

LEGISLATIVE BILL 144

Approved by the Governor May 14, 1981

Introduced by R. Maresh, 32; Clark, 47; Burrows, 30

AN ACT relating to public transportation; to amend sections 19-3902, 19-3903, 19-3904, 19-3909, and 19-3911, Reissue Revised Statutes of Nebraska, 1943, section 19-3905, Revised Statutes Supplement, 1980, and sections 19-3908 and 75-303, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 85, Eighty-seventh Legislature, First Session, 1981; to restate intent; to define a term; to provide duties; to provide assistance to public purpose organizations; to provide an additional exemption from Public Service Commission regulation; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 19-3902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3902. The Legislature finds that: (1) Transportation is a critical need of the elderly, handicapped, and others without access to the private automobile; (2) urban-traffic-congestion-and-the-need-for-public-transportation-is-a-viable-alternative-to-help-meet-the-transportation-needs-in-urban-and-rural-areas; (3) transportation-which-promotes-fuel-conservation-and-reduces-traffic-congestion-should-be-encouraged; (4) require-greater-reliance-on-public-transportation; (5) public transportation in the rural and small urban areas of the state is lacking; (6) public transportation in many instances is no longer a profitable undertaking for private enterprise acting alone; (7) public subsidy of public transportation, whether privately or publicly operated, is often necessary to provide needed transportation services; (8) the variety of federal, state, and local activities in providing public transportation services require maximum coordination for maximum benefit from public resources; (9) providers-of-public-transportation-may require technical assistance in addressing their public transportation needs; and (10) it is in the best interests public interest of the people of the state to develop programs providing which provide for the above concerns enumerated in this section and which insure the

health, safety, and welfare of Nebraska citizens in both urban and rural areas.

Sec. 2. That section 19-3903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3903. As used in sections 19-3901 to 19-3911, unless the context otherwise requires:

(1) Public transportation shall mean the transport of passengers on a regular and continuing basis by motor carrier for hire, whether over regular or irregular routes, over any public road in this state, including city bus systems, intercity bus systems, special public transportation systems to include portal-to-portal escorted service for the elderly or handicapped, taxi, subscription, dial-a-ride, or other demand-responsive systems, including those motor carriers for hire which may carry elderly or handicapped individuals for a set fare, a donation, or at no cost to such individuals, but shall not include motor carriers for hire when engaged in the transportation of school children and teachers to and from school and school-related activities, or private car pools;

(2) Department shall mean the Department of Roads;

(3) Director shall mean the Director-State Engineer of the Department of Roads;

(4) Elderly shall mean any person sixty-two years of age or older who is drawing social security and every person aged sixty-five years of age and older;

(5) ~~Handicapped shall mean any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize public transportation facilities and services; as easily as persons who are not; and~~

(6) Municipality shall mean any village or incorporated city, ~~including cities,~~ except cities of the metropolitan class operating under home rule charter; ~~and~~

(7) Qualified public-purpose organization shall mean an incorporated private not-for-profit group or agency which:

(a) Has operated or proposes to operate only motor vehicles having a seating capacity of twenty or

less for the transportation of passengers in the state;

(b) Has been approved as capable of providing public transportation services by the appropriate city or county governing body; and

(c) Operates or proposes to operate a public transportation service in an area which the department has identified as not being adequately served by existing public or private transportation services pursuant to section 19-3905.

Sec. 3. That section 19-3904, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3904. The Department of Roads shall be the principal state agency responsible for coordinating public transportation activities in the state and, when requested, shall provide for--providing technical assistance to improve Nebraska's public transportation system. The department may contract pursuant to the provisions of sections 19-3901 to 19-3911 to assist state agencies, political subdivisions, and--other public and qualified public-purpose organizations, and in--the improvement of public transportation--and--contract--with publicly or privately-owned carriers to provide public transportation services as specified in sections 19-3901 to 19-3911.

