



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5206

by Rep. Margo McDermed

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-440
30 ILCS 105/5.886 new

was 20 ILCS 2705/49.25h

Amends the Department of Transportation Law of the Civil Administrative Code of Illinois. Provides that the Department of Transportation is authorized to enter into agreements with any state, state agency, or units of local government or political subdivisions (along with other entities). Provides that the Department shall have the power to freely lease or otherwise contract for any purpose any of the locomotives, passenger railcars, and other rolling stock equipment or accessions to any state or state agency, public or private entity, or quasi-public entity. Provides that the Department shall have the power to otherwise enter any contracts or agreements necessary or convenient to provide rail services, operate or maintain locomotives, passenger railcars, and other rolling stock equipment or accessions. Provides that when the Department enters into an agreement for either the payment of railroad requirement maintenance expenses necessary for intercity passenger service or for the lease or use of locomotives, passenger railcars, and other rolling stock equipment or accessions, the Department may deposit funds, use fees, or rental payments into any escrow account. Provides that the funds in any required maintenance escrow account may be withdrawn by the carrier or entity in control of the railroad being maintained. Provides that funds in an escrow account holding lease, use fees, or rental payments may be withdrawn by the Department to be used for various purposes. Creates the High-Speed Rail Rolling Stock Fund to deposit the remaining balance of an escrow account at the end of the account's term. Provides that the High-Speed Rail Rolling Stock Fund may be used for any purpose related to locomotives, passenger railcars, and other rolling stock equipment. Makes a corresponding change in the State Finance Act.

LRB100 17766 LNS 32944 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Transportation Law of the
5 Civil Administrative Code of Illinois is amended by changing
6 Section 2705-440 as follows:

7 (20 ILCS 2705/2705-440) (was 20 ILCS 2705/49.25h)

8 Sec. 2705-440. Intercity Rail Service.

9 (a) For the purposes of providing intercity railroad
10 passenger service within this State and throughout the United
11 States ~~(or as part of service to cities in adjacent states),~~
12 the Department is authorized to enter into agreements with any
13 state, state agency, units of local government or political
14 subdivisions, the Commuter Rail Division of the Regional
15 Transportation Authority (or a public corporation on behalf of
16 that Division), architecture or engineering firms, the
17 National Railroad Passenger Corporation, any carrier, ~~any~~
18 ~~adjacent state (or political subdivision, corporation, or~~
19 ~~agency of an adjacent state),~~ or any individual, corporation,
20 partnership, or public or private entity. The cost related to
21 such services shall be borne in such proportion as, by
22 agreement or contract the parties may desire.

23 (b) In providing any intercity railroad passenger service

1 as provided in this Section, the Department shall have the
2 following additional powers:

3 (1) to enter into trackage use agreements with rail
4 carriers;

5 (1.5) to freely lease or otherwise contract for any
6 purpose any of the locomotives, passenger railcars, and
7 other rolling stock equipment or accessions to any state or
8 state agency, public or private entity, or quasi-public
9 entities;

10 (2) to enter into haulage agreements with rail
11 carriers;

12 (3) to lease or otherwise contract for use,
13 maintenance, servicing, and repair of any needed
14 locomotives, rolling stock, stations, or other facilities,
15 the lease or contract having a term not to exceed 50 years
16 (but any multi-year contract shall recite that the contract
17 is subject to termination and cancellation, without any
18 penalty, acceleration payment, or other recoupment
19 mechanism, in any fiscal year for which the General
20 Assembly fails to make an adequate appropriation to cover
21 the contract obligation);

22 (4) to enter into management agreements;

23 (5) to include in any contract indemnification of
24 carriers or other parties for any liability with regard to
25 intercity railroad passenger service;

26 (6) to obtain insurance for any losses or claims with

1 respect to the service;

2 (7) to promote the use of the service;

3 (8) to make grants to any body politic and corporate,
4 any unit of local government, or the Commuter Rail Division
5 of the Regional Transportation Authority to cover all or
6 any part of any capital or operating costs of the service
7 and to enter into agreements with respect to those grants;

8 (9) to set any fares or make other regulations with
9 respect to the service, consistent with any contracts for
10 the service; and

11 (10) to otherwise enter into any contracts necessary or
12 convenient to provide rail services, operate or maintain
13 locomotives, passenger railcars, and other rolling stock
14 equipment or accessions, including the lease or use of such
15 locomotives, railcars, equipment, or accessions ~~the~~
16 ~~service.~~

17 (c) All service provided under this Section shall be exempt
18 from all regulations by the Illinois Commerce Commission (other
19 than for safety matters). To the extent the service is provided
20 by the Commuter Rail Division of the Regional Transportation
21 Authority (or a public corporation on behalf of that Division),
22 it shall be exempt from safety regulations of the Illinois
23 Commerce Commission to the extent the Commuter Rail Division
24 adopts its own safety regulations.

