

CHAPTER 3
RAILWAY FINANCING AUTHORITY

H. F. 874

AN ACT relating to railway transportation by providing for the imposition and collection of a tax on the use of fuel for the propulsion of railway vehicles, for the creation of a special railroad facility fund to which certain tax moneys are credited, for the pledging of the moneys in the special railroad facility fund for obligations issued by the Iowa railway finance authority, for the increase in the amount of outstanding obligations that the Iowa railway finance authority may have, for an expansion and clarification of the powers and duties of the Iowa railway finance authority.

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

Section 1. Section 307.29, subsections 1 and 3, Code 1981, are amended to read as follows:

1. Sixty days after the tax obligations of a railway company which are owed ~~to a political subdivision of this state~~ become delinquent as provided in section 445.37 and remain unpaid, the state department of transportation shall become responsible for collection of the delinquent taxes. The county treasurer of each affected county shall transmit the unpaid tax statement of the railway company to the state department of transportation.

3. Upon the acquisition by the department of payment from the railway company in full liquidation of the delinquent taxes including payment by means of transfer of title to rights of way or other real estate, any tax lien existing prior to ~~such~~ the acquisition on the property on which the taxes were delinquent ~~shall be null and is void and the department shall not pay any of these delinquent taxes to the county treasurer. The department shall take title to the rights of way or other real estate for administration, management, collection of rents, and disposal and shall credit all moneys collected or received from the rental or disposal of rights of way or other real estate to the special railroad facility fund established in section 19 of this Act. Any moneys received as payment for delinquent property taxes shall be credited to the special railroad facility fund established in section 19 of this Act.~~

Sec. 2. Section 307B.2, Code 1981, is amended to read as follows:

307B.2 DECLARATION OF NECESSITY AND PURPOSE. The purpose of this chapter is to benefit the citizens of Iowa by improving their general health, welfare and prosperity and insuring the economic and commercial development of the state and by promoting agricultural and industrial improvement. Access to adequate railway transportation facilities is essential to the economic welfare of the state. This One purpose of this chapter is intended to preserve or provide for the citizens of Iowa those railway ~~facilities~~

services now in existence or needed in the state which have a viable future but which for a variety of economic and legal reasons may well--go--out--of service not exist if the state does not provide the financing mechanism contained or other mechanisms referred to in this chapter. It is the intent of the chapter that any public ownership and control of railway facilities provided for in this chapter be transferred to private ownership as promptly as economically practicable subject to financing requirements. It is further intended that the authority created herein in this chapter be vested with all powers to enable it to accomplish its the purposes of this chapter except the power to operate rolling stock except--as--incidental--to--the--repair--or--renovation--of--a--railway--facility.

It is the further intent of this chapter and of the general assembly that, in order to preserve rail competition and to provide for railway service in this state, the authority work primarily with railroad carriers already providing service in this state based upon their willingness and ability to meet these objectives.

Sec. 3. Section 307B.3, subsections 1, 3, and 10, Code 1981, are amended to read as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, for the preservation and creation of employment, and for the promotion of the economy and of agricultural and industrial improvement, which are public purposes.

3. There will exist a serious shortage of viable rail lines and railway facilities serving the urban, rural and, agricultural, and industrial communities of the state.

10. It is necessary to create a railway finance authority to encourage the investment of private capital and stimulate the construction, rehabilitation and repair of railway facilities and to prevent the abandonment of others through the use of public financing, publicly assisted financing, and other forms of public assistance.

Sec. 4. Section 307B.4, subsections 2, 3, and 6, Code 1981, are amended to read as follows:

2. "Railway facilities" means land, structures, fixtures, buildings and equipment, except rolling stock, necessary or useful in providing railroad transportation services, including, but not limited to, roadbeds, track, trestle, depot, switching and signaling equipment and all necessary, useful and related equipment and appurtenances and all franchises, easements and other interests in land and rights of way necessary or convenient as a site or sites for any of the foregoing or any part of or combination of the foregoing.

