

## Carriers

### CHAPTER 218

#### COMMON CARRIERS, RAIL TRANSPORTATION

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**218.01** [Repealed, Ex1957 c 10 s 8]

#### **218.011 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter and chapters 219 and 222, the terms defined in this section have the meanings given them.

Subd. 2. [Renumbered subd 10]

Subd. 3. [Renumbered subd 12]

Subd. 4. [Renumbered subd 13]

Subd. 5. [Renumbered subd 11]

Subd. 6. [Renumbered subd 9]

Subd. 7. [Repealed, 1999 c 86 art 1 s 83]

Subd. 8. **Commission.** "Commission" means the Midwest Interstate Passenger Rail Compact Commission.

Subd. 9. **Commissioner.** "Commissioner" means the commissioner of the Department of Transportation.

Subd. 10. **Common carrier.** "Common carrier" shall mean railroad companies, except private railroads; express companies; and persons, natural or artificial, engaged in rail transportation as common carriers for hire.

Subd. 11. **Department.** "Department" means the Department of Transportation.

Subd. 12. **Railroad.** "Railroad" shall include all railways, bridges, car floats, lighters and ferries used by or operated in connection with any railroad; and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement or lease; and also all switches, spurs, tracks, terminals and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards and grounds, used or necessary in the transportation or delivery of any such property.

Subd. 13. **Transportation.** "Transportation" shall include locomotives, steam, diesel or electric powered engines, cars and other vehicles, vessels and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration, or icing, storage and handling of property transported.

**History:** *Ex1957 c 10 s 1; 1976 c 166 s 14; 1980 c 460 s 3; 1980 c 534 s 18; 1998 c 403 s 29; 2000 c 459 s 1*

**218.02** [Repealed, Ex1957 c 10 s 8]

**218.021 COMMON CARRIER, UNLAWFUL ACTS.**

Subdivision 1. **Discriminatory practices.** It shall be unlawful for any common carrier:

(1) to charge, demand, collect or receive for any service a greater or a lesser sum than that fixed in its published schedules;

(2) to make or give any undue or unreasonable preference or advantage, or any undue or unreasonable prejudice or disadvantage, to any person, company, firm, corporation, transit point or locality or to any particular description of traffic;

(3) by any special rate, rebate, drawback or other device, directly or indirectly, to charge, demand, collect or receive a greater or less compensation for any service rendered in the transportation of any property within this state than the regular established schedule of rates and charges for like and contemporaneous service for any other person, or for the public generally; or, directly or indirectly, to offer or give any shipper, in connection with or as an inducement or reward for receiving any property for transportation, any gift, gratuity or free pass or any rate less than that offered to the public;

(4) except as expressly permitted, to charge a greater rate per ton or per ton mile for a single carload of freight of any kind or class than for a greater number of carloads of the same kind or class, to and from the same points of origin or destination;

(5) to charge or receive any greater compensation for the transportation of a quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer, but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; or to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival, but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance;

(6) to charge or receive for the transportation of freight of any description for any distance within this state a greater amount than is at the same time charged or received for a like quantity of freight of the same class over a greater distance of the same railway; or to charge or receive at any point upon its road a higher rate for receiving, handling or delivering freight of the same class or quantity than it shall at the same time charge or receive to any other point upon the same line; or to charge or receive for freight of any description over its railway a greater amount than at the same time is charged or received for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or to charge or receive from any person a greater amount than it shall at the same time charge or receive from any other person for the same class and like quantity of freight at the same point upon its railway; or to charge or receive from any person for the transportation of any freight upon its railway a greater amount than it shall at the same time charge or receive from any other person for the transportation of a like quantity of freight of the same class being transported from the same point over an equal distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad for any distance, a greater amount than is at the same time charged or received from any other person for the use and transportation of any railway car of the same class or number for a like purpose being transported over a greater distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad a greater amount in the aggregate than it shall at the same time charge

or receive from any other person for the use and transportation of any railway car of the same class for a like purpose being transported from the same original point of an equal distance of the same railway; provided, however, where two or more railroads serve a common point one having a shorter mileage than the other from a given point, the railroad having the longer mileage may be authorized by the commissioner to meet the rate made by the shortest line;

(7) to charge or receive more for transporting a car of freight than is charged or received per car for several cars of a like class of freight over the same railway for the same distance; or to charge or receive more for transporting a ton of freight than is charged or received per ton for more than a ton but less than a carload of like class over the same railway for the same distance; or to charge or receive more for transporting one hundred pounds of freight than is charged or received per hundred pounds above one hundred pounds but less than a ton of like class over the same railway for the same distance.

