

CHAPTER 222

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PROPERTY INTERESTS

222.01 AIR RIGHTS AFFECTING PUBLIC SERVICE COMPANY.

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.

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

222.02 [Repealed, 1957 c 658 s 3]

222.025 RIGHT-OF-WAY, EASEMENT, PROCEDURE.

Subdivision 1. **Application; mineral rights.** Any railroad company desiring a right-of-way over any state-owned land, except tax-forfeited land, may make application there-

for 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 commissioner of administration 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 commissioner of administration. 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 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 commissioner of administration.

Subd. 2. **Sums paid to state.** 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.

History: 1957 c 658 s 1,2; 1Sp1985 c 17 s 11

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.

History: (7504) RL s 2893; 1973 c 492 s 14

222.05 MUNICIPAL TRANSFER OF PUBLIC LAND.

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.

History: (7505) RL s 2894

222.06 PROPERTY TRANSACTION BETWEEN COMPETITORS; PENALTIES.

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 \$3,000, nor more than \$35,000; 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.

History: (7506) *RL s 2895; 1907 c 395 s 1; 1984 c 628 art 3 s 11*

222.07 LIABILITY FOR 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 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.

History: (7506-1) *1925 c 87 s 1; 1986 c 444*

FINANCIAL AND CORPORATE PRACTICES**222.08 WHEN 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.

History: (7507) *RL s 2896*

222.09 WHEN 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 no-

tice, 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.

History: (7508) *RL s 2897*

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

History: (7509) *RL s 2898*

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.

History: (7510) *RL s 2899*

222.12 AID IN CONSTRUCTION OF CONNECTING ROAD.

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.

History: (7511) *RL s 2900*

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.

History: (7512) *RL s 2901*

222.14 [Repealed, 1973 c 652 s 2]**222.141 MORTGAGE OR DEED 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.

History: 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.

History: (7514) *RL s 2903; 1921 c 206 s 1*

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.

History: (7515) *RL s 2904*

222.17 EQUIPMENT TRUST COVERING ROLLING STOCK.

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.

History: (7516) *RL s 2905; 1965 c 812 s 1; 1976 c 181 s 2*

222.18 RECORDING DEED OR MORTGAGE.

Subdivision 1. **Recording required; procedure; notice.** 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. **Mortgage previously recorded; notice.** 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.

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

222.19 PREFERRED AND SPECIAL STOCK, INCOME CERTIFICATE.

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.

History: (7518) *RL s 2907*

222.20 RIGHT TO 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.

History: (7519) *RL s 2908*

222.21 AGREEMENT ON 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.

History: (7520) *RL s 2909*

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 installments 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.

History: (7521) *RL s 2910*

222.23 UNPAID AND FICTITIOUS STOCK; PENALTY.

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.

History: (7522) *RL s 2911; 1913 c 384 s 1*

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.

History: (7523) *RL s 2914*

ACQUIRING PROPERTY, RIGHT-OF-WAY

222.25 CONNECTION WITH OTHER ROAD.

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.

History: (7524) *RL s 2915*

222.26 RIGHT-OF-WAY OVER PUBLIC WAY.

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.

History: (7525) *RL s 2916*

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.

History: (7526) *RL s 2917; 1913 c 502 s 1*

222.28 EXTENSION OR BRANCH.

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.

History: (7527) *RL s 2918*

RAILROAD LINES

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 the contractor 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.

History: (7528) *RL s 2919; 1976 c 181 s 2; 1986 c 444*

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 the laborer or mechanic shall have given notice of the 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.

History: (7529) *RL s 2920; 1986 c 444*

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.

History: (7530) *RL s 2921; 1973 c 123 art 5 s 7*

222.32 ALTERATION OR EXTENSION 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 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 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.

History: (7531) *RL s 2922; 1986 c 444*

CORPORATE POWERS AND DUTIES

222.33 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.

History: (7532) *RL s 2923*

222.34 LAND GRANT RAILROAD COMPANY.

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.

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

222.35 ANNUAL MEETING OF STOCKHOLDERS; VOTING.

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 bylaws. 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.

History: (7534) *RL s 2925*

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.

