

LEGISLATIVE BILL 717

Approved by the Governor February 18, 1974

Introduced by Barnett, 26

AN ACT to amend section 74-1305, Reissue Revised Statutes of Nebraska, 1943, relating to railroad transportation safety districts; to increase powers of the district; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 74-1305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

74-1305. Such district shall have the power, right and authority after notice and public hearing (1) to purchase within or without such county railroad rights-of-way including the improvements thereon, ~~and the power (2) to purchase land not presently owned or used by any railroad company for additional right-of-way or additional switch or yard space where changes of routes or construction of interconnections or of new railroad yards is necessary or desirable, and (3) to acquire through the exercise of the power of eminent domain, but only upon the vote of five-sixths of the directors of such district and the written approval by each railroad involved in the contemplated relocation project, such land as set forth in subdivision (2) of this section for the purposes set forth therein, which acquisition shall follow the procedures set forth in sections 76-704 to 76-724.~~

Such land and improvements as may be acquired for the purpose of the removal of railroad trackage may be disposed of by conveying the same for reasonable consideration to a governmental entity for public purposes or by sale of the same as set forth in this section. Such new railroad rights-of-way, ~~switches, and yards~~ as may be obtained and constructed may be leased for use to railroads or may be sold to such railroads ~~or may be traded to such railroads for other property belonging to such railroads.~~

Such property, real or personal, shall be sold in such manner and under such terms and conditions as the board shall deem in the best interests of the district; except that where the fair market value exceeds five thousand dollars, it may only be sold after due notice and hearing by such board at a regular meeting upon the

vote of a majority of such board.

The board of directors of such district shall also have the right and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads, or other corporations, with political subdivisions, public and municipal corporations, and the state government of this state, making full use of the Interlocal Cooperation Act, for (1) cooperation or assistance in the design, construction, maintenance, sale, or lease of the works of the district, (2) making surveys and investigations or reports in relation to the objectives of the district, (3) cooperation or assistance in obtaining the construction, maintenance, or operation of a work or works of public improvement within the district for any of the purposes described in section 74-1302, (4) receiving the title or possession, or both, of any property and funds whatsoever that are connected directly or indirectly with the purposes described in section 74-1302, (5) assuming, and becoming bound by, any obligations, promises, or covenants whatsoever which are so connected, or (6) ~~to hold and save holding and saving~~ the United States or others free from damages resulting from any construction works that may be undertaken.

Prior to implementing any plans affecting matters of planning by or the interests of any planning commission located within such district, the interests of any municipality, county or state educational institution or school district a portion of which lies within such district, any agricultural society, any airport authority, any watershed conservancy district or soil and water conservation district, or any other similar political entity, and any railroads, shippers and affected property owners, the board shall consult with and submit such plans to such entities as may be concerned for study, review, comment, and suggestion. Approval of any state or federal regulatory agency shall be secured, when necessary, prior to implementing any of the provisions contained in sections 74-1301 to 74-1309 and the district shall comply with the requirements of any such agency.

In developing plans for specific projects, to determine the feasibility of implementing the purposes of sections 74-1301 to 74-1309, the ~~districts~~ district shall examine the costs and benefits to the community, the railroads, and the highway users, and shall calculate the costs and benefits by consideration being given but not limited to loss of revenue, increased operating costs, costs of installation, acquisition of real and personal property, relocation, signalization, communication,

utilities, avoidance of hazards, creation of transportation efficiencies, resolving conflicts of land use, and any other ancillary or peripheral costs or benefits.

Sec. 2. That original section 74-1305, Reissue Revised Statutes of Nebraska, 1943, is repealed.