

HOUSE BILL No. 2709

AN ACT concerning transportation; relating to railroads; concerning certain annual reports by the department of transportation; amending K.S.A. 68-2315 and K.S.A. 2005 Supp. 66-525 and 75-5048 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 68-2315 is hereby amended to read as follows: 68-2315. Annually, prior to the 10th day of each regular session of the legislature, the secretary of transportation shall submit a written report to the governor and each member of the legislature providing:

(a) Summary financial information and a statement of assurance that the department of transportation has prepared a comprehensive financial report of all funds for the preceding year which includes a report by independent public accountants attesting that the financial statements present fairly the financial position of the Kansas department of transportation in conformity with generally accepted accounting principles and a notification that the complete comprehensive financial report, including the auditor's report is available upon request;

(b) a detailed explanation of the methods or criteria employed in the selection of substantial maintenance and construction projects and in the awarding of assistance to cities, counties or other transportation providers;

(c) the proposed allocation and expenditure of moneys and proposed work plan for the current fiscal year and at least the next five years;

(d) information concerning system enhancements, construction work completed in the preceding fiscal year and construction work in progress;

(e) information concerning the operation and financial condition of the transportation revolving fund;

(f) *the annual allocation and expenditure of moneys from the coordinated public transportation assistance fund under K.S.A. 75-5035, and amendments thereto;*

(g) *the annual allocation and expenditure of moneys from the rail service improvement fund under K.S.A. 75-5048, and amendments thereto, including specific information relating to any grants or loans made under such program;*

(h) *the annual allocation and expenditure of moneys from the public use general aviation airport development fund under K.S.A. 75-5061, and amendments thereto, including specific information relating to grants made under such program;*

(i) specific recommendations for any statutory changes necessary for the successful completion of the comprehensive transportation program specified in K.S.A. 68-2314a or efficient and effective operation of the Kansas department of transportation; and

(j) an explanation of any material changes from the previous annual report.

Sec. 2. K.S.A. 2005 Supp. 75-5048 is hereby amended to read as follows: 75-5048. (a) The secretary of transportation is hereby authorized to make loans or grants to a qualified entity for the purpose of facilitating the financing, acquisition or rehabilitation of railroads *and rolling stock* in the state of Kansas.

(b) Such loans or grants shall be made upon such terms and conditions as the secretary of transportation may deem appropriate, and such loans or grants shall be made from funds credited to the rail service improvement fund.

(c) The rail service improvement fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to subsection (a) of this section and for the refinancing thereof. The secretary of transportation shall administer the rail service improvement fund. All expenditures from the rail service improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(d) All moneys received from the federal government under the local rail freight assistance program (49 U.S.C. 1654) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the rail service improvement fund.

(e) The management and investment of the rail service improvement fund shall be in accordance with K.S.A. 68-2324, and amendments

thereto. Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, shall be considered income of the rail service improvement fund.

(f) (1) On July 1, 1999, and each July 1 thereafter, the director of accounts and reports shall transfer \$3,000,000 from the state highway fund to the rail service improvement fund.

(2) The provisions of this subsection shall expire on June 30, ~~2007~~ 2009.

(g) “Qualified entity” means any interstate commerce commission certificated railroad, a port authority established in accordance with Kansas laws, or any entity meeting the rules and regulations established by K.S.A. 75-5050, and amendments thereto.

Sec. 3. K.S.A. 2005 Supp. 66-525 is hereby amended to read as follows: 66-525. (a) For purposes of this section, a railroad right-of-way shall be considered abandoned when:

(1) The tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way following the issuance of an abandonment order by the appropriate federal or state authority;

(2) if, within two years after the exercise of such an order, removal of such components is not completed and railroad operating authority is not restored or reissued by an appropriate court or other federal or state authority; or

(3) if no rail line is placed on the right-of-way within 10 years after the right-of-way is acquired. A railroad right-of-way shall not be considered abandoned if the railroad company or any other entity continues to use the right-of-way for railroad purposes after abandonment authority has been issued.

(b) If the grantee or assignee of record of a recorded railroad right-of-way abandons such right-of-way, such grantee or assignee shall:

(1) Remove crossbucks and modify signal devices or install “exempt” signs at all locations within 90 days of abandonment; and

(2) file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days after being requested by any owner of property servient to the right-of-way.

(c) If a grantee or assignee of record of a railroad right-of-way refuses or neglects to file a release when required by subsection (b), the owner of the servient property may bring an action in a court of competent jurisdiction to recover from the grantee or assignee of record damages in the amount of \$500, together with costs and reasonable attorney fees for preparing and prosecuting the action. The owner may recover such additional damages as the evidence warrants, and may obtain injunctive relief to quiet the title and eject any unauthorized parties from the property.

(d) A grantee or assignee of railroad right-of-way, at any time, may file a general release of all right, title and interest in the right-of-way of one or more particular rail lines or portions thereof with the register of deeds of the county or counties in which such property is located. If such action has been taken, the grantee or assignee shall be relieved of any further obligation under this section to file individual releases of any right-of-way included in such a general release.

(e) Within 30 days after entering abandoned railroad right-of-way property upon the tax rolls pursuant to K.S.A. 79-401 *et seq.*, and amendments thereto, the county clerk of each county in which such property is so entered shall forward to the most recent railroad company holder of such property for right-of-way purposes, a certified list of the names and addresses of all property owners so entered upon the tax rolls following abandonment.

Within 30 days after receipt of such certified list by the railroad company, it shall send a notice of abandonment by first-class mail to each landowner at the address provided. The grantee or assignee of record of a recorded railroad right-of-way who abandons such right-of-way and provides the notice of such abandonment required by this subsection shall incur no civil or criminal liability for failure to notify any person who claims, or may claim, ownership of property servient to the abandoned right-of-way, nor shall such grantee or assignee incur any civil or criminal liability for notifying any person who has no legal claim to ownership of

property servient to the abandoned right-of-way. The notice required by this subsection shall not create any legal right, be construed as a warranty or guarantee, nor shall such notice impair or cloud any lawful claim, right, title or interest of any person.

(f) *Except where a railroad company conveys its right, title and interest in and to railroad right-of-way which it owns in fee simple, any conveyance by any a railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain railroad operations on such right-of-way, and the railroad owns marketable title for such purpose.*

(g) As used in this section, "railroad company" has the meaning of such term as defined in K.S.A. 2005 Supp. 66-2,123, and amendments thereto.

Sec. 4. K.S.A. 68-2315 and K.S.A. 2005 Supp. 66-525 and 75-5048 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.