History: (7535) *RL s 2926*

222.37 PUBLIC ROAD; USE, RESTRICTION.

Subdivision 1. **Use requirements.** Any water power, telegraph, telephone, pneumatic tube, pipeline, community antenna television, cable communications or electric light, heat, power company, or fire department may use public roads for the purpose of constructing, using, operating, and maintaining lines, subways, canals, conduits, hydrants, or dry hydrants, 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, conduit, hydrants, or dry hydrants, 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. If the governing body does not require the company to obtain a permit, a company shall notify the governing body of any county, town, or city having jurisdiction over a public road prior to the construction or major repair, involving extensive excavation on the road right-of-way, of the company's equipment along, over, or under the public road, unless the governing body waives the notice requirement. A waiver of the notice requirement must be renewed on an annual basis. For emergency repair a company shall notify the governing body as soon as practical after the repair is made. 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, cable communications system, or light, heat, power system, or hydrant 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. **Pipeline.** Any corporation or any person or persons engaged in transportation within this state as a carrier of gas, liquids, or solids in suspension by pipeline or pipelines may use trunk highways or highways forming a part of the interstate system for the purpose of constructing, using, operating and maintaining such pipelines under and across such highways for their business, but such pipelines 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 pipeline 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 as may be prescribed with respect to such crossings by the commissioner of transportation pursuant to and in accordance with section 161.45.

History: (7536) *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; 1983 c 329 s 1; 1985 c 248 s 70; 1991 c 99 s 2; 1996 c 455 art 3 s 32*

222.38 [Repealed, 1980 c 460 s 32]

222.39 [Repealed, 1980 c 460 s 32]

222.40 [Repealed, 1980 c 460 s 32]

222.41 [Repealed, 1980 c 460 s 32]

222.42 [Repealed, 1980 c 460 s 32]

222.43 [Repealed, 1980 c 460 s 32]

222.44 [Repealed, 1980 c 460 s 32]

222.45 [Repealed, 1980 c 460 s 32]

RAIL SERVICE IMPROVEMENT

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.

History: *1976 c 204 s 1*

222.47 CITATION.

Sections 222.46 to 222.54 may be cited as the Minnesota Rail Service Improvement Act.

History: *1976 c 204 s 2*

222.48 DEFINITIONS.

Subdivision 1. **Scope.** 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.** "Department" means the department of transportation.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of transportation.

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

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

Subd. 6. **Rail users.** "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.

Subd. 7. **Federal rail service continuation program.** "Federal rail service continuation program" means any federal program created under the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law Number 94-210, as amended.

History: *1976 c 204 s 3; Ex1979 c 1 s 30*

222.49 RAIL SERVICE IMPROVEMENT ACCOUNT; APPROPRIATION.

The rail service improvement account is created in the special revenue fund in the state treasury. The commissioner shall deposit in this account all money appropriated to or re-

ceived by the department for the purpose of rail service improvement, including bond proceeds as authorized by article XI, section 5, clause (i) of the Minnesota Constitution. 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.

History: 1976 c 204 s 4; Ex1979 c 1 s 45; 1981 c 338 s 2; 1982 c 600 s 3; 1989 c 299 s 5

222.50 RAIL SERVICE IMPROVEMENT PROGRAM.

Subdivision 1. **Creation.** There is created the rail service improvement program to provide assistance for improvement of rail service in the state.

Subd. 2. **Identifying deteriorating rail line.** The commissioner 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. **Commissioner's powers; rules.** The commissioner shall have the power to:

(a) Set priorities for the allocation and expenditure of money or in kind contributions authorized under the rail service improvement program and develop criteria for eligibility and approval of projects under the program. The criteria shall include the anticipated economic and social benefits to the state and to the area being served and the economic viability of the project;

(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; and

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

Subd. 4. **Contract.** The commissioner may negotiate and enter into contracts for the purpose of rail service improvement and may incorporate funds available from the federal rail service continuation program. 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 commissioner 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. **Contractual conditions.** In making any contract pursuant to subdivision 4 the commissioner 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) to the extent not prohibited by federal law or regulation, require that when the railroad elects to contract for portions of the rehabilitation work or rail service improvement, the railroad must select a contractor who is experienced in rail rehabilitation work, and must require the contractor to:

(1) recruit any new workers from the area where the work is to be done; and

(2) pay workers under the contract wages that are equal to or greater than the wages the railroad pays its own workers for similar work, but not less than twice the state minimum

wage that state-covered employers are required to pay under section 177.24, subdivision 1, paragraph (b).