25 (d) In connection with any powers exercised under this
26 Section, the Department

1 (1) shall not have the power of eminent domain; and

2 (2) shall not directly operate any railroad service
3 with its own employees.

4 (e) Any contract with the Commuter Rail Division of the
5 Regional Transportation Authority (or a public corporation on
6 behalf of the Division) under this Section shall provide that
7 all costs in excess of revenue received by the Division
8 generated from intercity rail service provided by the Division
9 shall be fully borne by the Department, and no funds for
10 operation of commuter rail service shall be used, directly or
11 indirectly, or for any period of time, to subsidize the
12 intercity rail operation. If at any time the Division does not
13 have sufficient funds available to satisfy the requirements of
14 this Section, the Division shall forthwith terminate the
15 operation of intercity rail service. The payments made by the
16 Department to the Division for the intercity rail passenger
17 service shall not be made in excess of those costs or as a
18 subsidy for costs of commuter rail operations. This shall not
19 prevent the contract from providing for efficient coordination
20 of service and facilities to promote cost effective operations
21 of both intercity rail passenger service and commuter rail
22 services with cost allocations as provided in this paragraph.

23 (f) Whenever the Department enters ~~is required to enter~~
24 into an agreement with any carrier, state or state agency, any
25 public or private entity, or quasi-public entity for either
26 the Department's payment of such railroad required maintenance

1 expenses necessary for intercity passenger service or for the
2 lease or use of locomotives, passenger railcars, and other
3 rolling stock equipment or accessions, the Department may
4 deposit such required maintenance funds, use fees, or rental
5 payments into any ~~in an~~ escrow account. For purposes of this
6 subsection, an escrow account means any a fiduciary account
7 established with (i) any banking corporation which is both
8 organized under the Illinois Banking Act and authorized to
9 accept and administer trusts in this State, or (ii) any
10 national banking association which has its principal place of
11 business in this State and which also is authorized to accept
12 and administer trusts in this State. The funds in any required
13 maintenance ~~the~~ escrow account may be withdrawn by the carrier
14 or entity in control of the railroad being maintained, only
15 with the consent of the Department, pursuant to a written
16 maintenance agreement and pursuant to a maintenance plan that
17 shall be updated each year. Funds in an escrow account holding
18 lease, use fees, or rental payments may be withdrawn by the
19 Department to be used or expended on acquisition, offsets,
20 overhaul fees, or costs of locomotives, railcars, equipment or
21 accessions, including any future equipment purchase, expenses,
22 fees, or costs, or any other purpose permitted or required by
23 the escrow agreement or any other agreement regarding
24 disbursement of funds. The moneys deposited in the escrow
25 accounts shall be invested and reinvested, pursuant to the
26 direction of the Department, in bonds and other interest

1 bearing obligations of this State, or in such accounts,
2 certificates, bills, obligations, shares, pools or other
3 securities as are authorized for the investment of public funds
4 under the Public Funds Investment Act. Escrow accounts created
5 under this subsection shall not have terms that exceed 20
6 years. At the end of the term of an escrow account, the
7 remaining balance shall be deposited in the High-Speed Rail
8 Rolling Stock Fund, a special fund that is created in the State
9 Treasury. Moneys in the High-Speed Rail Rolling Stock Fund may
10 be used for any purpose related to locomotives, passenger
11 railcars, and other rolling stock equipment. The Department
12 shall prepare a report for presentation to the Comptroller and
13 the Treasurer each year that shows the amounts deposited and
14 withdrawn, the purposes for withdrawal, the balance, and the
15 amounts derived from investment.

16 (Source: P.A. 97-1080, eff. 8-24-12.)

17 Section 10. The State Finance Act is amended by adding
18 Section 5.886 as follows:

19 (30 ILCS 105/5.886 new)

20 Sec. 5.886. The High-Speed Rail Rolling Stock Fund.