

CHAPTER 222

RAILWAYS, UTILITIES; GENERAL PROVISIONS

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NOTE: For penalties for the violation of provisions of this chapter, see section 235.13.

222.01 SALE AND LEASE OF AIR RIGHTS AFFECTING PUBLIC SERVICE CORPORATIONS. Before any air rights over or affecting the property or easements of any railway company or other public utility company are leased, sold, acquired or used, application shall be made to the commissioner of transportation for permission to acquire or use such rights. The commissioner is hereby authorized to hear said application and to determine whether or not such permission shall be granted; provided, that in all cases where said air rights are within the corporate limits of cities of the first class, said rights shall only be acquired, held or used with the consent of the common council or other governing body of such city.

[1931 c 300 s 1; 1971 c 25 s 67; 1976 c 166 s 111] (7501-11)

222.02 [Repealed, 1957 c 658 s 3]

222.025 RIGHT OF WAY, EASEMENTS, PROCEDURE. Subdivision 1. Any railroad company desiring a right-of-way over any state owned land, except tax forfeited land, may make application therefor to the state agency charged by law with jurisdiction over such land. The application shall be in such form as the state agency to which application must be made prescribes. If such agency, with the approval of the executive council of the state of Minnesota, determines that it is in the public interest that the right of way be granted, the governor shall execute and deliver to such railroad company an instrument in writing conveying an easement for right of way purposes over the land designated by such agency, with the approval of said executive council. Said easement shall continue so long as the land which is subject thereto shall be occupied by the railroad company for railroad purposes. Every such easement shall reserve to the state all minerals and mineral rights of whatever nature, with the right to enter upon said land to explore for such minerals at any time, and the right to enter upon said land to mine and remove the same upon six months' written notice from the state to the railroad company, provided, however, that the state agency shall negotiate for a new location for said railroad right of way, if needed by the railroad, over state land and when a new location has been procured, the railroad company

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shall promptly move to the new location. If such written notice is given, the railroad company shall, without any cost or obligation to the state, remove its railway and other structures from the land for which the easement was given; and all property, of whatever nature, not removed by said railroad company within said six month period shall become, upon the expiration of said period, the absolute property of the state. Upon the expiration of said period, all right, title and interest of the railroad company in and to such easement shall terminate and revert to the state without the doing of any act by the state except the giving of the aforesaid notice. If such easement ceases to be used by the railroad company for railroad purposes, the interest of the railroad company also shall terminate and revert to the state, without the doing of any act by the state. As the consideration for the granting of such easement by the state, the railroad company shall pay to the state treasurer the fair market value of the land which is subject to the easement, or that amount which is fixed by the constitution and laws of this state as the minimum price for the sale of such land, whichever is greater. No instrument conveying such easement shall be executed by the governor until said amount has been paid to the state. The fair market value shall be determined by the appraisal of the state agency charged by law with jurisdiction over said land, and shall be subject to the approval of said executive council.

Subd. 2. All sums paid to the state under subdivision 1 shall be credited by the state treasurer to the proper fund to which the land belongs.

[1957 c 658 s 1,2]

222.03 [Repealed, 1957 c 658 s 3]

222.04 SELECTION OF SWAMP LANDS. Any railroad company to whom swamp lands have been granted by the state which, by the terms of the grant, is required to make selection and receive patents therefor, shall make selections and file lists with the commissioner of finance within one year from the date when the right to select shall accrue, but not thereafter. Upon the approval of these lists by the commissioner of finance, the governor shall immediately issue deeds for the same; but if there be no swamp lands certified or patented from which such selection can be made, then such company shall have one year from and after the date of the certifying of such lands within which to make its selection. If such railway company shall neglect or refuse to make selection within the time hereinbefore specified, the right to select shall terminate, and the commissioner of finance shall forthwith select and set apart from the swamp lands of the state lying nearest such company's railway an amount of land sufficient to complete the grant, and no other or different lands than such as have been selected by the company within the time specified or set apart by the commissioner of finance shall be certified or conveyed to such company.

[*RL s 2893; 1973 c 492 s 14*] (7504)

222.05 SALES OF PUBLIC LAND BY MUNICIPAL CORPORATIONS. The governing board of any municipal corporation may grant, sell, convey, or lease any public grounds within its corporate limits to any railway corporation, subject to all the rights of the original proprietors of such grounds.

[*RL s 2894*] (7505)

222.06 PURCHASE, LEASE, OR CONTROL OF ONE ROAD BY ANOTHER. Any domestic or foreign railroad corporation may lease, purchase, or in any other way become the owner of, or may control or hold the stock of any other railroad company, when their respective roads can be lawfully connected and operated together, so as to constitute one continuous line, with or without branches. When such lease or purchase shall be made by a foreign corporation it shall not be effectual for any purpose until such corporation shall have first complied with all the laws of this state pertaining to such corporation, when it shall have the same rights, powers, privileges, and be subject to the same duties, obligations, and liabilities in respect to the railroad so leased or purchased, as pertained to such road. The corporation so leasing or purchasing shall be subject to any law of this state now in force or hereafter enacted relating to the taxation of the properties so leased or purchased. No railroad corporation shall consolidate with, lease, or purchase, or in any way become the owner or have the control of any other railroad corporation, or any of the stock or franchises thereof, which owns or controls a railroad parallel to and competing with the railroad owned or controlled by such leasing or purchasing corporation; nor shall any railroad corporation purchase or in any way become the owner of any property owned and operated by any other railroad corporation as a part of a railroad which is parallel and competing

to and with the railroad of such purchasing company; and the question whether any of such railroads are parallel or competing lines shall, at the election of the party complaining, be decided by a jury as in civil cases. Any railroad corporation which shall consolidate with, lease, or purchase, or in any other way become the owner or acquire the control of any other railroad corporation, or any of the stock or franchises thereof, which owns or controls a railroad parallel and competing with the railroad owned or controlled by such leasing or purchasing railroad corporation, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$1,000, nor more than \$20,000; and any officer of the leasing or purchasing company who shall aid, abet, or participate in any violation of this section shall be guilty of a misdemeanor.