Subd. 6. Grants. The commissioner may approve grants from the rail service improvement account for payment of up to 50 percent of the nonfederal share of the cost of any rail line project under the federal rail service continuation program.

Subd. 7. Expenditures. The commissioner may expend money from the rail service improvement account for the following purposes:

(a) to make transfers as provided under section 222.57 or to pay interest adjustments on loans guaranteed under the state rail user and rail carrier loan guarantee program;

(b) to pay a portion of the costs of capital improvement projects designed to improve rail service including construction or improvement of short segments of rail line such as side track, team track and connections between existing lines, and construction and improvement of loading, unloading, storage and transfer facilities of a rail user;

(c) to acquire, maintain, manage and dispose of railroad right-of-way pursuant to the state rail bank program;

(d) to provide for aerial photography survey of proposed and abandoned railroad tracks for the purpose of recording and reestablishing by analytical triangulation the existing alignment of the in-place track;

(e) to pay a portion of the costs of acquiring a rail line by a regional railroad authority established pursuant to chapter 398A;

(f) to pay the state matching portion of federal grants for rail-highway grade crossing improvement projects.

All money derived by the commissioner from the disposition of railroad right-of-way or of any other property acquired pursuant to sections 222.46 to 222.62 shall be deposited in the rail service improvement account.

Subd. 8. [Repealed, 1989 c 299 s 11]

History: 1976 c 204 s 5; 1977 c 347 s 36; 1978 c 667 s 9; 1978 c 793 s 67; Ex1979 c 1 s 31-34,45; 1980 c 558 s 2; 1981 c 338 s 3; 1983 c 326 s 2; 1989 c 218 s 1; 1989 c 299 s 6-8; 1992 c 581 s 16; 1994 c 635 art 1 s 20

222.51 PARTICIPATION BY POLITICAL SUBDIVISION.

The governing body of any political subdivision of the state may with the approval of the commissioner appropriate money for rail service improvement and may participate in the state rail service improvement program and the federal rail service continuation program.

History: 1976 c 204 s 6; Ex1979 c 1 s 35

222.52 COOPERATION BETWEEN STATES.

The commissioner 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 commissioner may enter into contractual agreements with other states.

History: 1976 c 204 s 7; Ex1979 c 1 s 45

222.53 ACCEPTANCE OF FEDERAL MONEY.

The commissioner 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 service continuation program, 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 service continuation program.

History: 1976 c 204 s 8; Ex1979 c 1 s 36

222.54 ACCESS TO INFORMATION.

The commissioner 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 commissioner may make final demand for the requested information. If the information is not provided within 60 days of final demand the commissioner may issue a subpoena to compel production of the information. The commissioner shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

History: 1976 c 204 s 9; Ex1979 c 1 s 45

222.545 ADVOCACY OF IMPROVED SERVICE.

The commissioner may advocate and promote improved rail service and more effective use of available rail service at a reasonable cost by: (a) providing technical assistance to rail users; (b) negotiating with persons representing the rail industry and other transportation modes; and (c) appearing on behalf of the public in the regulatory, rulemaking and other proceedings of state and federal agencies in support of improved and innovative rail service and for other purposes.

History: Ex1979 c 1 s 37

RAIL SERVICE LOANS

222.55 RAIL USER AND RAIL CARRIER LOAN GUARANTEE PROGRAM; PURPOSE.

In order to aid rail users in obtaining credit for participation in contracts for rail line and rolling stock rehabilitation, acquisition, or installation and for paying the costs of capital improvements necessary to improve rail service or reduce the impact of discontinuance of rail service, and to aid rail carriers in the rehabilitation of locomotives and the acquisition and rehabilitation of rolling stock, there is established a rail user and rail carrier loan guarantee program to provide state money in guarantee of loans made according to the provisions of sections 222.55 to 222.62.

History: 1978 c 667 s 1; Ex1979 c 1 s 38; 1994 c 635 art 1 s 21

222.56 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 222.55 to 222.62 the terms defined in this section have the meanings given.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of transportation.

Subd. 3. **Account.** "Account" means the rail user loan guarantee account created by section 222.57.

Subd. 4. **Lender.** "Lender" means any state or federally chartered bank, or in the case of revenue bonds issued under chapter 362A or 474, the municipality, county or rural development financing authority.