3. "Project costs" ~~as-applied-to-railway-facilities--financed--under--the-provisions--of--this--chapter--means-the-total-of-all-reasonable-or-necessary-costs-for-or-incidental-to-the~~ means any portion of the costs of railway rehabilitation, acquisition, construction, reconstruction, repair, alteration, improvement or extension of any railway facilities ~~including--but--not--limited--to--the--cost--of,~~ providing, supplementing, and relocating public capital facilities, studies and, surveys, plans, specifications,

architectural and engineering services, estimates of costs, legal, organizational, marketing or ~~other special services, financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings and facilities, rehabilitation, reconstruction, repair or remodeling of existing buildings and facilities~~ feasibility studies, and all other necessary and incidental expenses ~~including, but not limited to, an initial bond~~ related to the foregoing, and reimbursement of any moneys advanced or applied by a governmental agency or other person for project costs. Project costs include, in connection with obligations, a principal and interest reserve together with interest on bonds issued to finance the railway facilities obligations to a date not later than six months subsequent to the estimated date of completion of the railway facilities that are the object of the financial assistance.

6. "Bonds Obligations" means ~~negotiable~~ bonds, notes or other obligations, ~~except these obligations to the federal government,~~ evidence of debt, including interest coupons of the foregoing, issued under this chapter.

Sec. 5. Section 307B.4, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Financial assistance" means direct loans and other loans, grants, and forms of assistance authorized under this chapter.

NEW SUBSECTION. "Governmental action" means any action by a governmental agency relating to the establishment, development, or operation of railway facilities that the governmental agency acting has authority to take or provide for the purpose under law, including, but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.

NEW SUBSECTION. "Governmental agency" means the state or any state department, division, commission, institution, or authority; a municipal corporation, city, county, or township, or any agency thereof; any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission, or authority established pursuant to an interstate compact or agreement; or any combination of the foregoing.

NEW SUBSECTION. "Person" means an individual, firm, partnership, association, corporation, or governmental agency, or any combination thereof.

NEW SUBSECTION. "Public capital improvements" means capital improvements or facilities including, but not limited to, railroad facilities and related ancillary facilities, that a governmental agency has authority to acquire, pay the costs of, own, or maintain, or to do the foregoing by contract with other persons.

NEW SUBSECTION. "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, and other agreements, and amendments, and supplements to the foregoing authorizing or providing for the terms and conditions applicable to or the provisions contained within, or providing for the security of, obligations issued pursuant to this chapter.

NEW SUBSECTION. "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, interest,

and redemption premium, if any, required to be paid by the authority on obligations.

NEW SUBSECTION. "Pledged receipts" means the revenues and receipts received or to be received by the authority from the lease, operation, or sale or disposition of railway facilities; from loan or other agreements relating to financial assistance; from grants, gifts, or payments on guarantees made to the authority by any person; from accrued interest received from the sale of obligations; from income from the investment of special funds of the authority, including the special railroad facility fund; from the revenues and receipts deposited in the special railroad facility fund; and from any other moneys which are available for the payment of bond service charges.

NEW SUBSECTION. "Special railroad facility fund" means the fund created in section 19 of this Act.

Sec. 6. Section 307B.5, Code 1981, is amended to read as follows:

307B.5 IOWA RAILWAY FINANCE AUTHORITY. There is created an Iowa railway finance authority for the purpose of providing or providing for the financing of railway facilities and enhancing and continuing the operation of railway facilities as provided in this chapter.

Sec. 7. Section 307B.7, subsections 2, 5, 6, 7, 8, 10, 12, 13, 14, 15, 17, and 18, Code 1981, are amended to read as follows:

2. Adopt rules under chapter 17A for the regulation of its affairs and to carry out its duties and responsibilities. The authority is an agency as that term is defined in chapter 17A and is subject to the provisions of chapter 17A.