Subd. 2. **Exceptions.** Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, persons who have taken a vow of poverty as members of a religious order, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable purposes, or for exhibition at fairs or at expositions, nor prohibit the interchange of freight transportation and message service between railroad, motor bus and telegraph companies.

**History:** *Ex1957 c 10 s 2; 1959 c 183 s 1; 1971 c 25 s 67; 1976 c 166 s 15; 1977 c 285 s 1; 1980 c 460 s 4; 1980 c 534 s 19; 1982 c 561 s 5; 1987 c 49 s 5; 1998 c 403 s 29*

### **218.025 RATES FOR SHIPPING ROAD MATERIALS.**

The commissioner may make schedules of intrastate rates for railroads for the transportation of sand, gravel, crushed rock, and other materials to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which rates may be lower than those charged for transporting the same kind of freight for all other purposes.

**History:** *1957 c 943 s 27; 1971 c 25 s 67; 1976 c 166 s 16; 1980 c 534 s 20; 1998 c 403 s 29*

**218.03** [Repealed, Ex1957 c 10 s 8]

### **218.031 COMMON CARRIER, DUTIES.**

Subdivision 1. **Notice, compliance, freight transfer, facilities, records, accounting.** Except as otherwise directed or authorized, it shall be the duty of every common carrier:

(1) to prescribe in the first instance, and to publish upon not less than 20 days' public notice in the case of new or increased rates or ten days' public notice in the case of reduced rates, in such manner as may be required by the commissioner and law, all schedules of rates and charges and classifications thereof, together with the rules governing the same, and minimum weights for transportation of freight articles between points or stations in the state, and terminal and switching charges. A new or changed contract rate shall become effective in accordance with the provisions of United States Code, title 49, section 10713. The commissioner may, for good cause, reduce the notice period specified in this clause;

(2) to comply with every duly authorized rule or directive of the commissioner except as the same may be stayed, pending appeal therefrom;

(3) to put into effect and observe all schedules of rates and charges and classifications and any amendments or changes therein duly ordered by the commissioner, except as the same may be stayed, pending appeal;

(4) to maintain as may be directed by the commissioner for public inspection at stations and depots all schedules showing all classifications, rates and charges for transportation of freight currently in force applying from such station. Such schedules shall state the places between which property will be carried and show the classification of freight, the distance tariff, a table of distances between stations, any terminal charges and any rules in any way affecting the aggregate of such rates and charges;

(5) upon request of an owner or consignor of freight to the initial company, whenever the initial line does not reach the place of destination, or the distance from the place of origin to destination may be shortened, to transfer such freight to a connecting line without change in cars if in carload lots, except such change be free of charge to the shipper and receiver; and to transfer with or without change in cars of less-than-carload lots at a reasonable joint through rate agreed upon by the connecting carriers or prescribed by the commissioner, not greater than the maximum rates allowed by law, provided any unloading and reloading which is necessary shall be at cost and the charge for such transfer included in the joint rate;

(6) to provide the same switching, transfer and handling facilities for local as for interstate traffic;

(7) upon written demand of the owner, to construct, maintain, and operate side tracks and reasonable facilities connecting with any grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant or manufactory as may be required by the commissioner, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the commissioner;

(8) to issue receipts or bills of lading covering all property received for transportation from any point in the state to any other point in the state, and to respond for any loss, damage or injury to such property caused by it or any carrier to whom such property may be delivered or over whose line it may pass;

(9) to refund all overcharges for freight, baggage or express, and pay for any loss, damage or injury to property while in its possession, within 90 days after the filing of a claim for such overcharge, loss or damage;

(10) to keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling intrastate business in such form as the commissioner shall prescribe, including the separation of accounts for each operating division, wholly or partly within the state. Such accounts shall show the total cost of operating through trains and the total cost of operating the local or distributing trains of each operating division, wholly or partly within the state, during the fiscal year to be fixed by the commissioner, the total number of tons of revenue and nonrevenue freight, the number of tons of each carried one mile on the through trains and on the local trains, respectively, the number of tons and ton miles of revenue and nonrevenue freight carried on through or local trains which are exclusively intrastate, and the gross tons and ton miles made by through and local trains on each division. The accounts shall show the total revenue and nonrevenue train and engine miles and the total revenue and nonrevenue car miles (the nonrevenue car miles to be shown loaded and empty separately) produced by such railroad in the state in each operating division, the number of each of the above train, engine and car mileage produced in handling the through trains and in handling the local trains, the total locomotive miles produced in switching on each division and such further information related to the income or cost of intrastate business as the commissioner may require. The commissioner may require such accounts to be

kept with reference to the intrastate passenger business of each carrier and the train, car and engine mileage incurred in such business in this state as the commissioner may deem necessary;

(11) during pendency of any litigation, when rates prescribed by the commissioner have not been put into effect, to keep a correct account of every charge made by it for any services to which such rates apply in excess of the rates prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged, the date of the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee, and to report such information in full to the commissioner on the commissioner's request.

