



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5220

Introduced 01/24/06, by Rep. Dave Winters

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-435
20 ILCS 2705/2705-440

was 20 ILCS 2705/49.25g-1
was 20 ILCS 2705/49.25h

Amends the Department of Transportation Law of the Civil Administrative Code of Illinois. Deletes language providing that the Department may not expend funds for the acquisition of railroad rolling stock and may not become the owner of railroad locomotives or other rolling stock. Provides that, in providing intercity railroad passenger service, the Department may enter into a lease or contract with a term of not more than 50 (rather than 7) years for use, maintenance, servicing, and repair of locomotives, rolling stock, stations, and other facilities. Effective immediately.

LRB094 17000 DRH 52281 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 Sections 2705-435 and 2705-440 as follows:

7 (20 ILCS 2705/2705-435) (was 20 ILCS 2705/49.25g-1)

8 Sec. 2705-435. Loans, grants, or contracts to
9 rehabilitate, improve, or construct rail facilities; State
10 Rail Freight Loan Repayment Fund. In addition to the powers
11 under Section 105-430, the Department shall have the power to
12 enter into agreements to loan or grant State funds to any
13 railroad, unit of local government, rail user, or owner or
14 lessee of a railroad right of way to rehabilitate, improve, or
15 construct rail facilities.

16 For each project proposed for funding under this Section
17 the Department shall, to the extent possible, give preference
18 to cost effective projects that facilitate continuation of
19 existing rail freight service. In the exercise of its powers
20 under this Section, the Department shall coordinate its program
21 with the industrial retention and attraction programs of the
22 Department of Commerce and Economic Opportunity ~~Community~~
23 ~~Affairs~~. No funds provided under this Section shall be expended
24 for the acquisition of a right of way ~~or rolling stock~~ or for
25 operating subsidies. The costs of a project funded under this
26 Section shall be apportioned in accordance with the agreement
27 of the parties for the project. Projects are eligible for a
28 loan or grant under this Section only when the Department
29 determines that the transportation, economic, and public
30 benefits associated with a project are greater than the capital
31 costs of that project incurred by all parties to the agreement
32 and that the project would not have occurred without its

1 participation. In addition, a project to be eligible for
2 assistance under this Section must be included in a State plan
3 for rail transportation and local rail service prepared by the
4 Department. The Department may also expend State funds for
5 professional engineering services to conduct feasibility
6 studies of projects proposed for funding under this Section, to
7 estimate the costs and material requirements for those
8 projects, to provide for the design of those projects,
9 including plans and specifications, and to conduct
10 investigations to ensure compliance with the project
11 agreements.

12 The Department, acting through the Department of Central
13 Management Services, shall also have the power to let contracts
14 for the purchase of railroad materials and supplies. The
15 Department shall also have the power to let contracts for the
16 rehabilitation, improvement, or construction of rail
17 facilities. Any such contract shall be let, after due public
18 advertisement, to the lowest responsible bidder or bidders,
19 upon terms and conditions to be fixed by the Department. With
20 regard to rehabilitation, improvement, or construction
21 contracts, the Department shall also require the successful
22 bidder or bidders to furnish good and sufficient bonds to
23 ensure proper and prompt completion of the work in accordance
24 with the provisions of the contracts.

25 In the case of an agreement under which State funds are
26 loaned under this Section, the agreement shall provide the
27 terms and conditions of repayment. The agreement shall provide
28 for the security that the Department shall determine to protect
29 the State's interest. The funds may be loaned with or without
30 interest. Loaned funds that are repaid to the Department shall
31 be deposited in a special fund in the State treasury to be
32 known as the State Rail Freight Loan Repayment Fund. In the
33 case of repaid funds deposited in the State Rail Freight Loan
34 Repayment Fund, the Department shall, subject to
35 appropriation, have the reuse of those funds and the interest
36 accrued thereon, which shall also be deposited by the State

1 Treasurer in the Fund, as the State share in other eligible
2 projects under this Section. However, no expenditures from the
3 State Rail Freight Loan Repayment Fund for those projects shall
4 at any time exceed the total sum of funds repaid and deposited
5 in the State Rail Freight Loan Repayment Fund and interest
6 earned by investment by the State Treasurer which the State
7 Treasurer shall have deposited in that Fund.

8 For the purposes of promoting efficient rail freight
9 service, the Department may also provide technical assistance
10 to railroads, units of local government or rail users, or
11 owners or lessees of railroad rights-of-way.

12 The Department shall take whatever actions are necessary or
13 appropriate to protect the State's interest in the event of
14 bankruptcy, default, foreclosure, or noncompliance with the
15 terms and conditions of financial assistance or participation
16 provided hereunder, including the power to sell, dispose,
17 lease, or rent, upon terms and conditions determined by the
18 Secretary to be appropriate, real or personal property that the
19 Department may receive as a result thereof.

20 The Department is authorized to make reasonable rules and
21 regulations consistent with law necessary to carry out the
22 provisions of this Section.

23 (Source: P.A. 91-239, eff. 1-1-00; revised 12-6-03.)

24 (20 ILCS 2705/2705-440) (was 20 ILCS 2705/49.25h)

25 Sec. 2705-440. Intercity Rail Service.

26 (a) For the purposes of providing intercity railroad
27 passenger service within this State (or as part of service to
28 cities in adjacent states), the Department is authorized to
29 enter into agreements with units of local government, the
30 Commuter Rail Division of the Regional Transportation
31 Authority (or a public corporation on behalf of that Division),
32 architecture or engineering firms, the National Railroad
33 Passenger Corporation, any carrier, any adjacent state (or
34 political subdivision, corporation, or agency of an adjacent
35 state), or any individual, corporation, partnership, or public

1 or private entity. The cost related to such services shall be
2 borne in such proportion as, by agreement or contract the
3 parties may desire.

4 (b) In providing any intercity railroad passenger service
5 as provided in this Section, the Department shall have the
6 following additional powers:

7 (1) to enter into trackage use agreements with rail
8 carriers;

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

11 (3) to lease or otherwise contract for use,
12 maintenance, servicing, and repair of any needed
13 locomotives, rolling stock, stations, or other facilities,
14 the lease or contract having a term not to exceed 50 ~~7~~
15 years (but any multi-year contract shall recite that the
16 contract is subject to termination and cancellation,
17 without any penalty, acceleration payment, or other
18 recoupment mechanism, in any fiscal year for which the
19 General Assembly fails to make an adequate appropriation to
20 cover the contract obligation);

21 (4) to enter into management agreements;

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

25 (6) to obtain insurance for any losses or claims with
26 respect to the service;

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

28 (8) to make grants to any body politic and corporate,
29 any unit of local government, or the Commuter Rail Division
30 of the Regional Transportation Authority to cover all or
31 any part of any capital or operating costs of the service
32 and to enter into agreements with respect to those grants;

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

36 (10) to otherwise enter into any contracts necessary or

1 convenient to provide the service.

2 (c) All service provided under this Section shall be exempt
3 from all regulations by the Illinois Commerce Commission (other
4 than for safety matters). To the extent the service is provided
5 by the Commuter Rail Division of the Regional Transportation
6 Authority (or a public corporation on behalf of that Division),
7 it shall be exempt from safety regulations of the Illinois
8 Commerce Commission to the extent the Commuter Rail Division
9 adopts its own safety regulations.

10 (d) In connection with any powers exercised under this
11 Section, the Department+

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

13 (2) shall not ~~itself become the owner of railroad~~
14 ~~locomotives or other rolling stock, or~~ directly operate any
15 railroad service with its own employees.

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

35 (Source: P.A. 91-239, eff. 1-1-00.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.