Subd. 5. **Loan.** "Loan" means a loan or advance of credit provided by a financial institution to (1) either a rail user or rail carrier for participation in contracts for rail line or rolling stock rehabilitation, acquisition, or installation, or for paying the costs of capital improvements necessary to improve rail service or reduce the impact of discontinuance of rail service, or (2) a rail carrier for rehabilitation of locomotives.

Subd. 6. **Guarantee.** "Guarantee" means a personal or corporate obligation to pay the loan.

Subd. 7. **Rail user.** "Rail user" has the meaning given that term in section 222.48, subdivision 6.

Subd. 8. **Rail carrier.** "Rail carrier" means a common carrier by rail engaged in rail transportation of people, goods, or products for hire.

Subd. 9. **Rolling stock.** "Rolling stock" means rail cars, machinery, and equipment used by a rail carrier to move people, goods, and products, but does not include maintenance of way equipment or tools used in the maintenance or upgrade of track.

History: 1978 c 667 s 2; Ex1979 c 1 s 39; 1994 c 635 art 1 s 22-25

222.57 RAIL USER AND RAIL CARRIER LOAN GUARANTEE ACCOUNT.

There is created a rail user and rail carrier loan guarantee account as a separate account in the rail service improvement account, which shall be used by the commissioner for carrying out the provisions of sections 222.55 to 222.62 with respect to loans insured under section 222.58. The commissioner may transfer to the rail user and rail carrier loan guarantee account from money otherwise available in the rail service improvement account whatever amount is necessary to implement the rail user and rail carrier loan guarantee program, except that bond proceeds may not be transferred to the account for insurance of loans made for the purposes specified in section 222.58, subdivision 2, paragraph (b), clauses (3) to (5). The commissioner may withdraw any amount from the rail user and rail carrier loan guarantee account that is not required to insure outstanding loans as provided in section 222.60, subdivision 1.

History: 1978 c 667 s 3; Ex1979 c 1 s 40; 1994 c 635 art 1 s 26

222.58 INSURANCE OF LOAN.

Subdivision 1. **Authorization.** The commissioner is authorized, upon application by the lender, to insure any eligible loan as provided in this section and, under such terms as the commissioner may prescribe by rule, to make commitments for insuring such loans prior to the date of their execution or disbursement.

Subd. 2. **Eligibility requirements.** A loan is eligible for insurance under this section under the following conditions:

(a) The loan shall be in an original principal amount, bear an interest rate, contain complete amortization provisions, and have a maturity satisfactory under such terms as the commissioner may prescribe by rule.

(b) The proceeds of the loan shall be used solely for

(1) participation in contracts for capital investment loans for rail line rehabilitation, acquisition, or installation;

(2) capital improvement projects designed to improve rail service or reduce the economic impact of discontinuance of rail service, and may include but are not limited to construction or improvement of short segments of rail line such as side track, team track, and connections between existing lines; and construction and improvement of loading, unloading, storage, and transfer facilities, and rail facilities of the rail users or rail carriers;

(3) rehabilitation of locomotives owned by rail carriers primarily in operation on railroad lines within the state;

(4) rehabilitation or acquisition of rolling stock owned or acquired by rail users or rail carriers operating or doing business primarily within the state; or

(5) costs of technical and inspection services related to the rehabilitation of locomotives or acquisition or rehabilitation of rolling stock.

(c) The loan agreement shall contain such terms and provisions with respect to any other matters as the commissioner may prescribe.

(d) The borrower provides a guarantee and collateral for the loan which is acceptable to the commissioner as sufficient security to protect the interests of the state.

Subd. 3. **Presumptive validity.** Any contract of insurance executed by the commissioner under this section shall be conclusive evidence of the eligibility of the loan for insurance,

and the validity of any such contract of insurance properly executed and in the hands of any approved lender shall not be contestable, except for fraud or misrepresentation on the part of the lender.

Subd. 4. Procedures upon default. Except as provided in subdivision 5, the provisions of this subdivision shall apply upon default. Within 90 days of a default on a loan, the lender shall send notice to the borrower stating that the commissioner must be notified if the default continues for another 90 days, and the consequences of that default. The lender shall send a copy of the notice to the commissioner. The lender and the borrower may agree to take any steps reasonable to assure the fulfillment of the loan obligation.

