

SECOND REGULAR SESSION

SENATE BILL NO. 905

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed January 4, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4178S.01I

AN ACT

To amend chapters 388, RSMo, by adding thereto sixteen new sections relating to the
Regional Railroad Authorities Act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 388, RSMo, is amended by adding thereto sixteen new
2 sections, to be known as sections 388.700, 388.703, 388.706, 388.709, 388.712,
3 388.715, 388.718, 388.721, 388.724, 388.727, 388.730, 388.733, 388.736, 388.739,
4 388.742, and 388.745, to read as follows:

**388.700. Sections 388.700 to 388.745 shall be known as "The
2 Regional Railroad Authorities Act". As used in sections 388.700 to
3 388.745, unless the context clearly requires otherwise, the following
4 words and terms shall mean:**

5 (1) "Authority", "railroad authority", or "regional railroad
6 authority", a regional railroad authority organized and operated as a
7 political subdivision under sections 388.700 to 388.745;

8 (2) "Common carrier", a railroad engaged in transportation for
9 hire;

10 (3) "Commissioners", the commissioners of the regional railroad
11 authority;

12 (4) "Project", any railroad facilities proposed to be acquired,
13 constructed, improved, or refinanced by an authority, including any
14 real or personal property, structures, machinery, equipment, and
15 appurtenances determined by the authority to be useful or convenient
16 for railroad operations and handling passengers or freight;

17 (5) "Railroad", a common carrier by railroad as defined in section
18 1(3) of Part I of the Interstate Commerce Act (49 U.S.C.S., Section 1(3));

19 (6) "Railroad properties and facilities", any real or personal

20 property or interest in such property which is owned, leased or
21 otherwise controlled by a railroad or other person, including an
22 authority, and which are used or are useful in rail transportation
23 service, including:

24 (a) Track, roadbed and related structures, including rail, ties,
25 ballast, other track materials, grading, tunnels, bridges, tressels,
26 culverts, elevated structures, stations, office buildings used for
27 operating purposes only, repair shops, engine houses and public
28 improvements used or usable for rail service operation;

29 (b) Communication and power transmission systems for use by
30 railroads;

31 (c) Signals, including signals and interlockers;

32 (d) Terminal or yard facilities and services to express company
33 and railroads and their shippers, including ferries, tugs, car floats and
34 related shoreside facilities designed for the transportation of
35 equipment by water;

36 (e) Shop or repair facilities or any other property used or
37 capable of being used in rail freight transportation services or in
38 connection with such services or for originating, terminating,
39 improving and expediting the movement of equipment or goods;

40 (6) "Real property", lands, structures, improvements thereof, and
41 water and riparian rights, and any and all interests and estates therein,
42 legal or equitable, including but not limited to easements,
43 rights-of-way, uses, leases, and licenses.

388.703. The purpose of an authority established and operated
2 under sections 388.700 to 388.745 is to provide for the preservation,
3 improvement, and the continuation of rail service for agriculture,
4 industry, or passenger traffic and to provide for the preservation of
5 abandoned railroad right-of-way for future transportation uses, when
6 determined to be practicable and necessary for the public welfare. The
7 acquisition of land under sections 388.700 to 388.745; the planning,
8 acquisition, establishment, construction, improvement, maintenance,
9 equipment, operation, regulation, and protection of authority facilities;
10 and the exercise of powers granted to authorities and other public
11 agencies to be severally or jointly exercised are public and
12 governmental functions, exercised for public purpose, and matters of
13 public necessity. All land and other property acquired and used by or

14 on behalf of an authority or other public agency, as provided in
15 sections 388.700 to 388.745, shall be used for public and governmental
16 purposes and as a matter of public necessity.

388.706. 1. Every municipality or county within this state is
2 authorized to form a regional railroad authority under the provisions
3 of this section.

4 2. A regional railroad authority may be organized by resolution
5 or joint resolution adopted by the governing body or bodies of one or
6 more counties. The governing body or bodies of a municipality or
7 municipalities within a county or counties may request by resolution
8 that the county or counties organize a railroad authority. If the county
9 or counties do not organize an authority within ninety days of receipt
10 of the request, the municipality or municipalities may organize an
11 authority by resolution or joint resolution. A resolution organizing an
12 authority shall state:

13 (1) That the authority is organized under the provisions of
14 sections 388.700 to 388.745 as a political subdivision of Missouri;

15 (2) The proposed name of the authority, including the words
16 "regional railroad authority";

17 (3) The county, counties, municipality or municipalities adopting
18 the organization resolution;

19 (4) The number of commissioners of the authority, not less than
20 five; the number to be appointed by the governing body of each county
21 or municipality; and the names and addresses of the first board of
22 commissioners;

23 (5) The city and county in which the registered office of the
24 authority is to be situated;

25 (6) That neither the state of Missouri, the municipality or
26 municipalities, nor any other political subdivision is liable for
27 obligations of the authority; and

28 (7) Any other provision for regulating the business of the
29 authority determined by the governing body or bodies adopting the
30 resolution.

