

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 318

By: Boggs

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5
6 AS INTRODUCED

7 An Act relating to railroads; 66 O.S. 2011, Section
8 304, as amended by Section 1, Chapter 377, O.S.L.
9 2013 (66 O.S. Supp. 2016, Section 304), which relates
10 to the powers of the Department of Transportation;
11 requiring certain completion of certain rail line;
12 and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 66 O.S. 2011, Section 304, as
15 amended by Section 1, Chapter 377, O.S.L. 2013 (66 O.S. Supp. 2016,
16 Section 304), is amended to read as follows:

17 Section 304. A. The Department of Transportation is hereby
18 authorized and empowered:

19 1. To acquire, construct, reconstruct, repair, replace, operate
20 and maintain railroad rights-of-way and trackage projects at such
21 locations and on such routes as it shall determine to be feasible
22 and economically sound;

23 2. To enter into agreements with the owners of operating
24 railroads for the acquisition and/or use of railroad rights-of-way

1 and trackage on such terms, conditions, rates or rentals as the
2 Department may consider to be in the best interests of the state;

3 3. To enter directly into agreements with owners of operating
4 railroads or persons intending to operate as common carriers by rail
5 to sell, lease, or sell by lease-purchase agreement any state-owned
6 railroad property on such terms, conditions or amounts as the
7 Department may consider to be in the best interests of the state and
8 to promote the purposes of the Railroad Revitalization Act;

9 4. Prior to the sale of any railroad asset owned by the State
10 of Oklahoma or the Department of Transportation, a process of
11 request for proposal shall be initiated by the Department of
12 Transportation with consultation by the Office of Management and
13 Enterprise Services. Upon the issue date of a request for proposal
14 regarding the sale of any railroad asset owned by the State of
15 Oklahoma or the Department of Transportation, interested parties
16 will have no less than ninety (90) days to provide a response.
17 Following the close of the ninety-day response period, the
18 Department of Transportation will conduct an evaluation of all
19 submitted proposals, utilizing all available resources, and the
20 Department of Commerce shall conduct an economic impact and/or
21 activity study of all proposals. The Secretary of Transportation,
22 Secretary of Finance, Secretary of Commerce, Secretary of
23 Agriculture, and Secretary of Energy shall be responsible for
24 preparing a recommendation to the Transportation Commission, based

1 on its evaluation of all submitted proposals including the results
2 of the economic impact and/or activity study, provided the
3 recommendation meets all other statutory requirements needed for
4 action by the Commission. The Secretary of Transportation,
5 Secretary of Finance, Secretary of Commerce, Secretary of
6 Agriculture, and Secretary of Energy will have up to ninety (90)
7 days, upon the closing date of the request for proposal, to present
8 its recommendation to the Transportation Commission. The
9 Transportation Commission will be responsible for determining if the
10 sale of railroad assets within its jurisdiction is in the best
11 interests of the State of Oklahoma and for authorizing the sale of
12 such assets. If a determination is rendered by the Transportation
13 Commission that the sale of any railroad asset within its
14 jurisdiction is appropriate, notification must be made to the
15 Speaker of the House of Representatives and the President Pro
16 Tempore of the Senate in writing prior to the Commission meeting
17 where final action will take place. All proceeds from the sale
18 shall be deposited into the Railroad Maintenance Revolving Fund;

19 5. To acquire and hold real or personal property in the
20 exercise of its powers for the performance of its duties as
21 authorized by this act. Surplus property may be disposed of by the
22 Department;

23 6. To acquire in the name of the Department, by purchase or
24 otherwise on such terms and conditions and in such manner as it may

1 deem proper, or by exercise of the right of condemnation, such
2 public or private lands and personalty, including public parks,
3 playgrounds, or reservations, or parts thereof or rights therein,
4 rights-of-way, trackage, property, rights, easements, and interests,
5 as it may deem necessary for carrying out the provisions of the
6 Railroad Revitalization Act;

7 7. To make and enter into all contracts and agreements
8 necessary or incidental to the performance of its duties and the
9 execution of its powers under the Railroad Revitalization Act, and
10 to employ rail planning and management consultants, consulting
11 engineers, attorneys, accountants, construction and financial
12 consultants, superintendents, managers, and such other employees and
13 agents as may be necessary in its judgment, and to fix their
14 compensation; provided, that all such expenses shall be payable
15 solely from funds made available under and pursuant to the
16 provisions of the Railroad Revitalization Act or from revenues;
17 provided, further, no attorney employed by the Department, nor any
18 member of any law firm of which the member may be connected, shall
19 ever be paid any fee or compensation for any special or
20 extraordinary services;

21 8. To receive, accept and expend funds from the state, any
22 federal agency, or from private sources, for rail planning and for
23 administration of railroad assistance projects, and for or in aid of
24 the acquisition, construction, reconstruction, replacement, repair,

1 maintenance and operation of railroad rights-of-way and trackage and
2 for rail service continuation payments to railroad companies for
3 operating losses sustained by reasons of continuing service on a
4 line which may otherwise be abandoned or which may experience a
5 reduced level of service not in the public interest, where such
6 continuation of service is carried out under a written agreement
7 with the Department establishing the terms and conditions for such
8 payments, and to receive and accept funds, aid or contributions from
9 any source of either money, property, labor or other things of
10 value, to be held, used and applied only for the purposes for which
11 such funds, aid or contributions may be made;

12 9. To adopt such rules and to do any and all things necessary
13 to comply with rules, regulations or requirements of the United
14 States Department of Transportation, any successor thereof, the
15 Surface Transportation Board or any federal agency administering any
16 law enacted by the Congress of the United States or having funds
17 available for the purpose of the Department that are not
18 inconsistent with or contrary to the prohibitions and restrictions
19 of Oklahoma law or public interest;

20 10. To expend, not to exceed twenty percent (20%) of the funds
21 available in the Railroad Maintenance Revolving Fund during any one
22 (1) year, at locations approved by the Oklahoma Corporation
23 Commission, such Railroad Maintenance Revolving Fund monies as may
24 be budgeted by the Department of Transportation for the purposes of

1 installing signal lights, gate arms, or other active warning devices
2 where any public road, street, or highway crosses a railroad right-
3 of-way; provided, however, nothing in this act shall negate, change,
4 or otherwise modify any existing statutory or common law duty of a
5 railroad company;

6 11. Upon the availability of funds, to complete the acquisition
7 and rehabilitation of the ninety-mile "Sunbelt Line" between Shawnee
8 and McAlester as first proscribed by the 1992 State Rail Plan;

9 ~~11.~~ 12. To expend income and funds from the Railroad
10 Maintenance Revolving Fund in the exercise of any or all of the
11 foregoing powers; and

12 ~~12.~~ 13. To do all things necessary or convenient to carry out
13 the powers expressly granted in this act.

14 B. It shall be unlawful for any member, officer or employee of
15 the Department to transact with the Department, either directly or
16 indirectly, any business for profit of such member, officer or
17 employee; and any person, firm or corporation knowingly
18 participating therein shall be equally liable for violation of this
19 provision.

20 The term "business for profit" shall include, but not be limited
21 to, the acceptance or payment of any fee, commission, gift, or
22 consideration to such member, officer or employee.

23 Violation of this provision shall constitute a felony and upon
24 conviction shall be punishable by incarceration in the State

1 Penitentiary for a term not to exceed five (5) years or by a fine of
2 not less than Five Hundred Dollars (\$500.00) and not more than Five
3 Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

4 C. All meetings of the Department shall be open public
5 meetings, and all records shall be public records, except when
6 considering personnel.

7 SECTION 2. This act shall become effective November 1, 2017.

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