[*RL s 2895; 1907 c 395 s 1*] (7506)

222.07 LIABILITY OF RAILROAD CORPORATION LEASING TO FOREIGN CORPORATION. Any railroad corporation organized under the laws of this state, which heretofore may have leased, or which hereafter may lease, its tracks and right of way to a foreign railroad corporation shall continue liable to any person injured in his person or property in consequence of the negligent operation over such right of way of the trains of such leasing company to the same extent as if operated by such Minnesota corporation as the owner thereof.

[*1925 c 87 s 1*] (7506-1)

222.08 CONSOLIDATION FORBIDDEN. The consolidation of the capital stock, lines, property, franchises, control, or the power of control, of two or more parallel and competing lines of railroad in the hands of any corporation, trustee, agent, or representative of any corporation, wheresoever situated, is hereby prohibited and made unlawful.

[*RL s 2896*] (7507)

222.09 CONSOLIDATION PERMITTED. Any domestic or foreign railroad corporation, upon such terms as may be agreed upon, may consolidate its stock and franchises with any other railroad corporation whose lines of railroad now or hereafter constructed within or without this state can be lawfully connected and operated with such first named corporation, so as to constitute one continuous main line, with or without branches, and admit of the passage of trains over them without break or interruption, and may become one corporation under any name selected by them. A certificate stating the terms of consolidation shall be approved by each corporation by a vote, in person or by proxy, of the stockholders owning a majority of the stock, at a regular annual meeting thereof, or at a special meeting called for that purpose by not less than 30 days' personal notice, or by published notice at its principal place of business, stating the object of such meeting, and by mailing a copy of such notice to each stockholder whose residence is known, or by the written consent of a majority of such stockholders attached to the certificate. Before such consolidation shall be effective for any purpose, a copy of the certificate thereof, and of the record of such approval or consent, and a list of the stockholders of each corporation and the number of shares held by each, duly certified by its president and secretary under its corporate seal, shall be filed for record in the office of the secretary of state of this state and of each state or territory under whose laws the corporations so consolidating were organized.

[*RL s 2897*] (7508)

222.10 RIGHTS AND DUTIES OF CONSOLIDATED CORPORATION. Upon the filing for record of these copies, such corporations shall become merged in the new corporation, which shall thereafter be known by the name agreed upon. Within this state, such corporation shall succeed to all the rights, powers, franchises, contracts, privileges, and immunities, and be subject to the same duties, liabilities, and obligations in all respects as were granted to or imposed upon the original corporations; but all rights of creditors and all liens upon the property of either of the consolidating corporations shall be preserved unimpaired, and all the debts, liabilities, and duties of either shall thenceforth attach to the new corporation, and be enforceable to the same extent and in the same manner as if such debts, liabilities, and duties had been originally incurred by it. Such corporation shall be subject to the laws of this

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state and the jurisdiction of its courts in the same manner and to the same extent as domestic corporations.

[*RL s 2898*] (7509)

222.11 METHOD OF COMBINATION. Any domestic railroad company authorized by law to consolidate its property and franchises, or any portion thereof, with the property and franchises or any portion thereof of another railroad company, or to purchase the railroad property and franchises, or any part thereof, of another railroad company, may effect such consolidation or purchase by acquiring the stock, bonds, or other securities of such other railroad company, and for the special purpose of acquiring the same may create, issue, or dispose of its own stock, bonds, or other securities, in addition to the amounts it is otherwise authorized to issue, to an amount not exceeding the actual value of the stock or bonds of such other company acquired by it. It may also create, issue, and dispose of such amounts of stock for any other authorized purpose as the board of directors may find necessary. Prior to the issue of any stock under the provisions of this section, the corporation shall file with the secretary of state a duly authenticated resolution of its board of directors, stating the number and par value of the shares so to be issued and the purpose of such issue. No railroad company shall sell its capital stock for less than its full par value in money, property, work, or services, and no such company shall issue or sell any stock or do any act prohibited by any other law relating to such matters.

[*RL s 2899*] (7510)

222.12 AID IN CONSTRUCTION OF CONNECTING ROADS. Any domestic railroad corporation, heretofore or hereafter organized, may aid any other railroad corporation in the construction of its road, by subscription to its capital stock or otherwise, for the purpose of forming a connection with such other railroad; or any railroad corporation may lease or purchase any part or all of a railroad constructed by any other corporation whose lines of road are continuous or connected but not parallel with its own, upon any agreed terms and conditions; or any two or more railroad corporations whose lines are so connected may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects of, their organization; but no such aid shall be furnished, nor any purchase, lease, or other arrangement perfected, until a meeting of the stockholders of each such corporation shall have been had, and the holders of at least two-thirds of the stock represented at such meeting, in person or by proxy, and voting thereat, shall have assented thereto.

[*RL s 2900*] (7511)

222.13 BONDS; FUNDING INDEBTEDNESS. Any domestic railroad corporation may borrow money, execute its bonds or promissory notes therefor, and secure payment thereof by mortgage or pledge of its property or income, or both; but the amount of its indebtedness or liability, exclusive of that so secured, shall not at any one time exceed two-thirds of the amount of its capital or the amount specified in its certificate of incorporation. Such corporation may issue bonds and promissory notes in lieu and in payment of outstanding bonds, bearing such rate of interest as may be agreed upon, and, if the certificate of incorporation so provides, one or more persons selected by the holders of such bonds may be admitted into the board of directors upon such terms and conditions and under such regulations as may be agreed upon between the corporation and its bondholders or their trustees.