5. Acquire railway facilities, whether located within Iowa or a contiguous state, directly or through an agent, by purchase, lease, lease-purchase, gift, devise or otherwise. The authority shall not submit a bid to acquire a railway facility if any railroad company or person is negotiating for the facility's purchase and if the railroad company's or person's offer exceeds the net salvage value set by the trustee by at least fifteen percent and the offer is for a segment which originates and terminates at the intersection of another railroad mainline or is for a segment which connects to a mainline if the facility is a branchline. However, even if a railroad company or person is negotiating for a facility's purchase, the authority may submit a bid for the acquisition of the railway facility upon approval of a resolution by the state transportation commission stating that the best interests of the state and the transportation needs thereof might not be served by the railroad company's or person's offer or negotiation. However, the commission shall not adopt such a resolution if the competing railroad corporation or person files with the state department of transportation an enforceable undertaking to operate the facility for a period of five years after its purchase.

6. Determine the location ~~and--construction~~ of and select any railway facility to be ~~financed~~ provided financial assistance under ~~the provisions of~~ this chapter and ~~to~~ acquire, construct, reconstruct, renovate, rehabilitate, improve, extend, replace, maintain, repair and lease the same facility, and to enter into contracts for any of these purposes.

7. Enter into contracts, including partnership agreements, with any person, ~~federal or state government or subdivision of a state~~ for the ownership, operation, management or use of a railway facility. Provisions shall be made in any contract or partnership agreement entered into by the authority that any additional jobs which may result from the ownership, operation, management, or use of a railway facility shall be offered, when practicable, to qualified former employees of the Milwaukee Road or Rock Island railroad companies.

8. Designate an agent to ~~determine the location and construction of a railway facility under the provisions of this chapter and as agent of the authority, to construct, reconstruct, renovate, replace, maintain, repair, and lease the same and to enter into contracts for any of these purposes including contracts for the operation, management or use of the railway facility~~ perform its powers under subsections 6 and 7.

10. Issue ~~bonds, notes or other~~ obligations for any of its purposes and ~~to~~ refund the same obligations, all as provided for in this chapter. However, the total outstanding principal amount of bonds obligations outstanding at any one time shall not exceed one two hundred million dollars at any one time.

12. Fix and, revise and, charge, and collect rates, rents, fees and charges for the use of any railway facility or any portion of a facility that is owned or financially assisted by the authority alone or in any other association with any other person and ~~to~~ contract with any person, ~~firm or corporation or other public or private body~~ in respect to a facility.

13. Mortgage all or any portion of its railway facilities ~~and the sites~~, whether then owned or thereafter acquired, ~~to finance the~~ in connection with the financing of the particular railway facility or any portion of the facility.

14. Extend ~~loans~~ financial assistance for the purpose of ~~financing~~ providing for project costs ~~of a railway facility~~. Make interest-free loans for rehabilitation of railway tracks, roadbeds, or trestles to persons which have repaid in part the original loan from the authority which was made for the purpose of the acquisition or rehabilitation of railway tracks, roadbeds, or trestles. However, an interest-free loan to a person shall not exceed the amount repaid of the original loan made to that person and one-half of the amount of the interest-free loan repaid to the authority shall be credited to the railroad assistance fund established in section 327H.18.

15. Extend ~~loans~~ financial assistance to refund ~~bonds, retire, or refinance obligations, including obligations running to the federal government, mortgages or advances issued, made or given for the project cost of a railway facility including the issuing of bonds and making loans to refinance indebtedness which costs were incurred for railway facilities undertaken and completed prior to or after May 20, 1980 when the governing board finds that this financing financial assistance is in the public interest.~~

17. Receive and accept from any public person or governmental agency loans, guarantees, or grants for or in aid of project costs and ~~to~~ receive and accept grants, gifts and other contributions from any source.

18. Own a railway facility under this chapter alone, in partnership, or in any other association with any person if necessary or beneficial to preserve part of a railway system, upon the determination, after consultation with the department, that the railway facility is necessary or beneficial to the railway system, and then shall to be relinquished to ~~private non~~authority ownership or operation as soon as economically practicable.

Sec. 8. Section 307B.7, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. Pledge any funds contained in the special railroad facility fund to the payment of and as security for obligations issued under this chapter.

NEW SUBSECTION. Invest moneys in the special railroad facility fund in general or limited partnership interests in a partnership formed to purchase, renovate, and operate a railway facility.

NEW SUBSECTION. Serve as a general or limited partner in a partnership formed to purchase, renovate, and operate a railway facility.

