

development, and provide referral and educational assistance to interested persons and agencies about the programs.

Approved May 11, 1988

CHAPTER 1211

RAIL LINE OPERATION AND FUNDING

H.F. 2269

AN ACT relating to the operation and funding of rail lines including funds in the special railroad facility fund and the rail assistance fund and an appropriation and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 307B.23, Code 1987, is amended to read as follows:
307B.23 SPECIAL RAILROAD FACILITY FUND.

1. There is created in the office of the state treasurer a "special railroad facility fund". This fund shall include moneys credited to this fund under sections 307.29, 435.9, and other funds moneys which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are hereby appropriated to and for the purposes of the authority as provided in this chapter. The funds in the special railroad facility fund shall not be considered as a part of the general fund of the state, shall are not be subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the special railroad facility fund to be used for the purposes set forth herein in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The treasurer of state is authorized to invest the funds deposited in the special railroad facility fund at the direction of the authority and subject to any limitations contained in the bond proceedings. The income from such investment shall be credited to and deposited in the special railroad facility fund. This fund shall be administered by the authority and may be used to purchase or upgrade railroad right-of-way and trackage facilities or to purchase general or limited partnership interests in a partnership formed to purchase, upgrade, or operate railroad right-of-way and trackage facilities, to pay or secure obligations issued by the authority, to pay obligations, judgments, or debts for which the authority becomes liable in its capacity as a general partner, or for any other use authorized under this chapter. The fund may also be used to purchase or upgrade railroad right-of-way and trackage facilities for the development of railroad passenger tourism.

2. Any moneys credited to the special railroad facility fund under section 435.9 shall be deposited in a separate account within the special railroad facility fund. The authority may issue obligations under this chapter which are secured solely by the moneys to be deposited in that separate account and the holders or owners of any such obligations shall have no rights to payment of bond service charges from any other funds in the special railroad facility fund, including any moneys accruing to the authority from the lease, sale or other disposition, or use of railway facilities, or from payment of the principal of or interest on loans made, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges on any such obligations, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations.

3. Moneys received from repayment from heartland rail corporation as provided in 1983 Iowa Acts, chapter 198, section 32, as amended by 1987 Iowa Acts, chapter 232, section 28, and section 6 of this Act, shall be deposited in a separate account within the special railroad facility

fund and shall be used by the authority only for debt service or rehabilitation on branch rail lines whose total projected traffic is at least fifty percent agricultural products.

Sec. 2. NEW SECTION. 307B.25 CERTIFICATION FOR RECEIPT OF USE TAX MONEYS.

The authority shall certify to the treasurer of state amounts of money necessary for payment of principal and interest by the authority on obligations issued on or after July 1, 1988, or to make payments on leases guaranteed by the authority on or after July 1, 1988. However, certification shall only be made under this section when there are insufficient moneys available to the authority for the payment from moneys credited to the special railroad facility fund or other sources available to the authority.

Certification shall only be made under this section for projects in which the authority has done all of the following:

1. Conducted a feasibility study, prior to agreeing to assist the project, which demonstrates that the proposed project has a reasonable potential to generate adequate revenues to be economically viable.

2. Obtained from participants in the project pledges to be received by the authority, which in combination with other moneys available to the authority, are sufficient to either retire obligations issued by the authority to assist the project or make all payments on leases guaranteed by the authority to assist the project, including a lien against the assets of the project and a lien against the assets of each participant in the project to the extent of that participant's pledged obligation.

Sec. 3. NEW SECTION. 307B.25 APPROPRIATION TO AUTHORITY.

Notwithstanding section 423.24 and prior to the application of section 423.24, subsection 1, paragraph "b", there is appropriated to the authority from revenues derived from the operation of section 423.7 the amounts certified by the authority under section 307B.25. However, the total amount credited to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys credited to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 307B.25. **Moneys credited to the authority under this section shall be repaid from the general fund to the road use tax fund.**

Sec. 4. Section 327H.20, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The department may enter into agreements with railroad corporations, the United States government, cities, counties, and other persons for carrying out the purposes of this chapter. Agreements entered into between the department and railroad corporations under this section may require a railroad corporation to reimburse all or part of the costs paid from the railroad assistance fund from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or sidings defined in the agreement. An agreement which does not require the repayment of railroad assistance funds used for rehabilitation projects shall require the railroad corporation to establish and maintain a separate corporation account to which an amount equal to all or part of the costs paid from the railroad assistance fund shall be credited from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or siding defined in the agreement. ~~However, one half of the funds credited to the railroad assistance fund shall be expended as nonreimbursable grants for rehabilitation programs.~~ Credits to the corporation account by the railroad corporation may be used for the restoration, conservation, improvement, and construction of the railroad corporation's main line, branch lines, switching yards and sidings within the state. The agreement shall stipulate

*Item veto; see message at end of the Act

the terms and conditions governing the use of credits to the corporation account as well as a penalty for the use of the account in a manner other than as provided in the agreement.

Sec. 5. Section 327H.24, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

Notwithstanding section 453.7, subsection 2, interest and earnings on moneys deposited in the railroad assistance fund shall be credited to the railroad assistance fund. Interest and earnings credited to the railroad assistance fund under this paragraph ~~shall~~ may be expended as loans or nonreimbursable grants.