[*RL s 2901*] (7512)

222.14 [Repealed, 1973 c 652 s 2]

222.141 MORTGAGES AND DEEDS OF TRUST. In any case where any domestic or foreign telegraph or telephone company has mortgaged or executed deeds of trust of the whole or any part of its property or franchises and has issued its corporate bonds secured by such mortgages or deeds in compliance with section 300.10, such mortgages, deeds of trust and bonds are hereby legalized and made valid and effectual for all intents and purposes without regard to the rate of interest borne by such bonds.

[1973 c 652 s 1]

222.15 ROLLING STOCK; LIEN FOR PURCHASE MONEY. In any contract for the purchase and sale of railroad equipment or rolling stock, whether deliverable at once or at future stated times, by the terms of which the purchase money is to be

paid wholly or partly after such delivery, it may be agreed that the title to such property shall not pass to the vendee until the purchase price shall have been fully paid, or that the vendor shall have and retain a lien thereon for the unpaid purchase money, notwithstanding delivery thereof. The term of credit for purchase money shall not exceed 15 years from the execution of the contract.

[*RL s 2903; 1921 c 206 s 1*] (7514)

222.16 LEASE; CONDITIONAL SALE. In any contract for the leasing of railroad equipment or rolling stock, the parties may stipulate for a conditional sale thereof at the termination of such lease, that the rentals, as paid or when paid in full, may be treated and applied as purchase money, and that the title to such property shall not vest in the lessee or vendee until the purchase money shall have been fully paid, subject to the proviso in section 222.15.

[*RL s 2904*] (7515)

222.17 EQUIPMENT TRUSTS COVERING RAILWAY ROLLING STOCK; REQUISITES OF VALIDITY. Every equipment trust covering railway rolling stock shall be acknowledged by the railroad as in the case of a conveyance of land, and shall be filed for record with the secretary of state and with the county recorder of the county in which, at the time of its execution, the principal office or place of business of the railroad is situated in this state. Upon compliance with this section, such equipment trust covering railway rolling stock shall be valid and effectual, both in law and equity, against all purchasers and creditors.

[*RL s 2905; 1965 c 812 s 1; 1976 c 181 s 2*] (7516)

222.18 RECORD; NOTICE. Subdivision 1. **Recording certain mortgages.** A mortgage or deed of trust covering real property in whole or in part to secure a debt executed by a railroad, telegraph or telephone company shall be recorded with the secretary of state, and in the office of the county recorder of each county through which the railroad, telegraph or telephone line runs, or in which it may hold land. To secure the right of all parties interested under such mortgage or deed so executed and recorded, the personal property belonging or appertaining thereto shall be deemed a part of the line and, notwithstanding the provisions of the uniform commercial code, the record of such mortgage or deed shall be notice of the rights of all parties in the real and personal property covered thereby.

Subd. 2. **Mortgages heretofore recorded.** Any instrument described in subdivision 1 heretofore recorded as provided therein shall be deemed to have been validly recorded and to be notice of the rights of the parties thereto in the real and personal property covered thereby.

[*RL s 2906; 1945 c 250; 1965 c 812 s 2; 1976 c 181 s 2*] (7517)

222.19 PREFERRED AND SPECIAL STOCK AND INCOME CERTIFICATES. Any domestic railroad corporation may create, issue, and dispose of special and preferred stock and income certificates to such amounts, in such form, and for such purposes as may be determined by its board of directors, with the assent of the holders of at least three-fourths in amount of its then outstanding common capital stock. No increase of any special or preferred stock or of any income certificates shall be made without the assent thereto of the holders of three-fourths in amount of the special or preferred stock or income certificates to be affected by such issue, as the case may be.

[*RL s 2907*] (7518)

222.20 HOLDERS OF BONDS MAY VOTE FOR DIRECTORS. Such corporation, in such manner, under such regulations, and to such extent as may be prescribed by its board of directors and assented to by the holders of at least two-thirds in amount of its then outstanding common capital stock, may confer upon the holders of bonds or other obligations issued to evidence or secure its indebtedness, or upon the holders of its special or preferred stock, or of its income certificates, or of any particular class thereof, or upon all or any of them, the right to vote for directors, and to choose from the stockholders, special, preferred, or common, or from the holders of the bonds or income certificates of such corporation, one or more members of its board of directors.

[*RL s 2908*] (7519)

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222.21 AGREEMENT AS TO CONTROL OF PROPERTY. Any domestic railroad corporation may enter into an agreement with the holders of its bonds or other obligations issued to evidence or secure its indebtedness, or with the holders of any particular class of such bonds or obligations, or with the holders of its special or preferred stock or income certificates, or with any particular class or portion thereof, in relation to the sale, lease, or control of the property and franchises of such corporation which shall receive the assent of the holders of two-thirds in amount of each class of special, preferred, and common stock and then outstanding income certificates, at a meeting of the holders of such stocks and certificates called for that purpose in the same manner as other stockholders' meetings are called; but a certificate of such assent, under the corporate seal, and a certified copy of the agreement so assented to, shall be filed with the secretary of state within 30 days after the meeting at which such assent was given, and a copy of the agreement shall be printed upon, or attached to, the class of bonds or other obligations, or the special or preferred stock or income certificates with the holders of which such agreement has been made, and also printed upon or attached to the certificates of common stock.