NEW SUBSECTION. Enter into agreements with persons to develop, equip, furnish, or otherwise develop and operate railway facilities, and make provision in the agreements for railway facilities and governmental actions, as authorized by this chapter and other laws.

NEW SUBSECTION. Enter into appropriate arrangements and agreements with a governmental agency for the taking or the providing by that governmental agency of a governmental action.

Sec. 9. Section 307B.8, subsections 4, 5, and 6, Code 1981, are amended by striking the subsections.

Sec. 10. Section 307B.8, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Consult with the Iowa conservation commission before taking any action that substantially affects wildlife habitat.

Sec. 11. Section 307B.9, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

307B.9 OBLIGATIONS. Except as provided in this chapter, all obligations are payable solely out of the pledged receipts as designated in the bond proceedings. Tax funds which the authority receives from a political subdivision of the state shall not be pledged for payment of the obligations. Except for those tax funds deposited in the special railroad facility fund as provided in section 307.29, section 20 of this Act, and section 29 of this Act, the state shall not appropriate tax funds, directly or indirectly, to the authority for the purpose of payment of obligations of the authority. Obligations shall be authorized by resolution of the board and bond proceedings shall provide for the purpose of the obligations, the principal amount, the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest on them, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. As much as is practicable within the legal and fiscal limitations inherent in bond issuance, a portion of the bonds shall be issued in denominations of five

thousand (5,000) dollars and smaller, in order to allow smaller investors in the state to purchase the bonds. The purpose of the obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings shall also provide, subject to other applicable bond proceedings, for the pledge of all or such part, as the authority may determine, of the pledged receipts to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations issued at other times, if and to the extent provided in the bond proceedings. The pledged receipts so pledged and received by the authority are immediately subject to the lien of the pledge without physical delivery or further act, and the pledge of the pledged receipts is effective and these moneys may be applied to the purposes for which pledged without necessity for an act of appropriation. Every pledge and every covenant and agreement with respect to a pledge made in the bond proceedings may be extended to the benefit of the owners and holders of obligations authorized by this chapter, and to any trustee for owners and holders, for the further security of the payment of the bond service charges. The authority shall issue a prospectus or official statement in connection with the offering of obligations. Obligations may be issued in coupon or in registered form, or both. Provision may be made for the registration of obligations with coupons attached as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached of any obligations registered as to both principal and interest, and for reasonable charges for registration, exchange, conversion, and reconversion. Obligations may be sold at public or private sale at the price, in the manner, and at the time determined by the governing board. Chapter 75 and sections 23.12 through 23.16 do not apply to obligations issued under this chapter. All obligations are negotiable instruments.

The bond proceedings may contain additional provisions as to:

1. The redemption of obligations prior to maturity at the option of the authority at the price and under the terms and conditions provided in the bond proceedings.
2. Other terms of the obligation.
3. Limitations on the issuance of additional obligations.
4. The terms of any trust agreement or indenture securing the obligations or under which the obligations may be issued.
5. The deposit, investment, and application of special funds and the safeguarding of moneys on hand or on deposit, without regard to chapter 453, subject to this chapter, with respect to particular funds or moneys; provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish indemnifying bonds or may pledge the securities as required by the authority.
6. The provisions of the bond proceedings which are binding upon the officer, board, commission, authority, agency, department, or other person or body which has the authority under law to take actions as necessary to perform all or any part of the duty required by a provision.

7. Any provision which may be made in a trust agreement or indenture.

8. Additional agreements with the holders of the obligations, or the trustee for the holders, relating to the obligations or the security for the obligations.

Before the authority can incur an obligation for the acquisition or purchase of railway facilities under this chapter, the proceeds of which are to be contributed, loaned, or otherwise provided to a partnership of which the authority is a partner, the other partners of the partnership must pledge to the partnership in the aggregate an amount equal to at least twenty percent of the amount of the obligations to be incurred for the acquisition or purchase.