After 180 days from the initial default, if the borrower has not made arrangements to meet the obligation, the lender shall file a claim with the commissioner, identifying the loan and the nature of the default. Upon the lender's assignment, transfer, and delivery to the commissioner, within 210 days of the initial default, all rights and interests arising under the loan and any other security interests securing the loan, the commissioner shall pay to the lender from the account an amount equal to the outstanding unpaid principal indebtedness at the time of default less ten percent, plus interest at six percent per annum from the date of default. The failure of the borrower to make any payment under or as provided by any loan insured under this section shall be considered a default under the loan.

Subd. 5. Procedures upon default; revenue bond project. If the loan money is obtained by the lender through the issuance of revenue bonds under chapter 362A or 474 the provisions of this subdivision shall apply upon default. If the borrower fails to make any payment under or as provided by the loan agreement and remains in default for a period of 15 days, the trustee designated by the lender shall send a notice of the default to the commissioner and to the borrower. After 90 days from the initial default if the borrower remains in default under the loan agreement, the trustee shall file a claim with the commissioner, identifying the loan and the nature of the default. Within ten days of the assignment, transfer, and delivery to the commissioner of all the lender's rights and interests arising under the loan and any other security interests securing the loan, the commissioner shall pay to the trustee from the account an amount equal to the outstanding unpaid principal indebtedness at the time of the default less ten percent, plus interest at six percent per annum from the date of default.

Subd. 5a. Interest adjustment. A loan insured under this section that is amortized over a term of not more than ten years with equal annual installments of principal and interest and that has an interest rate exceeding seven percent per annum is eligible for an interest adjustment under this subdivision. The commissioner may pay annually to the lender a percentage of the outstanding balance due on an eligible loan at the beginning of the year equal to the difference between the interest rate on the loan and an interest rate of seven percent per annum. The percentage paid by the commissioner shall not exceed four percent. The borrower shall reimburse the commissioner for any amounts paid pursuant to this subdivision the year after the last payment is due on the loan. The obligation to reimburse the commissioner shall be a lien against any property of the borrower in which the proceeds of the loan have been invested. As a condition of receiving an interest adjustment the commissioner may require the borrower to demonstrate inability to obtain similar assistance or a low interest loan from other available sources. The commissioner may adopt by rule additional reasonable conditions or qualifications for payment of interest adjustments under this subdivision.

Subd. 6. [Repealed, 1994 c 635 art 1 s 41]

History: 1978 c 667 s 4; Ex1979 c 1 s 41,42; 1986 c 444; 1994 c 635 art 1 s 27

222.59 INVESTMENT OF FUNDS.

Money in the account not needed for the current operations of the commissioner related to insurance under section 222.58 may be deposited with the state board of investment. The board of investment may invest this money as provided for investment of moneys in the state treasury by section 11A.25. All interest and profits accruing from investment of the account's money shall be credited to and be a part of the account, and any loss incurred in the principal of the investments of the account shall be borne by the account.

History: 1978 c 667 s 5; 1980 c 607 art 14 s 46

222.60 MAXIMUM AMOUNT OF INSURANCE ISSUED.

Subdivision 1. **Related to account balance.** The commissioner shall not at any time issue insurance under section 222.58 aggregating in excess of an amount equal to the current balance contained in the account multiplied by ten.

Subd. 2. **When account balance falls.** Any insurance properly issued under the provisions of subdivision 1 and otherwise in compliance with the requirements of sections 222.55 to 222.62 shall be valid if the current balance contained in the account subsequently falls below the amount specified in subdivision 1.

History: 1978 c 667 s 6

222.61 [Repealed, 1996 c 305 art 2 s 67]

222.62 COOPERATION OF OTHER STATE AGENCIES.

Upon the request of the commissioner, the commissioner of trade and economic development and the commissioner of commerce shall provide technical assistance and shall otherwise cooperate in carrying out the provisions of sections 222.55 to 222.62.

History: 1978 c 667 s 8; 1980 c 516 s 2; 1981 c 356 s 183; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 312 art 1 s 26 subd 2

STATE RAIL BANK**222.63 ABANDONED RIGHT-OF-WAY; STATE RAIL BANK.**

Subdivision 1. **Definitions.** The terms defined in section 222.48 have the same meanings when used in this section. Other terms used in this section have the following meanings:

(a) "Abandoned," when used with reference to a rail line or right-of-way, means a line or right-of-way with respect to which the interstate commerce commission or other responsible federal regulatory agency has permitted discontinuance of rail service;

(b) "Right-of-way" means any real property, including any interest in the real property that is or has been owned by a railroad company as the site, or is adjacent to the site, of an existing or former rail line;

(c) "State rail bank" means abandoned rail lines and right-of-way acquired by the commissioner of transportation pursuant to this section.