[*RL s 2909*] (7520)

222.22 SUBSCRIPTION BOOKS; COMMENCEMENT OF WORK. The incorporators named in any certificate of incorporation, at the first annual meeting, or at a time designated by them before such meeting, may obtain books for subscription to the capital stock of such corporation, under such regulations as they shall prescribe; and when sufficient stock has been subscribed to justify the same, and the first instalments thereon paid in, the incorporators or directors may order work commenced, and they shall thereby become invested with all the rights, privileges, and franchises conferred by this chapter.

[*RL s 2910*] (7521)

222.23 UNPAID AND FICTITIOUS STOCK. No domestic railroad corporation or consolidated corporation existing in whole or in part within this state, nor any officer thereof, shall sell, dispose of or pledge any shares of its capital stock, or issue any certificates of shares thereof until such shares have been paid in full, or issue any stock or bonds except for money, labor or property, to the par value of the stock and the market value of the bonds, not less than 90 percent of the par value thereof, actually received and applied to the purpose for which the corporation was organized; and all fictitious stock, dividends, increase of capital stock or indebtedness shall be void. Every officer who shall issue, sell, pledge, or dispose of any shares or certificates of shares of capital stock contrary to the provisions hereof shall be guilty of a felony.

[*RL s 2911; 1913 c 384 s 1*] (7522)

222.24 MAY EXERCISE FRANCHISE ELSEWHERE. Every domestic railroad corporation may exercise all its rights, franchises, and privileges in any other state or country, subject to the laws thereof, and may also exercise therein any other or additional powers applicable to such corporation under the laws of such state or country.

[*RL s 2914*] (7523)

222.25 CONNECTION WITH OTHER ROADS. Any railroad company, in the location of its line of road, may cross, intersect, join, or unite its railroad with the constructed railroad of any other company at any point on its route. If the corporations cannot agree upon the amount of compensation to be paid therefor, the same shall be ascertained and determined by condemnation proceedings under the right of eminent domain, as in other cases; and, in case such companies shall disagree as to the place and manner of such crossing or connection, the district court, at the time of appointing commissioners in such condemnation proceedings, upon application of either party, shall prescribe the location and manner in which such crossing or connection shall be made, so as to effect the purpose of the petitioner and do the least injury to the owner. When such order is made, the petitioner, upon filing with the clerk a bond in such amount as shall be accepted by the owner, or as shall, upon reasonable notice, be approved by the judge of the court, conditioned to prosecute the petition with diligence and to pay the owner the amount adjudged by the court in such proceeding and to abide the order of such court in the matter, may immediately proceed to make and operate such crossing or connection.

[*RL s 2915*] (7524)

222.26 RIGHT OF WAY OVER PUBLIC WAYS. When, in the location of any railroad, it becomes necessary to occupy any road, street, alley, or other public way, the municipal corporation or other public authority owning or having charge thereof and the railroad company may agree upon the manner, terms, and conditions in and upon which the same may be used or occupied, or such corporation may appropriate so much of the same as shall be necessary by condemnation proceedings under the right of eminent domain.

[*RL s 2916*] (7525)

222.27 POWER TO ACQUIRE PROPERTY. Every foreign and domestic railroad corporation shall have power to acquire, by purchase or condemnation, all necessary roadways, spur and side tracks, rights of way, depot grounds, yards, grounds for gravel pits, machine shops, warehouses, elevators, depots, station houses, and all other structures necessary or convenient for the use, operation, or enjoyment of the road, and may make with any other railroad company, such arrangements for the use of any portion of its tracks and roadbeds as it may deem necessary.

[*RL s 2917; 1913 c 502 s 1*] (7526)

222.28 EXTENSIONS AND BRANCHES. Any railroad corporation may extend its road from any point named in its charter or certificate of incorporation, or may build branch railroads from any point on its own line, or on the line of any other railroad connecting or to be connected with its road, whenever it shall have secured the use of such other road between such points and the connection with its own road by lease or agreement for a term not less than ten years from its date. Before making such extension or building such branch road, such corporation shall designate the route thereof by resolution of its board of directors or as provided in section 222.32. Such resolution shall be entered in its records, and a duly certified copy thereof and a plat or map signed and verified by its president and secretary filed for record with the secretary of state; whereupon such corporation shall have and exercise all the rights, powers, franchises, and privileges over such extension or branch that it has over its main line. Nothing herein shall apply to street railways.

[*RL s 2918*] (7527)

222.29 CONTRACTOR'S BOND; LIABILITY OF COMPANY. Any railway contracting for the construction or repair of its road shall take from the contractor a sufficient bond, conditioned that he will pay all laborers, mechanics, and other persons performing any part of the work, all just debts due them or incurred in carrying on such work, which bond or a certified copy thereof shall be filed with the county recorder of each county where any part of the work is done. All persons to whom such contractor shall be indebted for any such work, and such railway company in case it shall have paid any debt, claim, or demand as hereinafter provided, may bring an action on such bond for the price of such work or amount of such payment. If the contractor giving the bond shall fail to pay any indebtedness for such work or services; or, if any railway company shall fail to take and file such bond, such company shall be liable for the amount of all such debts incurred by such contractor under or pursuant to such contract. Such laborers, mechanics, or other persons shall give the notice and take the action prescribed in section 222.30.

[*RL s 2919; 1976 c 181 s 2*] (7528)

222.30 LIABILITY OF COMPANY AFTER NOTICE. When a contractor or subcontractor employed by a railway company in the construction or repair of its railway shall be indebted to any laborer or mechanic for services rendered, such railway company shall be liable to pay such laborer or mechanic the amount of such debt, provided he shall have given notice of his claim to such company within 60 days after the debt accrued. Such notice shall be in writing, specify the particular nature and amount of the debt, claim, or demand, and be delivered to the secretary or chief engineer of such company, or to the engineer in charge of the construction or repairing of that portion of the road upon which such labor was performed, either personally or by leaving the same at the office or usual place of business of such secretary or engineer; but no action shall be maintained against any railway company under the foregoing provisions unless the same shall be commenced within 60 days after the service of notice as aforesaid.