Sec. 4. That section 19-3905, Revised Statutes Supplement, 1980, be amended to read as follows:

19-3905. The department shall have the following powers, duties, and responsibilities:

(1) To collect and maintain data on the level of public transportation services and needs in the state and identify areas not being adequately served by existing public or private transportation services;

(2) To assess the regional and statewide effect of changes, improvement, and route abandonments in the state's public transportation system;

(3) To develop short--and--long-range--plans a six-year statewide transit plan and programs for public transportation in the--state--on--a--statewide--basis in coordination with local plans and programs developed by municipalities, counties, and transit authorities;

(4) To provide planning and technical assistance to agencies of the state, political subdivisions, or

groups seeking to improve public transportation;

(5) To advise, consult, and cooperate with agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and with groups concerned with public transportation;

(6) To cooperate with the Public Service Commission in by providing periodic assessments to the commission when determining the effect of proposed regulatory decisions on public transportation;

(7) To administer federal and state programs providing financial assistance to public transportation, except those federal and state programs in which a municipality, county, transit authority, or other state agency is designated as the administrator;

(8) To prepare and submit an annual report to the Governor, the State Energy Office, and the Clerk of the Legislature detailing its activities under sections 19-3901 to 19-3911, and The report shall make recommendations to strengthen, expand, and improve public transportation in the state; and

(9) To exercise all other powers necessary and proper for the discharge of its duties, including the promulgation of reasonable rules and regulations to carry out the provisions of sections 19-3901 to 19-3911.

Each member of the Legislature shall receive a copy of the report required by subdivision (8) of this section by making a request for such report to the director.

Sec. 5. That section 19-3908, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 85, Eighty-seventh Legislature, First Session, 1981, be amended to read as follows:

19-3908. Any municipality, or county, or qualified public-purpose organization may lease, purchase, construct, own, maintain, and operate, or contract for the operation of public transportation, including special transportation for the elderly or handicapped, and apply for and accept advances, loans, grants, contributions, and any other form of assistance from the federal government, the state, or from any public or private sources for the purpose of providing a public transportation system.

Any special transportation system for the elderly or handicapped shall include transportation of necessary

personal escorts of such elderly or handicapped riders.

Any municipality or county in providing public transportation for the elderly under this section may contract with a school district for the use of a school bus at times other than during the normal school day or on days when school is not in session if all costs incurred by such municipality or county are paid for with money generated from passenger fees or federal or state funds. The contract shall provide that such municipality or county shall be liable for costs of maintenance, operation, insurance, and other reasonable expenses incurred in the use of such bus. No school district shall be liable for any damages to any person riding in a school bus pursuant to this section, unless such damage is proximately caused by the gross negligence of the school district. No school district shall be required to modify or alter any school bus because of a contract entered into pursuant to this section. Any municipality or county when using a school bus upon a highway pursuant to this section shall cover or conceal all school bus markings on such bus as required by section 39-660.

Sec. 6. That section 19-3909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3909. (1) A public transportation assistance program is hereby established to provide state ~~financial~~ assistance for the operating-costs operation of public transportation systems.

(2) Any municipality, county, or transit authority, or qualified public-purpose organization shall be eligible to receive financial assistance for the eligible operating costs of a public transportation system, whether the applicant directly operates such system or contracts for its operation. A qualified public-purpose organization shall not be eligible for financial assistance under this act if such organization is currently receiving state funds for a program which includes transportation services and such funding and services would be duplicated by this act. Eligible operating costs shall include those expenses incurred in the operation of a public transportation system which exceed the amount of operating revenue and which are not otherwise eligible for reimbursement from any available federal programs other than those administered by the United States Department of the Treasury.

(3) The state grant to an applicant shall not exceed fifty per cent of the eligible operating costs of the public transportation system as provided for in

subsection (2) of this section. The amount of state funds shall be matched by an equal amount of local funds in support of operating costs.

Sec. 7. That section 19-3911, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3911. (1) The Department of Roads shall administer sections 19-3909 to 19-3911, and issue such rules and regulations pursuant to Chapter 84, article 9 as are necessary, including but not limited to defining eligible operating costs, establishing contractual and other requirements including standardized accounting and reporting requirements, which shall include the applicant's proposed service area, the type of service proposed, all routes and schedules, and any further information needed for recipients to insure the proper and effective maximum feasible coordination and use of state funds, establishing application procedures, and developing a policy for apportioning funds made available for this program should they be insufficient to cover all eligible projects. ~~7-except-that-fifty-per-cent--of--the funds-for-this-program-shall-first-be-made--available--to fund--eligible--projects--which--are--designed--to--serve primarily-that-portion-of-the--population--of--the--state that-resides-in-unincorporated--areas--and--in--villages, cities-of-the-second-class,or-cities-of-the-first-class.~~ Priority on the allocation of all funds shall be given to those proposed projects best suited to serve the needs of the elderly and handicapped and to proposed projects with federal funding participation.

