

SB2861



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2861

Introduced 1/24/2012, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-440

was 20 ILCS 2705/49.25h

Amends the Department of Transportation Law of the Civil Administrative Code of Illinois. Provides that whenever the Department of Transportation 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. Defines "escrow account". Contains provisions governing the use and withdrawal of escrow account funds, fund term limits, and reporting requirements. Effective immediately.

LRB097 13770 HEP 58328 b

A BILL FOR

1 AN ACT concerning transportation.

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 (or as part of service to
11 cities in adjacent states), the Department is authorized to
12 enter into agreements with units of local government, the
13 Commuter Rail Division of the Regional Transportation
14 Authority (or a public corporation on behalf of that Division),
15 architecture or engineering firms, the National Railroad
16 Passenger Corporation, any carrier, any adjacent state (or
17 political subdivision, corporation, or agency of an adjacent
18 state), or any individual, corporation, partnership, or public
19 or private entity. The cost related to such services shall be
20 borne in such proportion as, by agreement or contract the
21 parties may desire.

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

1 following additional powers:

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

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

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

16 (4) to enter into management agreements;

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

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

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

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

1 and to enter into agreements with respect to those grants;

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

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

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

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

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

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

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

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

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

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

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

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