Subd. 2. **Purpose.** A state rail bank shall be established for the acquisition and preservation of abandoned rail lines and rights-of-way, and of rail lines and rights-of-way proposed for abandonment in a railroad company's system diagram map, for future public use including trail use, or for disposition for commercial use in serving the public, by providing transportation of persons or freight or transmission of energy, fuel, or other commodities. Abandoned rail lines and rights-of-way may be acquired for trail use by another state agency or department or by a political subdivision only if (1) no future commercial transportation use is identified by the commissioner, and (2) the commissioner and the owner of the abandoned rail line have not entered into or are not conducting good-faith negotiations for acquisition of the property.

Subd. 2a. **Acquisition.** The commissioner of transportation may acquire by purchase all or part of any abandoned rail line or right-of-way or rail line or right-of-way proposed for abandonment in a railroad company's system diagram map which is necessary for preservation in the state rail bank to meet the future public and commercial transportation and transmission needs of the state. The commissioner may acquire by eminent domain under chapter 117 an interest in abandoned rail lines or rights-of-way except that the commissioner may not acquire by eminent domain rail lines or rights-of-way that are not abandoned or are owned by a political subdivision of the state or by another state. All property taken by exercise of the power of eminent domain under this subdivision is declared to be taken for a public governmental purpose and as a matter of public necessity.

Subd. 2b. **Eligible property.** An abandoned rail line or right-of-way is eligible for preservation in the state rail bank if the commissioner determines that it provides or may be used to provide one or more of the following:

- (a) access to a present or proposed major energy generating or using facility such as an electrical generating plant, major heating plant or other major industrial user of energy;
- (b) access to a major storage or terminal facility in the marketing of agricultural commodities or forest products;
- (c) important access to surrounding states;
- (d) a present or potential corridor for a pipeline, electrical transmission line, highway, transit route, rail freight or passenger line or other similar transportation or transmission use; or
- (e) access to an extractive resource requiring rail or other transportation or transmission service for its development.

Subd. 2c. **Preservation.** The commissioner shall provide for the maintenance, including control of weeds, of any rail line or right-of-way that is acquired for the rail bank, and for its management in a manner that minimizes maintenance costs and provides a benefit to the state. The commissioner may also require that any existing rail line on acquired right-of-way shall not be removed during any part or all of the period for which the right-of-way is included in the state rail bank.

Subd. 3. **Public and agency participation.** If the commissioner desires to acquire, dispose of or utilize any right-of-way which is permitted to be or has been acquired pursuant to authorization under subdivision 2, the commissioner shall publish a notice of the proposed action in the state register and in at least one newspaper of general circulation in each area where the right-of-way is located. If any person objects in writing to the proposed action within 30 days of publication of notice the commissioner shall proceed in the manner provided for a contested case. If no written objection is received the commissioner may take the proposed action only after holding a public meeting to seek public comment on the action. At least one hearing or meeting required under this subdivision shall be held in the area where the right-of-way is located.

Subd. 4. **Disposition permitted.** The commissioner may lease any rail line or right-of-way held in the state rail bank or enter into an agreement with any person for the operation of any rail line or right-of-way for any of the purposes set forth in subdivision 2 in accordance with a fee schedule to be developed by the commissioner. The commissioner may convey any rail line or right-of-way, for consideration or for no consideration and upon other terms as the commissioner may determine to be in the public interest, to any other state agency or to a governmental subdivision of the state having power by law to utilize it for any of the purposes set forth in subdivision 2.

Subd. 5. [Repealed, 1992 c 581 s 21]

Subd. 6. **Intervention in abandonment proceeding.** The commissioner may intervene in a proceeding of the interstate commerce commission on the issue of suitability for a public use of a rail line proposed to be abandoned if the commissioner finds that the right-of-way of the line would be eligible for inclusion in the state rail bank. To the extent practicable before intervening as provided in this section the commissioner shall hold at least one public meeting in the area in which the line is located to solicit opinions of interested persons concerning the commissioner's proposed action.