Sec. 12. Section 307B.10, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

307B.10 REFUNDING OF OBLIGATIONS. The board may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the authority. These obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums on the prior obligations, principal maturities of any obligations maturing prior to the redemption of the remaining obligations on a parity with them, interest accrued or to accrue to the maturity date or dates of redemption of the obligations, and any project costs including expenses incurred or to be incurred in connection with this issuance, refunding, funding, and retirement. Subject to the bond proceedings, the portion of proceeds of the sale of obligations issued under this section to be applied to bond service charges on the prior obligations shall be credited to the appropriate account for those prior obligations. Obligations authorized under this section shall be deemed to be issued for those purposes for which the prior obligations were issued and are subject to the provisions of this chapter pertaining to other obligations. Obligations refunded shall not be considered to be outstanding for purposes of section 307B.7, subsection 10.

Refunding may be made without regard to whether or not the obligations to be refunded were issued in connection with the same railway facilities, separate railway facilities or for other purposes, and without regard to whether or not the obligations proposed to be refunded shall be payable on the same date or different dates or due serially or otherwise.

Sec. 13. Section 307B.11, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

307B.11 SECURITY FOR OBLIGATIONS. Obligations may be additionally secured by a trust agreement or indenture between the authority and a corporate trustee which may be any trust company or bank having its principal place of business within the state. Any such agreement, indenture, mortgage, or deed of trust, or any combination thereof, may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

1. Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the authority has fully paid the bond service charges on the obligations secured by the instrument, or provision for payment has been made.

2. In the event of default in any payments required to be made by the bond proceedings or any other agreement of the authority made as a part of the contract under which the obligations were issued, enforcement of the payments or agreement by mandamus, appointment of a receiver, suit in equity, action at law, or any combination of these.

3. The rights and remedies of the holders of obligations and of the trustee and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations.

4. The replacement of any obligations which become mutilated or are destroyed, lost, or stolen.

The principal of and interest on obligations shall be secured as provided in the bond proceedings by the pledge of pledged receipts and by assignment of leases or other contract rights of the authority, or any person acquiring, leasing, or operating railway facilities assisted under this chapter to third parties, which assignment may cover all or any part of the railway facilities from which the receipts may be derived, including, but not limited to, any enlargements of or additions to any of these railway facilities.

Each pledge shall continue in effect until the principal of and interest on the obligations has been fully paid or provision for the payment has been duly made pursuant to the bond proceedings.

Sec. 14. Section 307B.12, Code 1981, is amended to read as follows:

307B.12 PAYMENT OF BONDS OBLIGATIONS--NONLIABILITY OF STATE. Bonds Obligations issued under ~~the provisions of~~ this chapter, and judgments based on contract or tort arising from the activities of the authority or persons acting on its behalf, ~~shall~~ are not constitute a debt or liability of the state or of any political subdivision within the meaning of any constitutional or statutory debt limitation and ~~are not a pledge of the state's credit or taxing power within the meaning of any constitutional or statutory limitation or provision and no~~ appropriation shall be made, directly or indirectly, by the state or any political subdivision of the state for the payment of the bonds obligations or judgments or to fund any deficiency in the special railroad facility fund, or for the indemnification of a person subject to a judgment arising from that person's actions on the authority's behalf,--but. These obligations and judgments are special obligations of the authority payable solely and only from the sources and special funds provided in this chapter. Funds from the general fund of the state shall not be used to pay interest or principal on obligations of the authority in the event that receipts from the taxes designated for deposit in the special railroad facility fund are insufficient.

Sec. 15. Section 307B.13, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

307B.13 REMEDIES OF HOLDERS OF OBLIGATIONS.

1. The bond proceedings may provide that a holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's

rights are restricted by the bond proceedings, may by legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. These rights include the right to compel the performance of all duties of the authority required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the authority in the bond proceedings, to apply to a court to appoint a receiver to receive and administer the pledged receipts which are pledged to the payment of the bond service charges on these obligations or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of bond service charges on these obligations and with powers accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the authority or the state or governmental agencies of the state to the payment of the bond service charges; and if provided in the bond proceedings, the power to take possession of, mortgage, or cause the sale or otherwise dispose of any railway facilities.