388.709. Before final adoption of an organization resolution, the
2 governing body of each county or municipality named in it shall
3 provide for a public hearing upon notice published in a newspaper of
4 general circulation in the county or municipality. The notice of a

5 hearing by the governing body of a county shall be mailed to the
6 governing body of each city or town in the county, except cities and
7 towns participating in the organization, at least thirty days before the
8 hearing. The hearing may be adjourned from time to time, to a time
9 and place publicly announced at the hearing, or to a time and place
10 fixed by notice published in a newspaper of general circulation in the
11 county or municipality at least ten days before the adjourned
12 session. Joint hearing sessions may be held by the governing bodies of
13 all municipalities named, at any convenient public place within any of
14 the municipalities. The resolution may be amended by the governing
15 body or bodies at or after any hearing session at which the amended
16 resolution is proposed and made available to interested citizens. It
17 shall not become effective until adopted in identical form by the
18 governing bodies of all counties or municipalities named in the
19 resolution.

388.712. Upon the appointment and qualification of the
2 commissioners first appointed to a regional railroad authority under
3 section 388.715, the commissioners shall submit to the secretary of state
4 a certified copy of each resolution adopted pursuant to section 388.706.
5 A copy of the organization resolution, certified by the recording officer
6 of each municipality or county adopting it, shall be filed with the
7 secretary of state, who shall issue a certificate of incorporation if the
8 resolution conforms to the requirements of this section, stating in the
9 certificate the name of the authority and the date of its incorporation,
10 which shall be the date of acceptance for filing. The certificate of
11 incorporation shall be conclusive evidence of the valid organization
12 and existence of the authority.

388.715. 1. All powers granted to an authority shall be exercised
2 by its board of commissioners. Commissioners shall be appointed and
3 vacancies in their office shall be filled by the governing body of each
4 county or municipality named in the organization resolution, in
5 accordance with the provisions of that resolution. The term of each
6 commissioner shall be one year, or the remainder of the one year term
7 for which a vacancy is filled, and until a successor is
8 appointed. Commissioners shall receive no compensation for services
9 but shall be reimbursed for necessary expenses incurred in the
10 performance of their duties.

11 2. The board of commissioners shall by resolution establish the
12 time and place or places of its regular meetings and the method and
13 notice required for calling special meetings, all of which shall be open
14 to the public. A majority of the commissioners being present at a
15 meeting, any action may be taken by resolution or motion adopted by
16 recorded vote of a majority of those present, unless a larger majority
17 is required by bylaws adopted by the board.

18 3. The board of commissioners shall appoint a chair, vice-chair,
19 secretary, and treasurer from its members, each to serve for a term of
20 one year and until a successor is appointed. The offices of secretary
21 and treasurer may be combined, and deputies or assistants may be
22 appointed for either office or the combined office, from members of the
23 board or otherwise. The powers and duties of each office shall be
24 determined by the board, which shall require and pay for a surety bond
25 for each officer handling funds. The board shall provide for the
26 keeping of a full and accurate record of all proceedings and of
27 resolutions, regulations, and orders issued or adopted. The state
28 auditor shall annually audit the books of said regional railroad
29 authority.

 388.718. An authority may exercise all the powers necessary or
2 desirable to implement the powers specifically granted in sections
3 388.700 to 388.745, and in exercising the powers is deemed to be
4 performing an essential governmental as a political subdivision of the
5 state. Without limiting the generality of the foregoing, the authority
6 may:

7 (1) Sue and be sued, have a seal, and have perpetual succession;
8 (2) Execute contracts and other instruments and take other
9 action as may be necessary to carry out the purposes of sections 388.700
10 to 388.745;

11 (3) Receive and disburse federal, state, and other funds, public
12 or private, made available by grant, loan, contribution, tax levy, or
13 other source to accomplish the purposes of this part. Federal money
14 accepted under this section must be accepted and spent by the
15 authority upon terms and conditions prescribed by the United States
16 and consistent with state law. All state money accepted under this
17 section must be accepted and spent by the authority upon terms and
18 conditions prescribed by the state.

19 **(4) Sell, lease, or otherwise dispose of real or personal property**
20 **acquired under sections 388.700 to 388.745. The disposal must be in**
21 **accordance with the laws of this state governing the disposition of**
22 **other public property.**

388.721. 1. The authority may plan, establish, acquire, develop,
2 **construct, purchase, enlarge, extend, improve, maintain, equip, operate,**
3 **regulate, and protect railroads, railroad properties and railroad**
4 **facilities within its boundaries, including but not limited to terminal**
5 **buildings, roadways, crossings, bridges, causeways, tunnels, equipment,**
6 **and rolling stock.**

7 **2. The authority may apply to any public agency for permits,**
8 **consents, authorizations, and approvals required for any project and**
9 **take all actions necessary to comply with their conditions.**

388.724. The authority may exercise the power of eminent
2 **domain under chapter 523, RSMo, except that it shall have no power of**
3 **eminent domain with respect to property owned by another authority**
4 **or political subdivision of Missouri or any other state, or with respect**
5 **to property owned or used by a railroad corporation unless the federal**
6 **Surface Transportation Board or a successor agency, if any, or another**
7 **authority with power to make the finding, has found that the public**
8 **convenience and necessity permit discontinuance of rail service on the**
9 **property. All property taken for the exercise of the powers granted**
10 **herein is declared to be taken for a public governmental purpose and**
11 **as a matter of public necessity.**