[*RL s 2920*] (7529)

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222.31 ALTERATION OF ROUTE. The board of directors of any railroad corporation, by a vote of two-thirds of their whole number, may alter the route of their road, or any part of the road, or any extension or branch thereof as constructed, when they are of opinion that the line can be improved thereby; but no railroad, whether in the hands of the original incorporators or of any other person or corporation, shall be diverted from any county, town or city which in its corporate capacity shall have extended aid to such road, without the consent of such municipality. Such consent shall be evidenced by a vote of two-thirds of the legal voters of such municipality, at an election held for that purpose. No such alteration shall be made in any city after the road shall have been constructed therein, unless the same shall have been sanctioned by a vote of two-thirds of the governing body of such municipality. Before making any such alteration, unless the route is designated as provided in section 222.32, the board of directors shall designate the route thereof by a resolution entered in its records and filed for record with the secretary of state.

[*RL s 2921; 1973 c 123 art 5 s 7*] (7530)

222.32 ALTERATIONS AND EXTENSIONS OF ROUTE; BRANCHES. Any railroad company existing in whole or in part under the laws of this state or authorized to own and operate a railroad in this state may, by an affirmative vote of at least two-thirds of its directors, empower its president and chief engineer to designate the route of any extension or branch of its road, and of any alteration of its line or route, but before making or building any such extension or branch or alteration, or condemning any land therefor, the president and chief engineer of the railroad company shall in writing, by map, courses and distances, or otherwise, designate the route thereof and, after having certified to the correctness thereof, file such writing so certified with the secretary of the railroad company, who shall record the same in a book to be by him kept for such purposes, and the railroad company shall obtain a copy of that record, duly certified by its president and secretary and attested by its seal, and file such certified copy with the secretary of state, to be by him recorded, and thereupon such corporation shall have the same right to make any and all such alterations and to build any and all such extensions and branches as it would have if it had been authorized so to do by its charter or articles of incorporation.

[*RL s 2922*] (7531)

222.33 TO KEEP GENERAL OFFICE IN STATE. Every domestic railroad corporation shall establish an office at some point within this state, on the line of its road, to be known as its general office, and keep in such office some officer or agent, upon whom service of all legal process against such company may be made, and who shall be authorized to hear and determine all questions relating to its current business arising within the state. There shall be kept in such office at all times the original minutes of the board of directors or executive committee, and a list of its stockholders, or a true copy thereof, corrected from time to time so as to show all transfers and changes.

[*RL s 2923*] (7532)

222.34 LAND GRANT RAILROAD COMPANIES. Every land grant railroad company shall keep at some public office within this state the originals, or copies, of all books, papers, and records of every description relating to lands sold, contracted, encumbered, or owned by it, so as to show clearly all material matters connected with its grant and the management of its lands. Such books and papers shall be open to inspection by the commissioner of finance, the commissioner of transportation, or any agent appointed by the governor for that purpose. Every such corporation failing to comply with the provisions of this section and section 222.33 shall forfeit to the state \$500 for each month it shall fail to maintain the offices specified therein or either of them. Proceedings to recover such forfeiture shall be prosecuted by the attorney general in the name of the state.

[*RL s 2924; 1971 c 25 s 67; 1973 c 492 s 14; 1976 c 166 s 112*] (7533)

222.35 ANNUAL MEETINGS, HOW CALLED; WHO MAY VOTE. Every domestic railroad corporation shall annually call and hold a meeting of its stockholders, for the purpose of electing directors and transacting any other business which may lawfully be done thereat. Such meeting shall be called and held in the manner and at the time, if any, prescribed in its charter or certificate of incorporation or in its by-laws. When no time is fixed in the charter, certificate, bylaws, or by statute, such

meeting shall be held on the first Monday of June at a place on the line of its road. Four weeks' published notice of the time and place of meeting shall be given by the secretary in the county of its principal place of business. If for any reason the secretary shall fail to give such notice, the same may be given by any director. The stockholders attending such meeting may organize and by a majority vote of those present elect directors and transact all other business proper to be done at its annual meeting. At any meeting of stockholders they may vote in person or by proxy issued within the preceding year, and any person or class of persons having by law a right to vote for directors shall be deemed stockholders for the purposes of this section.

[*RL s 2925*] (7534)

222.36 RIGHT OF EMINENT DOMAIN IN CERTAIN CASES. Any public service corporation shall have the right to obtain by condemnation, under the right of eminent domain, any land, or any right over, through, or across the same, or any easement therein, necessary for the convenient prosecution of its enterprise; and any telegraph or telephone company may in the same manner acquire the right to construct its lines over, along, and upon the right of way and lands of any railway company upon making just compensation therefor to such company; but such right shall at all times be subject to the right of the railway company to use its right of way and lands for railway purposes, and these telegraph or telephone lines shall be so located, constructed, and maintained as not to interfere with the usual operation of such railway.

[*RL s 2926*] (7535)

222.37 PUBLIC ROADS; USE, RESTRICTION. Subdivision 1. Any water power, telegraph, telephone, pneumatic tube, community antenna television, or electric light, heat, or power company may use public roads for the purpose of constructing, using, operating, and maintaining lines, subways, canals, or conduits, for their business, but such lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along or over the same; and, in the construction and maintenance of such line, subway, canal, or conduit, the company shall be subject to all reasonable regulations imposed by the governing body of any county, town or city in which such public road may be. Nothing herein shall be construed to grant to any person any rights for the maintenance of a telegraph, telephone, pneumatic tube, community antenna television system, light, heat, or power system within the corporate limits of any city until such person shall have obtained the right to maintain such system within such city or for a period beyond that for which the right to operate such system is granted by such city.