Subd. 7. **Rules for eligibility and procedures.** The commissioner of transportation shall adopt rules necessary to establish criteria for properties eligible for inclusion in the rail bank and to establish public procedures for acquisition and disposition of rail bank properties.

Subd. 8. **Rail bank accounts.** A special account shall be maintained in the state treasury, designated as the rail bank maintenance account, to record the receipts and expenditures of the commissioner of transportation for the maintenance of rail bank property. Funds received by the commissioner of transportation from interest earnings, administrative payments, rentals, fees, or charges for the use of rail bank property, or received from rail line rehabilitation contracts shall be credited to the maintenance account and used for the maintenance of that property and held as a reserve for maintenance expenses in an amount determined by the commissioner, and amounts received in the maintenance account in excess of the reserve requirements shall be transferred to the rail service improvement account.

All proceeds of the sale of abandoned rail lines shall be deposited in the rail service improvement account. All money to be deposited in this rail service improvement account as provided in this subdivision is appropriated to the commissioner of transportation for the purposes of this section.

The appropriations shall not lapse but shall be available until the purposes for which the funds are appropriated are accomplished.

History: 1980 c 558 s 3; 1981 c 338 s 4-7; 1982 c 424 s 60; 1986 c 444; 1988 c 686 art 1 s 71,72; 1989 c 299 s 9; 1991 c 199 art 2 s 16; 1992 c 581 s 17-19; 1994 c 635 art 1 s 28

RAILROAD PROPERTY, FIRST REFUSAL

222.631 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of sections 222.631 to 222.633, the following terms have the meanings given them.

Subd. 2. **Fair market value.** "Fair market value" means the price negotiated between the parties under section 222.632, or the market value of the property minus the value of any leasehold improvements, as determined by independent appraisers.

Subd. 3. **Leaseholder.** "Leaseholder" means a person who holds a lease, license, or permit with respect to property within a right-of-way, and who has erected eligible leasehold improvements on the property with a total fair market value of \$7,500 or more.

Subd. 4. **Railroad interest.** "Railroad interest" includes a railroad corporation, its trustee or successor in interest, a railroad corporation which is in proceedings for bankruptcy under federal law, and a nonrailroad holding corporation that owns a controlling interest in a railroad.

Subd. 5. **Right-of-way.** "Right-of-way" has the meaning given it in section 222.63, subdivision 1.

Subd. 6. **Nonrailroad lessor.** "Nonrailroad lessor" means one who has granted to a lessee an interest in property within a right-of-way and who is neither (1) an operator of a railroad on the right-of-way, nor (2) an owner of a controlling interest in or under common control with a railroad that operates on the right-of-way.

History: 1986 c 398 art 14 s 1; 1989 c 212 s 1

222.632 RIGHT OF FIRST REFUSAL.

A railroad interest that is in bankruptcy proceedings may not sell or offer for sale an interest in real property that is within the right-of-way, a railroad interest that is abandoning a railroad line may not sell or offer for sale an interest in real property within the right-of-way to be abandoned, and a nonrailroad lessor may not sell or offer for sale an interest in real property within the right-of-way with respect to which it is a nonrailroad lessor, unless it first extends a written offer to sell that interest at a fair market value price to each person who is a leaseholder with respect to the property. Leaseholders must respond to the offer within 60 days of receipt of the notice and the railroad interest must negotiate in good faith with an interested leaseholder for a period of 90 days following the leaseholder's response. After the 90-day negotiation period, either party may file a notice of dispute with the commissioner of transportation under section 222.633. The property may not be sold to a party other than the leaseholder during the response and negotiation periods or while a dispute is pending before the commissioner. This section does not apply to a sale of an entire operating railroad line by one operating railroad to another for the purpose of operating a railroad.

History: 1986 c 398 art 14 s 2; 1989 c 212 s 2; 1998 c 403 s 29

222.633 COMMISSIONER RESOLVES DISPUTE.

(a) A railroad interest or leaseholder may apply to the commissioner of transportation to resolve a dispute concerning fair market value or other terms arising from negotiations under section 222.632. The commissioner must adopt guidelines without regard to chapter 14 to

implement section 222.632 and this section. The guidelines must define the terms "leaseholders," "nonrailroad lessor," and "railroad interest," establish a procedure to resolve disputes, and provide for the use of independent appraisers. Final rules must be adopted no later than 360 days from March 22, 1986.