388.727. The state of Missouri and any political subdivision or
2 **municipal corporation thereof may in its discretion, with or without**
3 **consideration, transfer or cause to be transferred to any regional**
4 **railroad authority or may place in its possession or control, by lease or**
5 **other contract or agreement, either for a limited period or in fee, any**
6 **property wherever situated. Nothing in this section, however, shall in**
7 **any way impair, alter or change any obligations, contractual or**
8 **otherwise, heretofore entered into by said entities.**

388.730. The authority may establish charges and rentals for the
2 **use, sale, and availability of its property and service and may hold, use,**
3 **dispose of, invest, and reinvest the income, revenues, and funds derived**
4 **therefrom. Subject to any agreement with bondholders, it may invest**
5 **money not required for immediate use, including bond proceeds, in the**

6 securities it shall deem prudent, notwithstanding the provisions of any
7 other law relating to the investment of public funds.

388.733. The authority shall be subject to tort liability to the
2 extent provided in chapter 537, RSMo, and may procure insurance
3 against the liability, and may indemnify and purchase and maintain
4 insurance on behalf of any of its commissioners, officers, employees, or
5 agents. It may also procure insurance against loss of or damage to
6 property in the amounts, by reason of the risks, and from the insurers
7 as it deems prudent.

388.736. The authority may accept, contract for, and receive and
2 disburse federal, state, and other funds or property, public or private,
3 made available by grant, loan, or lease, to be used in the exercise of any
4 of its powers, and may comply with the terms and conditions of the
5 grant or loan.

388.739. 1. Every local and regional railroad authority,
2 organized as a political subdivision of the state under the provisions of
3 sections 388.700 to 388.745, may from time to time issue its negotiable
4 revenue bonds or notes in such principal amounts as, in its opinion,
5 shall be necessary to provide sufficient funds for achieving its
6 purposes, including the construction, establishment, acquisition,
7 improvement, maintenance, protection and regulation of railroads and
8 railroad facilities, that may be necessary to carry out the provisions of
9 sections 388.700 to 388.745.

10 2. The state shall not be liable on any notes or bonds of any
11 regional railroad authority. Any such notes or bonds shall not be a
12 debt of the state and shall contain on the faces thereof a statement to
13 such effect.

14 3. No commissioner of any regional railroad authority or any
15 authorized person executing authority notes or bonds shall be liable
16 personally on said notes or bonds or shall be subject to any personal
17 liability or accountability by reason of the issuance thereof.

18 4. The notes and bonds of any regional railroad authority are
19 securities in which all public officers and bodies of this state and all
20 political subdivisions and municipalities, all insurance companies and
21 associations, and other persons carrying on an insurance business, all
22 banks, trust companies, saving associations, savings and loan
23 associations, credit unions, investment companies, all administrators,

24 guardians, executors, trustees, and other fiduciaries, and all other
25 persons whatsoever, who now or may hereafter, be authorized to invest
26 in notes and bonds or other obligations of this state, may properly and
27 legally invest funds, including capital, in their control or belonging to
28 them.

29 5. No authority shall be required to pay any taxes or any
30 assessments whatsoever to this state or to any political subdivisions,
31 municipality or other governmental agency of this state. The notes and
32 bonds of every authority and the income therefrom shall, at all times,
33 be exempt from any taxes and any assessments, except for death and
34 gift taxes and taxes on transfers.

35 6. Every authority shall have the powers and be governed by the
36 procedures now or hereafter conferred upon or applicable to the
37 environmental improvement authority, chapter 260, RSMo, relating to
38 the manner of issuance of revenue bonds and notes, and the regional
39 railroad authority shall exercise all such powers and adhere to all such
40 procedures insofar as they are consistent with the necessary and
41 proper undertaking of its purposes.

388.742. The authority may enter into contracts including leases
2 with any person, firm, or corporation, for terms the authority may
3 determine:

4 (1) Providing for the operation of any facilities on behalf of the
5 authority, at the rate of compensation as may be determined;

6 (2) Leasing a rail line for operation by the lessee or any facility
7 or space therein for other commercial purposes, at rentals as may be
8 determined, but no person may be authorized to operate a rail line
9 other than as a common carrier;

10 (3) Granting the privilege, for compensation as the authority
11 shall determine, of supplying goods, commodities, services, or facilities
12 along rail lines or in or upon other property; and

13 (4) Making available services furnished by the authority or its
14 agents, at charges, rentals, or fees which shall be reasonable and
15 uniform for the same class of privilege or service.

388.745. If, at any time, the governing body of any city or county
2 that organized a regional railroad authority, votes, by majority, to
3 dissolve a regional railroad authority, it shall be dissolved effective the
4 date of the approval of dissolution by the highways and transportation

5 **commission of the state. In the event of dissolution of a regional**
6 **railroad authority, all funds and other assets shall be distributed**
7 **among the cities and counties, who were members, on a pro rata basis.**

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