

AN ACT concerning transportation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by changing Section 2705-440 as follows:

(20 ILCS 2705/2705-440) (was 20 ILCS 2705/49.25h)

Sec. 2705-440. Intercity Rail Service.

(a) For the purposes of providing intercity railroad passenger service within this State (or as part of service to cities in adjacent states), the Department is authorized to enter into agreements with units of local government, the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of that Division), architecture or engineering firms, the National Railroad Passenger Corporation, any carrier, any adjacent state (or political subdivision, corporation, or agency of an adjacent state), or any individual, corporation, partnership, or public or private entity. The cost related to such services shall be borne in such proportion as, by agreement or contract the parties may desire.

(b) In providing any intercity railroad passenger service as provided in this Section, the Department shall have the

following additional powers:

(1) to enter into trackage use agreements with rail carriers;

(2) to enter into haulage agreements with rail carriers;

(3) to lease or otherwise contract for use, maintenance, servicing, and repair of any needed locomotives, rolling stock, stations, or other facilities, the lease or contract having a term not to exceed 50 years (but any multi-year contract shall recite that the contract is subject to termination and cancellation, without any penalty, acceleration payment, or other recoupment mechanism, in any fiscal year for which the General Assembly fails to make an adequate appropriation to cover the contract obligation);

(4) to enter into management agreements;

(5) to include in any contract indemnification of carriers or other parties for any liability with regard to intercity railroad passenger service;

(6) to obtain insurance for any losses or claims with respect to the service;

(7) to promote the use of the service;

(8) to make grants to any body politic and corporate, any unit of local government, or the Commuter Rail Division of the Regional Transportation Authority to cover all or any part of any capital or operating costs of the service

and to enter into agreements with respect to those grants;

(9) to set any fares or make other regulations with respect to the service, consistent with any contracts for the service; and

(10) to otherwise enter into any contracts necessary or convenient to provide the service.

(c) All service provided under this Section shall be exempt from all regulations by the Illinois Commerce Commission (other than for safety matters). To the extent the service is provided by the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of that Division), it shall be exempt from safety regulations of the Illinois Commerce Commission to the extent the Commuter Rail Division adopts its own safety regulations.

(d) In connection with any powers exercised under this Section, the Department

(1) shall not have the power of eminent domain; and

(2) shall not directly operate any railroad service with its own employees.

(e) Any contract with the Commuter Rail Division of the Regional Transportation Authority (or a public corporation on behalf of the Division) under this Section shall provide that all costs in excess of revenue received by the Division generated from intercity rail service provided by the Division shall be fully borne by the Department, and no funds for operation of commuter rail service shall be used, directly or

indirectly, or for any period of time, to subsidize the intercity rail operation. If at any time the Division does not have sufficient funds available to satisfy the requirements of this Section, the Division shall forthwith terminate the operation of intercity rail service. The payments made by the Department to the Division for the intercity rail passenger service shall not be made in excess of those costs or as a subsidy for costs of commuter rail operations. This shall not prevent the contract from providing for efficient coordination of service and facilities to promote cost effective operations of both intercity rail passenger service and commuter rail services with cost allocations as provided in this paragraph.

(f) Whenever the Department is required to enter into an agreement with any carrier for the payment of railroad maintenance expenses necessary for intercity passenger service, the Department may deposit funds in an escrow account. For purposes of this subsection, an escrow account means a fiduciary account established with (i) any banking corporation which is both organized under the Illinois Banking Act and authorized to accept and administer trusts in this State, or (ii) any national banking association which has its principal place of business in this State and which also is authorized to accept and administer trusts in this State. The funds in the escrow account may be withdrawn by the carrier in control of the railroad being maintained only with the consent of the Department, pursuant to a written maintenance agreement and

pursuant to a maintenance plan that shall be updated each year. The moneys deposited in the escrow accounts shall be invested and reinvested, pursuant to the direction of the Department, in bonds and other interest bearing obligations of this State, or in such accounts, certificates, bills, obligations, shares, pools or other securities as are authorized for the investment of public funds under the Public Funds Investment Act. Escrow accounts created under this subsection shall not have terms that exceed 20 years. At the end of the term of an escrow account, the remaining balance shall be deposited in the State Treasury. The Department shall prepare a report for presentation to the Comptroller and the Treasurer each year that shows the amounts deposited and withdrawn, the purposes for withdrawal, the balance, and the amounts derived from investment.

(Source: P.A. 94-807, eff. 5-26-06.)

Section 99. Effective date. This Act takes effect upon becoming law.