

RAILROAD ABANDONMENT SUBCOMMITTEE
OF THE
STANDING COMMITTEES ON TRANSPORTATION

Report to Members of the
Second Session of the Sixty-seventh General Assembly

State of Iowa
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FINAL REPORT
RAILROAD ABANDONMENT SUBCOMMITTEE
of the
HOUSE AND SENATE COMMITTEES ON TRANSPORTATION

December, 1977

Pursuant to House Concurrent Resolution 55, the Legislative Council established the Railroad Abandonment Subcommittee to study the impacts of railroad abandonments on the transportation system in Iowa. The Subcommittee was authorized two meetings with the following members appointed to the Subcommittee:

Senator C. Joseph Coleman, Co-chairperson
Representative Robert A. Krause, Co-chairperson
Senator Richard F. Drake
Senator James V. Gallagher
Senator Cloyd E. Robinson
Senator Roger J. Shaff
Representative Philip A. Davitt
Representative William H. Harbor
Representative Arlo Hullinger
Representative Ray Lageschulte

The Subcommittee held its first meeting on November 8, 1977. The Subcommittee requested information from the State Department of Transportation concerning the role of the Department of Transportation in railroad abandonment proceedings before the Interstate Commerce Commission, a review of the impact of the Railroad Revitalization and Regulatory Reform Act of 1976 and a review of the need to abandon certain secondary roads providing only limited land access facilities which represent a liability and maintenance problem for the counties.

Mr. Les Holland, director, Railroad Transportation Division of the Department of Transportation, explained the procedures involved in railroad abandonments. It was explained that three categories exist for the classification of railroad lines involved in abandonment proceedings. Category I lines are lines which may be abandoned by a railroad company within three years after designation of the line as a Category I line. Category II lines are lines yet to be examined by the railroad company. Category III lines are lines being studied by the Interstate Commerce Commission (ICC) to determine if public convenience and necessity require or permit abandonment. The role of the state railroad transportation division is to review petitions for abandonment before the ICC to assure the development and maintenance of a viable rail network in Iowa.

The procedures before the Interstate Commerce Commission for railroad abandonments are divided into four steps. An advance notice period is required within which the railroad must classify a line as a Category I line for a period of four months prior to

filing a petition for abandonment. During this period the line is reviewed by the Rail Transportation Division to determine the line's economic, social and environmental impact on the rail system in Iowa. The railroad must then publish a Notice of Intent notifying specified governmental officials and the public of the specific details of the proposed abandonment.

Next follows a two month period for comments by interested parties during which the railroad division will hold public hearings on the proposed abandonment. If no opposition is expressed to the proposed abandonment or the ICC investigation finds that the abandonment should be granted, a "Conditional Certificate" of abandonment will be issued.

The ICC will hold an investigation, lasting as long as ten months if a petition to investigate the abandonment is received or if the ICC determines that an investigation is needed. The investigation is to evaluate the public need and necessity to preserve a rail avenue of transportation, to evaluate the economic losses resulting from the proposed abandonment and to evaluate other factors including inconvenience and other social considerations.

Following the investigation the final decision will issue which will provide a period of 180 days for the exclusive negotiations by public interest groups for the purchase of the railroad right-of-way. After the exclusive negotiation period the railroad company is free to dispose of the property as they choose.

Mr. Holland stated that Iowa has approximately 1400 miles of railroads classified as Category I lines which may be subject to railroad abandonment proceedings. Presently, under federal law, funds are available for railroad revitalization only after the line has been abandoned, which forces the state into a dilemma. The state must admit that the line should be abandoned, and after succeeding in this pursuit the state must argue that the line would be economically viable if rehabilitated. If the abandonment proceedings are to represent a detailed evaluation of the economic impact of the railroad line abandonment, then the line should be evaluated as transportation facility and its utility should be assessed with consideration given to the line's utility upon upgrading.

The Subcommittee also discussed a proposal which would provide one million dollars to an Abandoned Right-of-way Rehabilitation Fund, to be used to return abandoned secondary roads to agricultural use. The bill, originally House Amendment H-3951 to House File 491, would also provide for a reclassification of certain secondary roads which provide only limited land access into a category to be known as the "land access system". The roads in the land access system would not be maintained by the county but rather by the adjoining landowners.