Subd. 2. Any corporation or any person or persons engaged in transportation within this state as a carrier of gas, liquids, or solids in suspension by pipe line or pipe lines may use trunk highways or highways forming a part of the interstate system for the purpose of constructing, using, operating and maintaining such pipe lines under and across such highways for their business, but such pipe lines shall be located on such highway crossings as to in no way interfere with the safety and convenience of ordinary travel along or over the same; and, in the construction, use, operation and maintenance of the pipe line crossing, the company or owner shall be subject to all regulations imposed by the governing body of any county, town or city in which such highway may be. Any permit hereunder granted to such carrier or owner shall be subject to such rules and regulations as may be prescribed with respect to such crossings by the commissioner of transportation pursuant to and in accordance with section 161.45.

[*RL s 2927; 1911 c 57 s 1; 1951 c 261 s 1; 1971 c 699 s 1; 1973 c 123 art 5 s 7; 1973 c 568 s 20; 1976 c 166 s 7*] (7536)

222.38 IN CITIES OF FIRST CLASS; POWERS AND DUTIES. In every city of this state, now or hereafter having a population exceeding 50,000, into or through which two or more commercial steam railways may pass, and in which each or two or more of such commercial steam railways may maintain separate and independent passenger stations at different points within such city, or in which the union passenger depot facilities furnished and provided by such railways are insufficient and inadequate to meet the needs and comfort, or insure the safety, health, and convenience of the traveling public, a body corporate may be formed for the purpose of supplying the means and doing the work necessary to acquire sufficient lands, and of erecting, constructing, and maintaining a union passenger depot, so situated, as to location, and of such dimensions, and so equipped, as to adequately meet all the reasonable require-

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ments of passengers entering or departing from such city over any of such commercial steam railways.

Any such corporation, when organized pursuant to the power hereby granted, shall possess all the rights, powers and privileges, and be subject to all the duties and liabilities of railway corporations under the laws of this state, and shall also be subject to the regulation and control of the commissioner of transportation as provided in sections 222.39 to 222.45.

[1911 c 102 s 1; 1971 c 25 s 67; 1976 c 166 s 113] (7537)

222.39 HOW INCORPORATED; CERTIFICATE; SUBSCRIPTION TO STOCK.

Fifteen or more citizens of this state, desiring to form a corporation for such purposes, may make and subscribe a certificate of incorporation, in which shall be set forth the names and residences of the incorporators, the name of the corporation, which shall embrace the words "Union Depot," and also the name of the city in which it is proposed to erect such union depot, with such other word or words as such incorporators may select, the amount of the capital stock of such corporation, a full statement of the objects and purposes of said incorporation, the duration of the existence of the corporation, the number of persons who shall compose its board of directors, and such other things as are required to be stated in such certificate of incorporation by section 300.025.

Such certificate of incorporation shall be executed in the same manner as is required by section 300.025, and published, filed, and recorded in the same manner as is required of other corporations by sections 300.06 and 300.07, and be subject to the payment of the same fees for the organization of such corporation as is required of other corporations.

The corporation shall not be authorized to exercise the powers, rights, and privileges herein granted with reference to the taking and condemnation of property until one-fourth of its capital stock has been subscribed for by bona fide, unqualified subscriptions, until at least ten percent of the amount so subscribed has been paid in cash into the hands of the treasurer of the corporation, and until all the provisions of section 222.40 have been fully complied with.

[1911 c 102 s 2] (7538)

222.40 MAPS, PLATS, AND DRAWINGS; DUTIES OF COMMISSIONER.

When a corporation has been organized by complying with the foregoing provisions it shall, within three months thereafter cause to be filed with the commissioner of transportation maps, plats, and drawings showing the real property to be taken by said corporation for its use, also the location, dimensions, and general plans of the building, sheds, tracks, and approaches to be built by said corporation on the lands so designated. The commissioner shall thereupon examine the maps, plans, and drawings for the purpose of determining whether they meet the reasonable requirements of the city for the purpose of a union depot, and shall, within 30 days after the filing, render a decision thereon. In case the commissioner shall find the maps, plans, and drawings inadequate for the purposes herein provided, it shall so find and point out in detail such inadequacies; and the corporation shall, within 60 days thereafter, so alter its plans and drawings as to conform to the direction of the commissioner; and when so altered to comply with such direction, the commissioner shall thereupon forthwith issue an order approving the maps, plats, and drawings; and thereupon such corporation may exercise the powers, rights, and privileges herein conferred to the exclusion of all other persons or corporations.

[1911 c 102 s 3; 1971 c 25 s 67; 1976 c 166 s 114] (7539)

222.41 INADEQUATE FACILITIES; COMPLAINT BY RAILROAD; POWERS OF COMMISSIONER AND DISTRICT COURT. If, at any time after such union depot shall be completed and opened for the use of the railroads and the public, any railroad using the same shall claim that the facilities afforded it by the corporation, maintaining any such union depot, are inadequate for the proper discharge of its business as a public carrier, it shall make a complaint in writing, specifying the particulars of its claim, and file the same with the commissioner, who shall thereupon give notice by mailing a copy of such complaint to the corporation operating and maintaining any such union depot;

Within 20 days after the service of such complaint by the commissioner, the corporation maintaining any such union depot shall make and file its answer thereto with

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the commissioner, and thereupon the matter shall be at issue and ready for a hearing before and determination by the commissioner;

If, upon a hearing the charges shall be sustained, the commissioner shall thereupon make an order directing such changes to be made as will meet the requirements of the business of the complaining railroad;

In case any corporation maintaining such union depot shall fail, for 30 days after notice of such order, to begin the changes ordered by the commissioner, the district court of the county within which any such union depot is located, shall have jurisdiction to compel the corporation to comply with the order or orders of the commissioner.

