

1 AN ACT concerning State government.

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

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

7 (20 ILCS 2705/2705-440) (was 20 ILCS 2705/49.25h)

8 Sec. 2705-440. Intercity Rail Service.

9 (a) For the purposes of providing intercity railroad
10 passenger service within this State and throughout the United
11 States, the Department is authorized to enter into agreements
12 with any state, state agency, units of local government or
13 political subdivisions, the Commuter Rail Division of the
14 Regional Transportation Authority (or a public corporation on
15 behalf of that Division), architecture or engineering firms,
16 the National Railroad Passenger Corporation, any carrier, or
17 any individual, corporation, partnership, or public or private
18 entity. The cost related to such services shall be borne in
19 such proportion as, by agreement or contract the parties may
20 desire.

21 (b) In providing any intercity railroad passenger service
22 as provided in this Section, the Department shall have the
23 following additional powers:

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

3 (1.5) to freely lease or otherwise contract for any
4 purpose any of the locomotives, passenger railcars, and
5 other rolling stock equipment or accessions to any state
6 or state agency, public or private entity, or quasi-public
7 entities;

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

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

20 (4) to enter into management agreements;

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

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

26 (7) to promote the use of the service;

1 (8) to make grants to any body politic and corporate,
2 any unit of local government, or the Commuter Rail
3 Division of the Regional Transportation Authority to cover
4 all or any part of any capital or operating costs of the
5 service and to enter into agreements with respect to those
6 grants;

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

10 (10) to otherwise enter into any contracts necessary
11 or convenient to provide rail services, operate or
12 maintain locomotives, passenger railcars, and other
13 rolling stock equipment or accessions, including the lease
14 or use of such locomotives, railcars, equipment, or
15 accessions.

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

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

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

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

3 (e) Any contract with the Commuter Rail Division of the
4 Regional Transportation Authority (or a public corporation on
5 behalf of the Division) under this Section shall provide that
6 all costs in excess of revenue received by the Division
7 generated from intercity rail service provided by the Division
8 shall be fully borne by the Department, and no funds for
9 operation of commuter rail service shall be used, directly or
10 indirectly, or for any period of time, to subsidize the
11 intercity rail operation. If at any time the Division does not
12 have sufficient funds available to satisfy the requirements of
13 this Section, the Division shall forthwith terminate the
14 operation of intercity rail service. The payments made by the
15 Department to the Division for the intercity rail passenger
16 service shall not be made in excess of those costs or as a
17 subsidy for costs of commuter rail operations. This shall not
18 prevent the contract from providing for efficient coordination
19 of service and facilities to promote cost effective operations
20 of both intercity rail passenger service and commuter rail
21 services with cost allocations as provided in this paragraph.

22 (f) Whenever the Department enters into an agreement with
23 any carrier, ~~state or state agency, any public or private~~
24 ~~entity, or quasi-public entity~~ for ~~either~~ the Department's
25 payment of such railroad required maintenance expenses
26 necessary for intercity passenger service ~~or for the lease or~~

1 ~~use of locomotives, passenger railcars, and other rolling~~
2 ~~stock equipment or accessions,~~ the Department may deposit such
3 required maintenance funds into an ~~, use fees, or rental~~
4 ~~payments into any~~ escrow account. Whenever the Department
5 enters into an agreement with any State or State agency, any
6 public or private entity or quasi-public entity for the lease,
7 rental or use of locomotives, passenger railcars, and other
8 rolling stock equipment or accessions, the Department may
9 deposit such receipts into a separate escrow account. For
10 purposes of this subsection, an escrow account means any
11 fiduciary account established with (i) any banking corporation
12 which is both organized under the Illinois Banking Act and
13 authorized to accept and administer trusts in this State, or
14 (ii) any national banking association which has its principal
15 place of business in this State and which also is authorized to
16 accept and administer trusts in this State. The funds in any
17 required maintenance escrow account may be withdrawn by the
18 carrier or entity in control of the railroad being maintained,
19 only with the consent of the Department, pursuant to a written
20 maintenance agreement and pursuant to a maintenance plan that
21 shall be updated each year. The funds ~~Funds~~ in an escrow
22 account holding lease payments, use fees, or rental payments
23 may be withdrawn by the Department, only with the consent of
24 the Midwest Fleet Pool Board and deposited into the High-Speed
25 Rolling Stock Fund. ~~to be used or expended on acquisition,~~
26 ~~offsets, overhaul fees, or costs of locomotives, railcars,~~

1 ~~equipment or accessions, including any future equipment~~
2 ~~purchase, expenses, fees, or costs, or any other purpose~~
3 ~~permitted or required by the escrow agreement or any other~~
4 ~~agreement regarding disbursement of funds.~~ The moneys
5 deposited in the escrow accounts shall be invested and
6 reinvested, pursuant to the direction of the Department, in
7 bonds and other interest bearing obligations of this State, or
8 in such accounts, certificates, bills, obligations, shares,
9 pools or other securities as are authorized for the investment
10 of public funds under the Public Funds Investment Act. Escrow
11 accounts created under this subsection shall not have terms
12 that exceed 20 years. At the end of the term of an escrow
13 account holding lease payments, use fees, or rental payments,
14 the remaining balance shall be deposited in the High-Speed
15 Rail Rolling Stock Fund, a special fund that is created in the
16 State Treasury. Moneys in the High-Speed Rail Rolling Stock
17 Fund may be used for any purpose related to locomotives,
18 passenger railcars, and other rolling stock equipment. The
19 Department shall prepare a report for presentation to the
20 Comptroller and the Treasurer each year that shows the amounts
21 deposited and withdrawn, the purposes for withdrawal, the
22 balance, and the amounts derived from investment.

23 (g) Whenever the Department enters into an agreement with
24 any carrier, State or State agency, any public or private
25 entity, or quasi-public entity for costs related to
26 procurement and maintenance of locomotives, passenger

1 railcars, and other rolling stock equipment or accessions, the
2 Department shall deposit such receipts into the High-Speed
3 Rail Rolling Stock Fund. Additionally, the Department may make
4 payments into the High-Speed Rail Rolling Stock Fund for the
5 State's share of the costs related to locomotives, passenger
6 railcars, and other rolling stock equipment.

7 (Source: P.A. 100-773, eff. 1-1-19.)