(b) The commissioner's decision is final for purposes of judicial review and may be reviewed in the district court for the jurisdiction where the property is located. The scope of judicial review is limited to a determination whether substantial evidence exists to support the commissioner's decision.

History: 1986 c 398 art 14 s 3; 1989 c 212 s 3; 1998 c 403 s 29

FORMER EMPLOYEES

222.64 EMPLOYMENT PREFERENCE.

Individuals who have been previously employed by railroads, whose users obtain guaranteed loans or other assistance pursuant to sections 222.46 to 222.64, shall have priority, based upon their length of service with that railroad, in employment with a purchasing carrier or other operator of a railroad benefiting from those loans or other assistance.

History: 1980 c 558 s 7

222.65 [Repealed, 1983 c 260 s 68]

222.75 [Renumbered 325E.021]

RAILROAD ACQUISITIONS, SUCCESSOR REQUIREMENTS

222.85 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 222.85 to 222.88, the following terms have the meanings given them in this section.

Subd. 2. **Acquiring carrier.** "Acquiring carrier" means a business entity that acquires by purchase, lease, or other device a line of railroad, except carriers acquiring an abandoned line, with the intent of operating it for the purpose of continuing the commercial transportation of goods or passengers over the line.

Subd. 3. **Labor organization.** "Labor organization" has the meaning given it in the Labor-Management Reporting and Disclosure Act, United States Code, title 29, section 402, and certified under the Railway Labor Act, United States Code, title 45, sections 151 to 163.

Subd. 4. **Divesting carrier.** "Divesting carrier" means a common carrier or business entity engaged in transportation of goods by rail that divests a line of railroad by sale, lease, or other device.

History: 1988 c 676 s 1

222.86 ACQUISITION REPORTING AND DISCLOSURE.

Subdivision 1. **Notice of exempt transaction.** An acquiring carrier shall submit written notification to the attorney general and the commissioner of transportation of their intent to initiate an exempt transaction under Code of Federal Regulations, title 49, section 1150, at least 14 days before filing a notice of exemption with the Interstate Commerce Commission.

Subd. 2. **Identity and financial information.** The notification must designate the complete private or corporate identity of the acquiring carrier, the complete identity of the divesting carrier, and a thorough description of the line of railroad involved.

Subd. 3. **Applicability to requirements of law.** Acquiring and divesting carriers shall attend conferences with the attorney general or the commissioner of transportation prior to filing a notice of exemption with the Interstate Commerce Commission. The divesting and acquiring carriers shall respond to questions and requests for information related to the issue of whether the proposed transaction is consistent with the requirements of the Interstate Commerce Act, other applicable federal law, and state law. Copies of the sale contract, market and feasibility studies, and full financial information as to the acquiring carrier must be provided at those conferences.

All information, submitted by the acquiring and divesting carriers as confidential, shall remain nonpublic data and private data on individuals in accordance with chapter 13 and shall not be divulged to any outside parties, except to the Interstate Commerce Commission as a part of a filing in relation to the proposed transaction. The attorney general and the commissioner of transportation shall take the necessary steps to assure confidentiality.

History: 1988 c 676 s 2

222.87 PRESERVATION OF CONTRACT, LEGAL STATUS.

Subdivision 1. **Shipping contracts.** An acquiring carrier succeeds to and is bound by the contracts, agreements, and understandings between the divesting carrier and any shipper within this state for a period equaling the stated term of the contract or six months, whichever is greater.

Subd. 2. **Government contract.** An acquiring carrier succeeds to and is bound by the contracts, agreements, and understandings between the divesting carrier and the state of Minnesota and any governmental subdivision for a period equal to the stated term of the contract, agreement, or understanding or six months, whichever is greater.

Subd. 3. **Construction.** This section does not alter, and shall not be construed to alter, the rights of all parties to renegotiate contracts under subdivisions 1 and 2 at any time mutually agreeable.

History: 1988 c 676 s 3

222.88 PRIORITY IN HIRING.

An acquiring carrier under sections 222.85 to 222.87 shall give priority in hiring, based upon length of service on the affected rail line, to employees of the divesting carrier performing service in connection with the affected rail line. To assert priority, the employee must be qualified by experience and training to perform the available job.

History: 1988 c 676 s 4