

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Nelson

SENATE BILL 605

"AN ACT TO ESTABLISH A STATE RAIL TRANSPORTATION POLICY; TO AUTHORIZE RAILROADS TO UNDERTAKE CHANGES IN THEIR RAIL OPERATIONS AND RAIL TRANSPORTATION SYSTEMS NECESSARY FOR THE EFFICIENT OR ECONOMICAL OPERATION OF THEIR TRANSPORTATION SYSTEMS WITH PROVISIONS MADE FOR AN AFFECTED SHIPPER TO CHALLENGE ANY SUCH ACTION TAKEN OR PROPOSED AND ESTABLISHING THE NATURE AND EXTENT OF THE REVIEW OF ANY SUCH CHALLENGED ACTION; PROVIDING FOR APPEAL FROM ACTION BY THE TRANSPORTATION COMMISSION; REPEALING LAWS IN CONFLICT, INCLUDING WITHOUT LIMITATION, ACT 149 OF 1907, AS AMENDED; FOR OTHER PURPOSES; AND DECLARING AN EMERGENCY."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The State of Arkansas recognizes that the United States of America has determined that because of changes and developments over the years, many laws and regulations affecting the railroad industry have become inefficient, unnecessary or obsolete, and has established a policy of permitting competition and the demand for services to determine reasonable rates for rail transportation and minimizing insofar as possible the regulatory control over the nation's rail transportation system ("Rail Transportation Policy"). The Congress has directed the Federal Government to cooperate with the several states to the end that the United States and the various states, and their respective regulatory agencies, pursue similar policies. The General Assembly of the State of Arkansas finds that the adoption of a policy consistent with the Rail Transportation Policy (adopted by the United States and specified above) will be in the best interest of the railroads operating in this State, their customers and the general public, and therefore, adopts the Rail Transportation Policy.

SECTION 2. In furtherance of the State's Rail Transportation Policy, any railroad operating in this State, without first applying to the Arkansas Transportation Commission (the "Commission") for permission to so act, and subject to the provisions of this Section, shall have the authority to establish, modify, consolidate, abandon, alter, change or discontinue any agency station, spur, sidetrack, platform, equipment, real and personal property, rail service and rail facility of every kind and nature in this State as, in its reasonable discretion, is necessary for the efficient or economical operation of its transportation system (including, without limitation, taking advantage of state-of-the-art computers and other technological equipment for operating all or part of their interstate and intrastate rail systems to the end of operating competitively and furnishing food transportation service to shippers and users). Any rail shipper affected by any such action by a railroad may petition the Commission within thirty (30) days after such action shall have been taken or proposed, for an order, to be entered after a hearing, requiring the railroad to rescind such action. In acting upon any such petition by an affected shipper, the Commission shall sustain the action taken or proposed by the railroad unless the shipper shall establish at the hearing that the railroad acted arbitrarily and without any substantial basis in fact for its action.

SECTION 3. Any party to a proceeding before the Commission hereunder who shall be aggrieved by an Order issued by the Commission in such proceeding may obtain a review of such Order in the Circuit Court of Pulaski County, and thereafter in the Supreme Court of Arkansas as now or hereafter provided by law.

SECTION 4. All laws and parts of laws in conflict herewith, including without limitation, Act 149 of 1907, as amended, and Section 10 of Act 571 of 1919, as amended, are hereby repealed.

SECTION 5. The provisions of this Act are hereby declared to be several and if any section, phrase or provision hereof should be declared invalid for any reason, the remaining sections, phrases and provisions shall continue in full force and effect.

SECTION 6. It is hereby found and declared that railroads operating in this State have a significant and favorable impact on the economy of the entire State and the welfare of the State's citizens and residents, and that it is essential that the railroads be permitted to operate in the most efficient manner possible in order to meet competition and furnish good service to shippers and users; and that in order to accomplish these goals (essential to the welfare of the State and its citizens and residents) the provisions of this Act must be made effective immediately. Now, therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval.