(2) Any public-purpose organization proposing to provide public transportation denied financial assistance as a result of a determination by the Department of Roads that an area is adequately served by existing transportation services may submit a petition to the department requesting the department to reclassify the proposed service area as not being adequately served by existing public transportation services. The petition submitted to the department by the public-purpose organization shall bear the signatures of at least fifty registered voters residing in the proposed service area. Upon receipt of the petition the department shall hold a public hearing in the proposed service area and after such hearing shall determine whether the proposed service area is already adequately served. In carrying out its duties under this section the department shall comply with the provisions of Chapter 84, article 9. The department shall not be required to conduct a reevaluation hearing for an area more frequently than once a year.

Sec. 8. That section 75-303, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 85, Eighty-seventh Legislature, First Session, 1981, be amended to read as follows:

75-303. The provisions of sections 75-301 to 75-322.01 shall apply to the transportation of passengers or property by motor carriers for hire engaged in intrastate commerce except:

(1) A motor carrier for hire engaged in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(3) A motor carrier for hire engaged in the transportation of newspapers under a contract with the publisher or a distributor thereof if no other property or person is being transported for hire on the same load with such newspapers;

(4) The operation of any motor carrier owned in any city or village of this state engaged in the transportation of property within such city or village or within a radius of five miles beyond the corporate limits thereof;

(5) To ranch, dairy, or farm products, including livestock, being transported by motor vehicle from or to any ranch, dairy, farm, feedlot, or any market;

(6) To supplies or merchandise being transported by motor vehicle from or to any ranch, dairy, feedlot, or farm for use thereon when originating at or destined to a neighboring trading point or points;

(7) To ambulances or their owners or to hearses, or to automobiles used exclusively as an incident to conducting a funeral;

(8) To motor vehicles owned and operated by any industrial, processing, or manufacturing plant when used by such plant in the transportation of raw materials and supplies to its plant or plants, or in the delivery of its products, supplies, or raw materials to purchasers thereof, when not for hire;

(9) To star route carriers employed by the post-office department of the United States while operating a motor vehicle not exceeding one half ton manufacturer's rated capacity on their regular routes;

(10) To wrecked or disabled motor vehicles being transported by winch or tow truck;

(11) To a motor carrier exempt by the provisions of subdivision (1) of this section who hauls for hire, (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly, their spouses and dependents, as defined in section 19-3903, under a contract with a municipality or county authorized in section 19-3908;

(12) To motor vehicles, owned and operated by farmers or ranchers, when hauling gravel or other road building material by agreement with the county board of the county in which their farms or ranches are situated for use upon the public roads within such county, and where the compensation for the use of such motor vehicles shall not exceed the reimbursement for the motor vehicle fuel used during such hauling;

(13) A motor carrier operated by a city and engaged in the transportation of passengers and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(14) Motor vehicles owned and operated by a nonprofit organization which has been exempted from the payment of federal income taxes, as provided by section 501 (c) (4), Internal Revenue Code of 1954, ~~or--by--any governmental--subdivision--of--this--state~~, transporting solely those persons over age sixty, those persons who are spouses and dependents of persons over age sixty, and the handicapped;

(15) A motor carrier engaged in the transportation of passengers operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska; and

(16) A motor carrier operated by a municipality or county as authorized in section 19-3908, in the transportation of the elderly; and

(17) Motor vehicles having a seating capacity of twenty or less, which are operated by a governmental subdivision or a qualified public-purpose organization, as defined in section 19-3903, engaged in the transportation of passengers in the state.

Sec. 9. That original sections 19-3902, 19-3903, 19-3904, 19-3909, and 19-3911, Reissue Revised Statutes of Nebraska, 1943, section 19-3905, Revised Statutes Supplement, 1980, and sections 19-3908 and 75-303, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 85, Eighty-seventh Legislature, First Session, 1981, are repealed.

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.