurate minutes of its meetings and accurate records and books of account, conforming to approved methods of bookkeeping, clearly setting out and reflecting the entire operation, management, and business of the district, which shall be kept at the

principal place of business of the district. All books, papers, and vouchers shall be subject to public inspection at reasonable hours, and the district shall be subject to Chapter 84, article 14, Revised Statutes Supplement, 1969.

(2) The treasurer of such district shall be the treasurer of the county of such district and shall annually make a detailed report in writing of all receipts and disbursements. The report shall contain a statement of (a) the funds on hand belonging to the district; (b) the amount, if any, in the hands of the county treasurer; (c) all money received during the preceding year from all sources; and (d) all items of disbursement during such year and the purposes for which the same have been paid out, including all compensation paid to officers of the district and all other expenses of administration. The report shall be verified under oath. A copy of the same shall be filed annually with the county clerk of the county.

(3) Such officers and employees as may be designated by the board of directors shall furnish bonds in such amounts as may be fixed by the board of directors. Such bonds shall be conditioned upon the faithful performance of the duties of each such officer or employee and the proper accounting for all funds or property coming into the hands of each such officer or employee. Such bonds shall (a) run to the district; (b) be signed by a surety or sureties to be approved by the county clerk of the county; and (c) be filed and recorded in the office of such county clerk.

(4) If any such treasurer shall fail or neglect to make out the report or file the same with the county clerk, as required by subsection (2) of this section, or if any officer of such district shall neglect or refuse to submit for inspection any records or papers of such district upon demand of any person interested, or shall otherwise neglect to perform any duties imposed upon him by this section, he shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars.

Sec. 9. Such district shall terminate its existence in fifteen years from the date of its creation except for the purpose of payment of debt, obligations, or bonds of the district.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.