Each duty of the authority and the authority's board, officers, and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, and in every agreement by or with the authority, is a duty of the authority, and of each board, officer, member, or employee having authority to perform this duty, which may be specifically enjoined by the law resulting from an office, trust, or station under chapter 661.

2. If the bond proceedings do not contain provisions authorized in subsection 1, if the authority defaults in the payment of principal or interest on obligations as they become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty days, or if the authority fails or refuses to comply with this chapter or defaults in any covenant or agreement in the bond proceedings made for the benefit of the holders of obligations, the holders of twenty-five percent in aggregate principal amount of obligations of the issue then outstanding by instrument filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded may appoint a trustee to represent the holders of the obligations for the purposes provided in this section.

The trustee selected may, and upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of obligations then outstanding, shall:

- a. Enforce all rights of the holders of the obligations including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter.
- b. Bring suit upon the obligations.
- c. By action require the authority to account as if it were the trustee of an express trust for the holders.

d. By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

e. Declare all the obligations due and payable and, if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of obligations then outstanding, annul the declaration and its consequences. Before declaring the principal of obligations due and payable, the trustee shall first give thirty days notice in writing to the governor, to the authority, and to the attorney general of the state.

The trustee selected shall also have all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of holders in the enforcement and protection of their rights.

3. The district court has jurisdiction of any action by the trustee on behalf of holders. The venue of the action shall be in the county in which the principal office of the authority is located.

Sec. 16. Section 307B.14, Code 1981, is amended to read as follows:

307B.14 AUTHORITY AS PUBLIC INSTRUMENTALITY. The authority is performing a public function on behalf of the state and is a public instrumentality of the state. Income of the authority and all properties owned by or leased by to the authority ~~shall be~~ are exempt from all taxation in the state of Iowa. This chapter ~~shall~~ does not ~~be construed as exempting~~ exempt from taxation properties comprising railway facilities ~~financed~~ financially assisted under ~~any of the provisions of~~ this chapter which are owned by persons ~~or~~ entities other than the authority except those leased by to the authority. However, properties owned by the authority which are leased or rented to a private person shall include as part of the rates, rents, fees, or charges payable by that person a sum equal to the amount of tax, determined by applying the tax rate of the taxing district to the assessed value of the property, which the state, county, city, school district or other political subdivision would receive if the property were owned by a private person, any other statute to the contrary notwithstanding. This sum shall be distributed to each taxing district based upon its tax equivalent. For purposes of arriving at that tax equivalent, the property shall be valued and assessed by the assessor in whose jurisdiction the property is located, in accordance with chapter 441, but the authority, the lessee or renter on behalf of the authority, and other persons as are authorized by chapter 441 shall be entitled to protest any assessment and take appeals in the same manner as any taxpayer. The valuations shall be included in any summation of valuations in the taxing district for all purposes known to the law. Income from this source shall be considered under the provisions of section 384.16, subsection 1, paragraph "b".

Sec. 17. Section 307B.15, Code 1981, is amended to read as follows:

307B.15 POWERS NOT RESTRICTED--LAW COMPLETE IN ITSELF. This chapter ~~shall~~ is not ~~be construed as~~ a restriction or limitation upon any powers which the authority ~~might otherwise have~~ or another governmental agency has under any laws of this state, but ~~shall be construed as~~ is cumulative of to any such powers. No proceedings, referendum, notice or approval ~~shall be~~ is

required for the creation of the authority or the issuance of any bonds obligations or any instrument as security except as herein provided, ~~any other law to the contrary notwithstanding, provided, that in this chapter.~~ However, nothing herein ~~shall be construed to deprive~~ in this chapter deprives the state and its governmental political subdivisions of their respective police powers over properties of the authority or ~~to impair~~ impairs any power ~~thereover~~ over the authority of any official or agency of the state and its governmental political subdivisions which ~~may be~~ is otherwise provided by law.

Sec. 18. Chapter 307B, Code 1981, is amended by adding the following new sections:

NEW SECTION. GOVERNMENTAL AGENCIES. A governmental agency may enter into an agreement with the authority, another governmental agency, or a person to be assisted under this chapter to take or provide for the purposes of this chapter any governmental action it is authorized to take or provide and to undertake on behalf and at the request of the authority any action which the authority and the agency are authorized to undertake. Governmental agencies of the state shall cooperate with and provide assistance to the director and the authority in the exercise of their functions under this chapter.