Sec. 6. 1983 Iowa Acts, chapter 198, section 32, unnumbered paragraph 1, as amended by 1987 Iowa Acts, chapter 232, section 28, is amended to read as follows:

Notwithstanding ~~the provisions of section 423.24~~, there is transferred from revenues collected under chapter 423 during each year of the fiscal period beginning July 1, 1983 and ending June 30, 1985 from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of seven million five hundred thousand (7,500,000) dollars which shall be transferred to the special railroad facility fund to be used exclusively for the purposes provided in this section. The Iowa railway finance authority may enter into a partnership agreement as allowed under section 307B.7, subsection 7, for the purpose of acquiring the right-of-way of the Chicago, Rock Island and Pacific railroad. The funds shall be expended to supplement private investment capital obtained for that purpose by matching any private investment capital on an equal basis. The funds transferred to the special railroad facility fund under this section shall be considered an interest-free loan to be repaid to the road use tax fund from receipts credited to the special railroad facility fund under section 307B.23 except that moneys credited for repayment of the loan during the period beginning July 1, 1987 and ending June 30, ~~1989~~ 1988, shall be credited to the railroad assistance fund. The special railroad facility fund shall repay to the road use tax fund, within thirty years after receipt of each repayment from heartland rail corporation the amount of the repayment, but in the interim the Iowa railway finance authority may lend these moneys for other rail projects without any other limitations contained in this section being applicable.

Sec. 7. The legislative council may authorize an interim study to develop recommendations for the branch line rail assistance program. The membership of the study committee shall consist of three members from the senate and three members from the house of representatives and one member appointed by each of the following:

1. Iowa grain and feed association.
2. Iowa institute of cooperation.
3. Farm bureau.
4. Rail shippers association.
5. Iowa railroad association.
6. Iowa railway finance authority.
7. Iowa corn growers association.
8. Iowa soybean association.

The state department of transportation shall assist the legislative service bureau in staffing the interim study committee. The study committee shall report its findings, including proposed legislation, to the governor and the members of the general assembly by January 1, 1989.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 11, 1988, except the item, which I hereby disapprove and which is designated as that portion of section 3 which is bracketed in ink and initialed by me. My reasons for vetoing this item are delineated in the item veto message pertaining to this Act to the secretary of state this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Madam Secretary:

I hereby transmit House File 2269, an Act relating to the operation and funding of rail lines including funds in the special railroad facility fund and the rail assistance fund and an appropriation and providing an effective date.

House File 2269 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated in Section 3 of this bill which reads as follows:

Moneys credited to the authority under this section shall be repaid from the general fund to the road use tax fund.

House File 2269 provides funding for needed rail branch line improvements in the state. The bill provides the Iowa Rail Finance Authority with the Heartland Rail Corporation's loan repayments to be used for debt service or rehabilitation of financially feasible rail branch lines in the state. However, since these repayments are not secure, the legislature authorized the Iowa Rail Finance Authority to utilize up to \$2 million of use tax funds per year to pay debt service on rail bonds in the event the Heartland Funds and shipper pledges fall short. This \$2 million security enhancement would, in turn, then be repaid with funds appropriated in this bill from the state's general fund.

I support efforts to provide appropriate funding to rehabilitate financially feasible rail branch lines. I believe this is a critical problem facing this state; the availability of good rail service has a significant impact on the ability of our state's products to compete in the world marketplace. Therefore, I have approved portions of this bill which allow the Heartland loan repayments to be secured for rail rehabilitation.

However, the provision to require the eventual use of tax dollars from the general fund raises serious constitutional and financial questions. This requirement could, in fact, obligate the general fund of the state to pay debt on railroad bonds, contradicting the debt prohibition that appropriately exists in our Constitution. Moreover, the state's general fund balance is not sufficient to absorb this additional \$2 million appropriation.

In fact, the Department of Transportation would be well advised to avoid the utilization of the use tax dollars to secure rail bonds unless absolutely necessary. The Heartland loan repayment funds would be better utilized on a grant or a revolving loan fund basis. However, I understand that additional financing tools may be necessary if an immediate rail branch line crisis should occur. Therefore, I have allowed the use tax security enhancement to remain in the bill but I cannot approve the provision that effectively pledges the state of Iowa's general fund to pay that debt service.

It is my understanding that my action should, in fact, enhance the workability of this bill by removing a significant constitutional cloud over the bill. For the future, I believe that the legislature should review other sources of financing for needed rail branch line improvements and purchases. I am deeply concerned about further efforts to rob the Road Fund for this purpose. Such action serves only to reduce our ability to complete our Transportation 2000 commercial highway network. I plan to work with a coalition of shippers, rail lines, and other interested parties this summer and fall to develop appropriate recommendations to the legislature to deal with our emerging rail problems. Significant attention should be given to reviewing ways in which rail user and fuel fees can be utilized as a method of funding.

In short, I cannot accept the item in this bill that requires that rail debt service be paid back by the general fund of the state. Obligating the general fund for that purpose could, in fact, be unconstitutional. And, in any event, it is a fiscally imprudent use of those dollars.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2269 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 1212**TRESPASS UPON PUBLIC ROAD***H.F. 2258*

AN ACT relating to trespass upon the right-of-way of a public road or highway.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 716.7, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. The term "trespass" does not mean the entering upon the right-of-way of a public road or highway.

Approved May 11, 1988

CHAPTER 1213**TAX LEVY FOR CITY LIBRARIES***H.F. 665*

AN ACT authorizing a tax levy for city libraries by petition and referendum.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 384.12, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 20. A tax not to exceed twenty-seven cents per thousand dollars of assessed value for support of a public library, subject to petition and referendum requirements of subsection 1, except that if a majority approves the levy, it shall be imposed.

Approved May 11, 1988

CHAPTER 1214**MOTOR VEHICLE SPEEDING AND OWI VIOLATIONS***S.F. 2117*

AN ACT relating to certain motor vehicle violations and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321A.3, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The abstract of operating record provided under this section shall designate which speeding violations occurring on or after July 1, 1986, but before May 12, 1987, are for violations of ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour. For speeding violations occurring on or after May 12, 1987, the abstract provided under this section shall designate which speeding violations are for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour.