TRI-STATE HIGH SPEED RAIL LINE COMPACT

Act 230 of 1988

AN ACT to provide for entering into the tri-state high speed rail line compact.

History: 1988, Act 230, Imd. Eff. July 8, 1988

The People of the State of Michigan enact:

462.81 Tri-state high speed rail line compact.

Sec. 1.

The tri-state high speed rail line compact is enacted into law and entered into with all jurisdictions legally joining as parties, in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

There is created the tri-state high speed rail line compact. The party states acknowledge that it is within the public interest to develop a high speed rail line to provide faster and more frequent rail service in the Detroit-Chicago corridor. The party states also recognize that the development of a high speed rail line requires the awarding of a contract to the private sector for the development of the line in the Detroit-Chicago corridor to provide more economic and efficient transportation in the states of Michigan, Illinois, and Indiana.

It is the policy of the party states to enter into a tri-state high speed rail line compact for the purpose of:

a. Providing the instrument and framework for a cooperative effort.

b. Protecting the health and safety of the citizens in development and management of the tri-state high speed rail line.

c. Accepting and reviewing proposals from the private sector.

d. Reviewing proposals to determine compliance with rules, regulations, and laws on the federal, state, and local levels.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "Commission" or "tri-state high speed rail commission" means the high speed rail advisory commission created pursuant to this compact which shall have as its members representatives from the states of Michigan, Indiana, and Illinois. The commission is composed of members from the states participating in the development of the high speed rail line from Detroit to Chicago.

b. "Corridor" or "Detroit-Chicago corridor" means the area between Detroit and Chicago within which a high speed rail line is to be located. The corridor shall run between the general geographic areas established by the proposal submitted to the commission.

c. "Cost" means any cost of construction or acquisition of a high speed rail line, including finance charges, interest, provision for working capital, reserves for principal and interest, contributions in aid of construction, expenses necessary to determine the feasibility of a proposed high speed rail line, and all other costs necessary for placing the high speed rail line in operation.

d. "Developer" or "contractor" means a person who presents a proposal to the commission for the high speed rail line. The developer shall be responsible for the construction of the high speed rail line right-of-way and enter into joint development agreements with local political subdivisions for acquiring use or ownership of property as transit stations, transit station appurtenant buildings, and ancillary facilities.

e. "Development" or "joint development" means the planning, management, financing, or construction of projects adjacent or physically, functionally, or otherwise related to a high speed rail line to establish improved areas in order to effect the policy and purposes of this compact, pursuant to agreements between any person or other entity, public or private.

f. "Facility" means a structure or improvement on or appurtenant to the land which is being developed for the high speed rail line.

g. "High speed rail line", "high speed rail line system", or "tri-state high speed rail line" means any mass commuting high speed fixed guideway transportation system capable of operating at speeds in excess of 100 miles per hour. A high speed rail line includes a corridor and structures essential to the operation of the line, including land, structures, improvements, rolling stock, rights-of-way, easements, rail lines, rail beds, guideway structures,

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stations, platforms, switches, yards, terminals, parking lots, power relays, switching houses, transit stations, transit station appurtenant buildings, ancillary facilities, and any other facilities or equipment used or useful for the purposes of high speed rail transportation construction, operation, or maintenance, or the financing of high speed rail transportation. Each of the facilities of a high speed rail line shall fall within 1 of the following categories: rail line, transit station, transit station appurtenant building, or ancillary facility.

h. "Local political subdivision" means a municipality in which any part of the high speed rail line is proposed to be located.

i. "Municipality" means a city, village, township, or county.

j. "Party state" means a state which enacts the compact into law and which subsequently becomes part of the agreement with the other states for construction of the high speed rail line.

k. "Person" means an individual, corporation, partnership, or association.

l. "Proposal" means the documents submitted by a contractor to the commission for construction of a proposed high speed rail line. The proposal shall provide all needed specifications information for construction of the high speed rail line and any related facilities, as well as financial and operational disclosures. The proposal shall clearly state the terms and conditions of the agreement detailing commencement of performance, phases of construction, financial arrangements, amendment procedures, termination of contract, subcontracting, assignments, breach of contract actions, penalties, and any other terms that the commission considers appropriate and necessary.

m. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

ARTICLE III. THE COMMISSION

a. There is hereby created the tri-state high speed rail line advisory commission which shall include representatives from the party states of Michigan, Indiana, and Illinois. The commission consists of 15 voting members with powers to bind their respective states by their words or actions. The state of Michigan has 10 members plus 1 advisory nonvoting member from the house of representatives appointed by the speaker of the house and 1 advisory nonvoting member from the senate appointed by the senate majority leader, Illinois 4 members, and Indiana 1 member. The governor of each party state shall notify the persons appointed to the commission and any alternates in writing. An alternate may act on behalf of the member only in the member's absence. The method of selection of the members appointed by the governors of the respective states, and the expenses of each commission member, shall be the responsibility of the member's respective state. The commission may include as advisory members or a state may include as part of its representation on the commission members of the interstate rail passenger advisory council.