NEW SECTION. BOND ANTICIPATION NOTES. The power to issue obligations under this chapter includes power to issue obligations in the form of bond anticipation notes and to renew these notes by the issuance of new notes, but the maximum maturity of these notes, including renewals, unless otherwise authorized by the general assembly, shall not exceed five years from the date of the issuance of the original notes. The holders of these notes or interest coupons of the notes have a right to be paid solely from the pledged receipts pledged to the payment of the bonds anticipated, or from the proceeds of those bonds or renewal notes, or both, as the authority provides in the bond proceedings authorizing the notes. The notes may be additionally secured by covenants of the authority to the effect that the authority will do those acts authorized by this chapter and necessary for the issuance of the bonds or renewal notes in appropriate amount, and either exchange the bonds or renewal notes therefor, or apply the proceeds of the notes to the extent necessary, to make full payment of the principal of and interest on the notes at the time contemplated, as provided in the bond proceedings. For such purpose, the authority may issue bonds or renewal notes in a principal amount and upon terms as are authorized by this chapter and are necessary to provide funds to pay when required the principal of and interest on the outstanding notes, notwithstanding any limitations prescribed by this chapter, other than the limitation contained in section 307B.7, subsection 10. All provisions for and references to obligations in this chapter are applicable to notes authorized under this section to the extent not inconsistent with this section.

NEW SECTION. INVESTMENT IN OBLIGATIONS. All banks, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business and all executors, administrators, guardians, trustees,

and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in obligations issued pursuant to this chapter. However, this section does not relieve any persons from a duty of exercising reasonable care in selecting securities for purchase or investment.

NEW SECTION. NOTICE. The authority shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of obligations or the power of the authority to issue the obligations or the effectiveness or validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after sixty days from the date of publication of the notice.

Sec. 19. Chapter 307B, Code 1981, is amended by adding the following new section:

NEW SECTION. SPECIAL RAILROAD FACILITY FUND. 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 section 307.29, section 20 of this Act, section 29 of this Act, and other funds 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 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. The state treasurer shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The state treasurer 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.

Any moneys credited to the special railroad facility fund under sections 20 and 29 of this Act 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.

Sec. 20. Chapter 435, Code 1981, is amended by adding the following new section:

NEW SECTION. For the fiscal years beginning on or after July 1, 1983, the net proceeds of the tax imposed by section 435.2 and penalties collected under this chapter shall be credited to the special railroad facility fund established in section 19 of this Act and any refunds made pursuant to this chapter shall be made from this fund. However, for each fiscal year of the fiscal biennium beginning July 1, 1981 and ending June 30, 1983, the total of the net proceeds of the tax imposed by section 435.2 and penalties collected under this chapter in excess of one million fifty thousand dollars collected in the fiscal year beginning July 1, 1981 and in excess of one million one hundred forty thousand dollars collected in the fiscal year beginning July 1, 1982 shall be credited to the special railroad facility fund.

Sec. 21. Sections 22 through 29 of this Act shall be codified as a separate chapter.

Sec. 22. NEW SECTION. PURPOSE. The purpose of this chapter is to impose an excise tax upon the use within this state of fuel to power railway vehicles.

Sec. 23. NEW SECTION. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Fuel" means a combustible gas or liquid suitable for the generation of power for the propulsion of railway vehicles, except that it does not include motor fuel as defined in section 324.2.

2. "Department" means the department of revenue.

3. "Railway vehicle" means a vehicle designed and used primarily upon railroads for self propulsion or for propelling conveyances.

4. "Railroad company" means a person responsible for the operation of a railway vehicle within this state.