At the second meeting held December 20, 1977, the Subcommittee reviewed the current status of the branchline

assistance program in Iowa. The Subcommittee reviewed the utilization of the three million dollar appropriations for each of the fiscal years beginning in 1975, 1976, and 1977 and the two million dollar appropriation for the 1978 fiscal year. Fourteen projects have been started to upgrade more than 718 miles of railroad branchlines in Iowa with 453 miles of upgrading completed. Shippers have contributed an additional \$7.5 million of which \$4.3 million has been repaid, and the railroads have contributed an additional \$2.9 million for a total of \$21.5 million for railroad branchline upgrading funds. Iowa has had repaid in rollover rail assistance funds a total of \$1.4 million.

The Subcommittee reviewed the railbanking proposal of the Rail Transportation Division of the State Department of Transportation. The 4R Act of 1976 provides a period of 180 days within which the railroad must negotiate with public interest groups for the purchase of the railroad right-of-way. Because of the potential for future railroad needs, there is some concern about the preservation of the railroad right-of-way for future "railroad" purposes. Certain property acquisition problems exist in any railbanking scheme. If the state acquires the 1,011 miles of railroad subject to abandonment in the next three years, the total cost of the property, at \$2,400 per acre, would be \$29,116,800. State purchase of the property would also remove the property from the local property tax base as long as the property is maintained as state property. The suggestion was made that the state could negotiate the purchase of an easement from the railroad prior to the railroad's transfer of the property to other landowners. The easement would preserve title to the property for use as a railroad right-of-way. This easement acquisition would eliminate future lengthy and costly condemnation proceedings if the abandoned railroad corridor subsequently became an economically needed avenue for transportation.

The Subcommittee also reviewed secondary road abandonment data collected by Robert Anderson from the State Department of Transportation. Of the 510 miles of secondary road abandoned by the 83 counties responding to a questionnaire; 92 miles were maintained for use as land access; 312 miles reverted to crop production at a cost of \$174,100; 38 miles are used for other agricultural purposes; and 68 miles are maintained as a wildlife habitat, windbreak or for other uses. Damages totaling \$258,300 were paid to abutting property owners and administrative and legal fees were approximately \$118,200, for a total cost of \$550,600. These abandonments returned approximately 4,080 acres for potential agricultural production and returned approximately \$5.6 million in property to the taxable property base between 1972 and 1976. Currently counties maintain low traffic volume roads with the following use:

| <u>Vehicles</u> <u>Per Day</u> | <u>Miles</u> | <u>Acres</u> | <u>Value</u> <u>(\$1,400/acre)</u> |
|-----------------------------------|--------------|--------------|---------------------------------------|
| 0-3 | 1,686 | 13,670 | \$ 19,138,378 |
| 4-9 | 4,781 | 38,764 | 54,270,000 |
| 10-15 | 11,633 | 94,320 | 132,048,000 |

A 1969 study indicated that potentially 3,700 miles of low traffic secondary roads could be vacated returning 30,000 acres to other uses with a potential increase in taxable property (at \$1,400/acre) of \$41,000,000.

The Subcommittee reviewed the constitutional problems involved in abandoning road accesses to property, and it was explained that the vacation of a road providing only a secondary access to property when the landowner has alternative access facilities, does not result in a constitutional taking of a property right unless there is a "substantial interference" with the land owner's access.

After review of all the material brought before the Subcommittee, the Subcommittee voted to recommend that the State Department of Transportation monitor the bankruptcy proceedings of the Chicago, Milwaukee, St. Paul and Pacific Railroad begun December 19, 1977, to assure that the state branch line rehabilitation funds loaned to the Milwaukee railroad are preserved for the state throughout the bankruptcy.

The Subcommittee reviewed an information program developed in Illinois, and designed to acquaint the motoring public with the particular driving hazards of railroad crossings. It was explained that a similar program together with the production and distribution of a fifteen minute film to the elementary and secondary schools in the state would cost approximately \$50,000. Mr. Dick Barr stated that he had requested the financial assistance from the railroads operating in Iowa to help finance this project. The Subcommittee voted to recommend that the State Department of Transportation implement a similar railroad crossing education program in Iowa if the private funds are received to assist in defraying the cost of the program.