[1911 c 102 s 4; 1971 c 25 s 67; 1976 c 166 s 115] (7540)

222.42 ACQUISITION OF PROPERTY; EMINENT DOMAIN. Any such corporation is hereby expressly authorized and empowered to acquire by contract, deed or other conveyance, any and all property, including lands, depots, depot grounds, tracks, bridges, and appurtenances which it may deem necessary, convenient or expedient for the purposes of such union depot.

Any such corporation, after its incorporation shall have been completed as hereinbefore provided, shall be vested with the power of eminent domain; and, in the exercise of such power, it is hereby authorized to take and condemn any and all lands, grounds, or other property which may be necessary to or convenient for the location and construction of any such union depot and the tracks incident thereto, and also any and all depots, depot grounds, tracks, bridges, or other property of any railroad, even though such depots, depot grounds, tracks, bridges, or other property may be by such railroad used by it or others for railroad purposes.

The purposes of such union depot are hereby declared a paramount public use to which any and all other public uses to which any property may be dedicated by any commercial steam or other railroad shall be subservient.

When it shall be or become necessary for any such corporation to acquire any of the properties hereinbefore described by the exercise of the power of eminent domain hereby granted, it shall proceed according to the provisions of chapter 117 and any such corporation is hereby invested with all the powers therein granted and also the additional powers herein granted.

[1911 c 102 s 5] (7541)

222.43 BORROWING MONEY. To enable a corporation organized pursuant to sections 222.38 to 222.45 to provide the means necessary to enable it to fulfill the purposes for which it was created, it shall have power, and it is hereby authorized, after its incorporation shall have been completed, as hereinbefore provided, to borrow such money as it may need, not exceeding 80 percent of the actual total cost of the property acquired and work to be done; and, for such purposes, it is further hereby authorized and empowered to place upon any and all of its property, however acquired, mortgages, or trust deeds to secure the repayment of any such sums of moneys as it may borrow.

[1911 c 102 s 6] (7542)

222.44 RATES TO BE PAID BY RAILROADS; POWER OF COMMISSIONER; PAYMENTS. Each railway making use of such union passenger depot shall pay for its use, to the corporation maintaining the same, in proportion to the amount or extent of such use which shall be computed upon a wheelage basis, or such other basis as the commissioner may determine as just and reasonable.

In the use of any such union depot all commercial railways shall stand upon an equal right as to any such use, and any favoritism to, or discrimination against, any railway company in that respect is hereby expressly forbidden and declared to be unlawful.

The rate or rates to be paid by any and all of the railroads for the use of such union depot shall be fixed and determined by the commissioner, and shall be computed by it on such a basis as will produce, in the aggregate, a sum sufficient to pay the interest upon the bonds issued and secured by trust deeds or mortgages on the property of any such corporation; the cost of operation, maintenance, repairs and renewals; all taxes, assessments, or charges, either levied or assessed by the public authorities on said property; and a dividend upon the par value of the capital stock of

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any such corporation not exceeding six percent per annum.

In addition to the foregoing, there shall be set aside each year out of the earnings of the corporation, a sum not exceeding two percent of the bonded indebtedness as a sinking fund.

On the first day of each month, or as soon thereafter as may be practicable, any such union depot company shall furnish each railroad, using the facilities of such union depot, with a statement of account, showing the sums due by it for the previous month on the basis fixed by the commissioner, and the sum so due from each railroad to such union depot company for such use for such preceding month, shall be due and payable on or before the twentieth of the month in which such statement is rendered, and shall be paid by each railroad to such union depot company.

[1911 c 102 s 7; 1971 c 25 s 67; 1976 c 166 s 116] (7543)

222.45 RAILROAD FAILING TO USE; POWERS AND DUTIES OF COMMISSIONER AND ATTORNEY GENERAL. If any railroad entering into or passing through any city wherein a union depot has been built pursuant to sections 222.38 to 222.45, shall neglect or refuse to use the same upon the terms and conditions prescribed in sections 222.38 to 222.45, such neglect or refusal shall be made known in writing by such union depot corporation to the commissioner, who shall thereupon order the railroad complained against to show cause before him why an order should not be issued by the commissioner requiring the railroad to make use of such union depot according to the provisions of sections 222.38 to 222.45, and any such union depot company shall also be given notice of the time and place of such hearing. If, at the time and place so fixed, it shall appear that facilities have been provided by such union depot company for use of such union depot by such railroad, and that such facilities are reasonably adequate to care for the business of the railroad, then the commissioner shall order the railroad to make exclusive use of the union depot according to the intent and purpose of sections 222.38 to 222.45.

If such railroad shall neglect or refuse to obey the order of the commissioner, the commissioner shall certify the facts in such case to the attorney general, and thereupon it shall be the duty of the attorney general to proceed against such railroad in the district court of the county in which such union depot may be located, to compel performance by such railroad of such order by appropriate proceeding.

[1911 c 102 s 8; 1971 c 25 s 67; 1976 c 166 s 117] (7544)

222.46 RAIL SERVICE IMPROVEMENT ACT; PURPOSE. The legislature finds and determines that integrated transportation systems, including railways, highways and airways, are necessary in order to meet the economic and energy needs of the citizens of the state, both now and in the future. The legislature finds that a portion of the present railroad system in the state does not provide adequate service to citizens of the state. The legislature further finds and determines that it is in the best interest of the state to establish and fund a rail service improvement program and to establish a railroad planning process in order to preserve and improve essential rail service in the state.