Sec. 24. NEW SECTION. TAX IMPOSED. For the privilege of operating railway vehicles in this state, an excise tax is imposed at the rate of three cents per gallon beginning October 1, 1981 and is imposed at the rate of eight cents per gallon beginning July 1, 1982 upon the use of fuel for the propulsion of a railway vehicle within the state. The tax attaches at the time of use and shall be paid monthly to the department by the railroad company using the fuel. Fuel dispensed in this state shall only be through meters which have been approved for accuracy by the department of agriculture and sealed by the department. Fuel dispensed through sealed meters shall be presumed taxable unless the railroad company proves otherwise.

Sec. 25. NEW SECTION. RAILROAD COMPANY LICENSE. A railroad company responsible for paying the tax imposed by this chapter shall obtain a license from the department. To obtain a license a railroad company shall file an

application with the department which shall include the following information:

1. The name of the railroad company.
2. The location of its principal office within the state, if any.
3. A list of each location where fuel will be dispensed on a regular basis.
4. Other information the director of revenue requires.

Sec. 26. NEW SECTION. RAILROAD COMPANY REPORTS, TAX COMPUTATION AND TAX PAYMENT. For the purpose of determining a railroad company's tax liability, each railroad company required to obtain a license under this chapter shall file with the department a monthly report. The report shall be filed by the end of the month following the month of use. The report shall include the following information:

1. The total gallons of fuel dispensed in Iowa.
2. The total gallons of fuel dispensed in Iowa and placed in railway vehicles used solely within the state during the reporting period.
3. The total gallons of fuel dispensed in Iowa for nontaxable purposes.
4. The total gallons of fuel dispensed in Iowa and placed in railway vehicles used within and without the state.
5. The total gallons of fuel dispensed outside Iowa and placed into railway vehicles traveling within and without the state.
6. Other information the director of revenue requires.

The report shall be accompanied by a payment equal to the tax due. The taxable gallons of fuel shall be computed by adding the number of gallons of fuel dispensed in Iowa and placed into railway vehicles traveling solely within the state during the reporting period and the result of multiplying the total gallons of fuel used in railway vehicles traveling within and without Iowa by a fraction the numerator of which is miles traveled in Iowa by railway vehicles traveling within and without Iowa, and the denominator of which is the total miles traveled by the same railway vehicles. The tax shall be computed by multiplying the taxable gallons times the per gallon tax rate.

7. If a railroad company believes that the method of computing the tax by the prescribed mileage formula has operated or will so operate as to subject to taxation a greater portion of fuel than is reasonably attributable to use for the propulsion of a railway vehicle in this state, it shall be entitled to file with the department a statement of objections and of such alternative method of determining fuel use in this state as it believes to be proper under the circumstances. If the department concludes that the mileage formula, in fact, does not reasonably attribute fuel use to the state, it shall redetermine the tax per gallons of fuel by such methods as seems best calculated to assign to the state the portion of fuel reasonably used in this state.

Sec. 27. NEW SECTION. RECORDS RETAINED. Records reasonably required by the department shall be retained by the railroad company for three years.

Sec. 28. NEW SECTION. STATUTES APPLICABLE. The department shall administer the taxes imposed by this chapter in the same manner as and subject to division IV of chapter 324.

Sec. 29. NEW SECTION. DEPOSIT OF REVENUES. The net proceeds of the excise tax imposed on the use of fuel in railway vehicles and any penalties collected under this chapter shall be credited to the special railroad facility fund established in section 19 of this Act.

Sec. 30. The Iowa railway finance authority in conjunction with the Iowa department of transportation shall conduct a study on the feasibility of providing rail passenger service along any portion of the trackage of the Rock Island railroad company. The report of the study shall be submitted to the Sixty-ninth General Assembly, 1982 Session, not later than January 11, 1982.

Sec. 31. Sections 22 through 29 of this Act are repealed July 1, 2008.

Sec. 32. Section 1 of this Act takes effect July 1, 1982 for delinquent property taxes collected on or after the effective date.

Sec. 33. This Act, except for section 1, being deemed of immediate importance, takes effect from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa.

Approved August 22, 1981

I hereby certify that the foregoing Act, House File 874, was published in the Muscatine Journal, Muscatine, Iowa on September 15, 1981 and in The Red Oak Express, Red Oak, Iowa on August 28, 1981.

MARY JANE ODELL, *Secretary of State*