b. Each commission member is entitled to 1 vote. An action of the commission is not binding unless approved by a majority of the total membership with members from at least 2 of the states constituting the majority.

c. The commission shall elect among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws, rules, and policies which are not inconsistent with this compact.

d. The commission shall meet at least once quarterly and shall also meet upon the call of the chairperson or a commission member.

e. All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to high speed rail transportation systems.

g. The office of the commission shall be in a party state. The commission may appoint or contract for and compensate a limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

h. The commission may accept any donations, grants of money, equipment, supplies, materials, and services from any state, the United States, any political subdivision, an interstate agency, or from any person. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor or lender, shall be retained by the commission.

ARTICLE IV. PROPOSAL EVALUATIONS

a. The tri-state high speed rail commission shall be responsible for the evaluation of proposals from potential contractors as determined by its bylaws for development and construction of the high speed rail line. The commission shall determine the breakdown of both public and private costs involved in the development and construction of the high speed rail line. Each state's representatives shall use appropriate departments and bureaus to assist in the evaluation of the proposals.

b. The commission shall determine if the applicant's qualifications are sufficient to develop a high speed rail line between Detroit and Chicago. The commission shall determine whether the contractor can meet certain minimal financial requirements, can meet certain construction capabilities, can meet specification requirements, and has

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suitable management operations to develop a high speed rail line system and make recommendations to the governors of each state based on its determinations.

c. The commission shall submit recommendations for the technology for the main corridor to the governors of the respective states.

d. The commission may recommend proposed forms of financial aid or incentives that may be provided by each state and the federal government.

e. Proposals submitted by contractors to the commission shall include a clear and precise delineation of the proposed route, station locations, fares, schedules of operation, technology to be used, and revenue sources including land development.

f. The commission shall insure that any staff assisting the commission in the evaluation of the proposals abides by all existing state laws and budget procedures of the respective states.

g. The commission shall make recommendations for overall policies and procedures relating to the high speed rail line for the states of Indiana, Michigan, and Illinois.

h. The commission may accept proposals from potential contractors for 6 months after the first formal meeting of the commission. The commission shall then evaluate and make recommendations to the governors of the respective states on the proposals not later than 6 months after the last proposal has been accepted. The governors of the respective states shall approve or disapprove the proposal. If the governors approve the proposal, the governors shall develop all appropriate executive and legislative proposals necessary to implement development of the high speed rail line. If the governors disapprove the proposal, the governors, by unanimous consent, may direct the commission to accept new or revised proposals within a timetable as set by the governors. The commission shall be disbanded 2 years after its first formal meeting.

ARTICLE V. REIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to insure the potential development of the high speed rail line and its facilities in a manner consistent with this compact.

b. Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

c. Each party state shall encourage and promote developmental projects to support the potential development of the high speed rail line.

d. Each party state shall adopt reciprocal legislation and agreements in order to carry out the purposes of this compact.

ARTICLE VI. OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any federal statute or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred by congress.

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact.

3. Affects any administrative or judicial proceeding pending on the effective date of this compact.

4. Alters the relations between and the respective internal responsibility of the government of a party state and its political subdivisions.

b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

c. No law, rule, or regulation of a party state or of any of its political subdivisions or instrumentalities may be applied in a manner which discriminates against a contractor.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, TERMINATION

a. Eligible parties to this compact are the states of Michigan, Illinois, and Indiana.

b. An eligible state becomes a party state when the state enacts the compact into law and pays a membership fee if required by the bylaws.

c. The commission is formed upon the appointment of commission members. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall, if required, cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

d. Any party state may withdraw from this compact either by repealing the authorizing legislation or by withdrawing from the compact within 2 years after the date the party state entered into the compact. A state which withdraws shall give notice in writing of the withdrawal to the commission and to the governor of each party state.

e. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the commission pursuant to its bylaws. Revocation takes effect 1 year after the date the affected party state received written notice from the commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising before revocation continue until they are fulfilled. The

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chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the commission to the governor of the affected party state, all other governors of the party states, and the congress of the United States, if necessary.

f. This compact becomes effective upon enactment by the 3 party states and, if required, consent to this compact by congress. If consent is required, the congress shall have an opportunity to withdraw its consent every 5 years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional 5-year period.

g. The withdrawal of a party state from this compact under section d of this article or the suspension or revocation of a state's membership in this compact under section e of this article does not affect the applicability of this compact to the remaining party states.

ARTICLE VIII. PENALTIES

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable. If any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or its applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected. If any provision of this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the state affected as to all severable matters.

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