

LEGISLATIVE BILL 259

Approved by the Governor April 14, 2011

Introduced by Fischer, 43.

FOR AN ACT relating to railroads; to amend sections 37-914 and 74-1427, Reissue Revised Statutes of Nebraska; to eliminate the Nebraska Railway Council, the Light-Density Rail Line Assistance Act, and funds; to provide duties for the Department of Roads; to change provisions relating to the use of local tax funds for light-density rail lines as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal sections 74-1401, 74-1402, 74-1402.01, 74-1403, 74-1404, 74-1405, 74-1405.01, 74-1405.02, 74-1405.03, 74-1406, 74-1407.01, 74-1408, 74-1410, 74-1410.01, 74-1411, 74-1411.01, 74-1412, 74-1412.01, 74-1413, 74-1414, 74-1415, 74-1415.01, 74-1415.03, 74-1415.04, 74-1415.05, 74-1415.06, 74-1419.02, 74-1420, 74-1420.01, 74-1420.02, 74-1420.03, 74-1428.01, 74-1428.02, 74-1428.03, and 74-1429, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 37-914, Reissue Revised Statutes of Nebraska, is amended to read:

37-914 (1) Pursuant to the National Trails System Act, and with the consent of the Governor pursuant to section 37-303, the Game and Parks Commission may acquire by gift, devise, or purchase all or any part of a railroad right-of-way in the state proposed to be abandoned for interim trail use. The commission, pursuant to the National Trails System Act, shall hold the right-of-way for one or more of the following uses:

- (a) To provide a state recreational trail open to the public;
- (b) To preserve wildlife habitat;
- (c) To provide a conservation, communications, utilities, and transportation corridor; and
- (d) Other uses approved by the commission.

(2) The right-of-way may be acquired only if the State of Nebraska is reasonably protected in a manner satisfactory to the commission for the costs of remedial action and environmental cleanup for conditions arising prior to conveyance to the state and the title is free and clear of all liens and encumbrances.

(3) The commission may use funds available by gift, appropriation, the Trail Development Assistance Fund, and other appropriate cash funds for uses consistent with those stated in this section and sections 37-303 and 37-1003.

(4) As long as the integrity of the right-of-way as an interim recreational trail and future rail use is not disturbed, the commission may lease and grant easement rights on the right-of-way. Any lease or use allowed shall be subject to all prescriptions of the National Trails System Act. All revenue collected from such leases shall be remitted to the State Treasurer for credit to the Trail Development Assistance Fund pursuant to sections 37-1003 and 37-1004.

(5) The commission shall continue to allow all crossings across the right-of-way acquired at the time of acquisition on substantially the same terms and conditions as they existed prior to acquisition unless otherwise agreed between the commission and interested parties.

(6) The acquisition of the right-of-way shall be subject to the restoration of rail service. If a proposal for the operation of a railroad is approved by the ~~Nebraska Railway Council and the Interstate Commerce Commission,~~ federal Surface Transportation Board, the right-of-way shall be sold for the market value of the land and improvements and conditioned upon (a) the operation of a railroad along the right-of-way, (b) the grant of an easement to the commission for recreational trail use adjacent to the railroad if such use is feasible, and (c) the return of the right-of-way to the commission if rail service is discontinued.

Sec. 2. The Department of Roads shall oversee any outstanding agreement between a railroad and the Nebraska Railway Council as of the effective date of this act, including making any outstanding payment due to a railroad.

Sec. 3. Section 74-1427, Reissue Revised Statutes of Nebraska, is amended to read:

74-1427 (1) If the governing body of a political subdivision determines that it is necessary or beneficial for the vitality of

such political subdivision to expend local tax funds for acquisition, rehabilitation or improvement, or operation of a light-density rail line or rail facility construction, including the issuance of bonds, for the purposes set forth in the Light-Density Rail Line Assistance Act, the governing body shall by resolution place the proposition for such expenditure or bond issue on the general or primary election ballot or in odd-numbered years only call for a special election in such political subdivision for the purpose of approving such expenditure of local tax funds.

(2) The resolution calling for the election and the election notice shall show the proposed purpose for which such local tax funds will be expended and the amount of money sought.

(3) Notice of the election shall state the date the election is to be held and the hours the polls will be open. Such notice shall be published in a newspaper that is published in or of general circulation in such political subdivision at least once each week for three weeks prior to such election. If no such newspaper exists, notice shall be posted in at least three public places in the political subdivision for at least three weeks prior to such election.

(4) The proposition appearing on the ballot in any election shall state the purpose for which such local tax funds will be spent, the amount of local tax funds to be so expended, and the source from which the revenue will be raised. Such proposition shall be adopted if approved by a majority of those voting in such election.

(5) If a special election is called, the governing body shall prescribe the form of the ballot to be used.

(6) For purposes of this section:

(a) Facility means the track, ties, roadbed, and related structures, including terminals, team tracks and appurtenances, bridges, tunnels, and other structures used or usable for rail service operations;

(b) Light-density rail line means any rail line classified as a light-density line by the United States Department of Transportation;

(c) Rail facility construction means the construction of rail or rail-related facilities, including new connections between two or more existing lines, intermodal freight terminals, sidings, and relocation of existing lines, for the purpose of improving the quality and efficiency of rail freight service; and

(d) Rehabilitation or improvement means replacing, repairing, or upgrading, to the extent necessary to permit adequate and efficient rail freight service, facilities needed to provide service on a rail line.

Sec. 4. Original sections 37-914 and 74-1427, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 5. The following sections are outright repealed: Sections 74-1401, 74-1402, 74-1402.01, 74-1403, 74-1404, 74-1405, 74-1405.01, 74-1405.02, 74-1405.03, 74-1406, 74-1407.01, 74-1408, 74-1410, 74-1410.01, 74-1411, 74-1411.01, 74-1412, 74-1412.01, 74-1413, 74-1414, 74-1415, 74-1415.01, 74-1415.03, 74-1415.04, 74-1415.05, 74-1415.06, 74-1419.02, 74-1420, 74-1420.01, 74-1420.02, 74-1420.03, 74-1428.01, 74-1428.02, 74-1428.03, and 74-1429, Reissue Revised Statutes of Nebraska.