[1976 c 204 s 1]

222.47 CITATION. Sections 222.46 to 222.54 may be cited as the Minnesota rail service improvement act.

[1976 c 204 s 2]

222.48 DEFINITIONS. Subdivision 1. As used in sections 222.46 to 222.54, the terms defined in this section shall have the meanings given them herein.

Subd. 2. "Department" means the state planning agency.

Subd. 3. "Director" means the director of the state planning agency.

Subd. 4. "Rail line" means railroad roadbeds, track, track structure, and other appurtenances of railroad right-of-way.

Subd. 5. "Rail service" means rail transportation and local rail service.

Subd. 6. "Rail users" means shippers, consignors or other business entities that depend upon or benefit from the movement of goods and products by means of rail service.

[1976 c 204 s 3]

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222.49 RAIL SERVICE IMPROVEMENT ACCOUNT. The rail service improvement account is created in the special revenue fund in the state treasury. The director shall deposit all money appropriated to or received by the department for the purpose of rail service improvement, including federal money, in this account. All money so deposited is appropriated to the department for expenditure for rail service improvement in accordance with applicable state and federal law. This appropriation shall not lapse but shall be available until the purpose for which it was appropriated has been accomplished. No money appropriated to the department for the purposes of administering the rail service improvement program shall be deposited in the rail service improvement account nor shall such administrative costs be paid from the account.

[1976 c 204 s 4]

222.50 RAIL SERVICE IMPROVEMENT PROGRAM. Subdivision 1. There is created the rail service improvement program to provide assistance for improvement of rail service in the state.

Subd. 2. The director shall identify those rail lines that have deteriorated or are in danger of deteriorating so as to be unable to carry the speeds and weights necessary to efficiently transport the goods and products moved or sought to be moved on the lines.

Subd. 3. The director shall have the power to:

(a) Set priorities for the allocation of money or in kind contributions to railroads according to criteria developed by the director. The criteria shall include the anticipated economic and social benefits to the state and to the area being served;

(b) Negotiate and enter into contracts for rail line rehabilitation or other rail service improvement;

(c) Disburse state and federal money for rail service improvements;

(d) Adopt rules necessary to carry out the purposes of sections 222.46 to 222.54.

Subd. 4. The director may negotiate and enter into contracts for the purpose of rail line rehabilitation. The participants in these contracts shall be railroads, rail users and the department, and may be political subdivisions of the state and the federal government. In such contracts, participation by all parties shall be voluntary. The director may provide a portion of the money required to carry out the terms of any such contract by expenditure from the rail service improvement account.

Subd. 5. In making any contract pursuant to subdivision 2 the director may:

(a) Stipulate minimum operating standards for rail lines designed to achieve reasonable transportation service for shippers and to achieve best use of funds invested in rail line rehabilitation;

(b) Require a portion of the total assistance for improving a rail line to be loaned to the railroad by rail users and require the railroad to reimburse rail users for any loan on the basis of use of the line and the revenues produced when the line has been improved;

(c) Determine the terms and conditions under which all or any portion of state funds allocated shall be repaid to the department by the railroads. Reimbursement may be made as a portion of the increased revenue derived from the improved rail line. Any reimbursement received by the department pursuant to this clause shall be deposited in the rail service improvement account and shall be appropriated exclusively for rehabilitating other rail lines in the state pursuant to subdivision 4; and

(d) Require, in lieu of reimbursement as provided in clause (c) of this subdivision, that the railroad establish and maintain a separate railroad fund to be used exclusively for rehabilitation of other rail lines in Minnesota, to which a portion of the increase in revenue derived from the improved rail line shall be credited. The terms and conditions for use of money in the fund shall be stipulated in the contract. The contract shall also stipulate a penalty for use of such money in a manner other than as set forth in the contract and require the railroad to report to the department at such times as the director requires, concerning the disbursement of money from the fund and the general status of rail line improvements.

[1976 c 204 s 5]

222.51 PARTICIPATION BY POLITICAL SUBDIVISIONS. The governing body of any political subdivision of the state may with the approval of the director appro-

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priate money for rail service improvement and may participate in the state rail service improvement program.

[1976 c 204 s 6]

222.52 COOPERATION BETWEEN STATES. The director may cooperate with other states in connection with the rail service improvement program and the railroad planning process. In exercising the authority conferred by this section, the director may enter into contractual agreements with other states.

[1976 c 204 s 7]

222.53 ACCEPTANCE OF FEDERAL MONEY. The director may exercise those powers necessary for the state to qualify for, accept, and disburse any federal money that may be made available pursuant to the provisions of the federal rail revitalization and regulatory reform act of 1976, including the power to:

(a) Establish an adequate plan for rail service in the state as part of an overall planning process for all transportation services in the state, including a suitable process for updating, revising, and amending the plan;

(b) Administer and coordinate the plan with other state agencies, and provide for the equitable distribution of resources;

(c) Develop, promote, and support safe, adequate and efficient rail transportation services; employ qualified personnel; maintain adequate programs of investigation, research, promotion and development, with provisions for public participation; and take all practical steps to improve transportation safety and reduce transportation related energy utilization and pollution;

(d) Adopt and maintain adequate procedures for financial control, accounting and performance evaluation in order to assure proper use of state and federal money;

(e) Do all things otherwise necessary to maximize federal assistance to the state under the federal rail revitalization and regulatory reform act of 1976.

[1976 c 204 s 8]

222.54 ACCESS TO INFORMATION. The director may request any railroad to provide such information as is reasonably necessary to carry out the purposes of sections 222.46 to 222.54. After a reasonable time to comply with the request, the director may make final demand for the requested information. If the information is not provided within 60 days of final demand the director may issue a subpoena to compel production of the information. The director shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

[1976 c 204 s 9]