**Subd. 2. Information furnished commissioner.** Every common carrier shall furnish to the commissioner a report of accidents, wrecks, and casualties occurring in this state in a manner and form and at the times prescribed by the commissioner. All such reports administered by the Department of Public Safety must be received and administered in accordance with section 169.09, subdivision 13. All other reports are open to public inspection but are not admissible in evidence in any suit or action for damages growing out of such accident, wreck, or casualty.

**Subd. 3. Liability.** Nothing in this chapter shall limit the liability of common carriers at common law with reference to property in their custody, including absolute responsibility for the acts of their agents with reference thereto, nor shall liability be limited by contract or otherwise, except as stated in their published classification schedules.

**Subd. 4. Loss recovery.** A common carrier, issuing any receipt or bill of lading, shall be entitled to recover from the carrier on whose line loss, damage or injury shall have been sustained, such amount as it may be required to pay to the owners of the property as evidenced by any receipt, judgment or transcript thereof.

**Subd. 5. Bridge, toll.** Any railroad company may construct and maintain at its own expense any bridges and the approaches thereto so as to answer for ordinary travel and, unless within one mile from a toll bridge previously built by an incorporated bridge company over the same stream, may charge and collect for its use reasonable toll, subject to the approval of the proper county board. A toll shall be uniform and the rates shall be conspicuously posted on or near the toll house. The company may contract with any person or corporation for the payment of a fixed sum yearly or otherwise in lieu of toll.

**Subd. 6. Court actions, venue, remedies.** An action or proceeding may be instituted, upon verified complaint of the commissioner or any interested person in any district court of any county wherein a common carrier has a principal office or into which its railroad extends, for the enforcement of any provision of this chapter, or any order, rule or directive of the commissioner, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedence over all other matters except criminal cases.

**Subd. 7. Claim.** Every claim against a common carrier for any overcharge or difference in weight or for loss, damage or injury to property while in its possession, shall first be filed with either the agent at point of origin or of destination or with the freight claims department of the carrier. It shall not be filed until after arrival of shipment or some part thereof at destination or until after a lapse of reasonable time for the arrival thereof. It shall consist of: (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, (d) original invoices

or certified copies, when necessary. True copies may be used or, in the absence thereof, an explanation. If a claim is not paid or adjusted within 90 days of its filing, suit may be commenced in any court of competent jurisdiction, in which all persons similarly situated may intervene or be joined and, if claimant prevails, a penalty of ten percent, plus legal interest, reasonable attorneys' fees, costs and disbursements shall be allowed.

Subd. 8. **Order and rule considered fair and reasonable.** In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner and all schedules of rates, fares or charges fixed by the commissioner shall be deemed and taken in all courts as prima facie fair and reasonable.

Subd. 9. **Court costs, fees, and disbursements.** In all proceedings under this section, the court may order payment of costs, counsel fees and disbursements as it deems just and reasonable.

Subd. 10. **Liability for damages and attorneys' fees.** Any common carrier which shall do or cause to be done any unlawful act, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and that person, if that person recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

**History:** *Ex1957 c 10 s 3; 1971 c 25 s 67; 1971 c 160 s 1; 1975 c 313 s 1; 1976 c 166 s 17; 1980 c 534 s 21-24; 1Sp1981 c 4 art 2 s 17; 1982 c 561 s 6; 1983 c 77 s 1; 1985 c 248 s 70; 1986 c 444; 1998 c 403 s 29; 2001 c 213 s 21*

**218.04** [Repealed, Ex1957 c 10 s 8]

## **218.041 DUTIES OF COMMISSIONER.**

Subdivision 1. **Operation, system of accounts, service, facility.** With respect to all common carriers including express companies the commissioner shall investigate the management thereof, the manner in which their businesses are conducted, and the adequacy of the services they are affording the public and shall prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted. The commissioner shall make all appropriate orders relating to continuation, termination, modification or extension of services and facilities with a view to properly promoting the security and convenience of the public.

Subd. 2. **Commissioner's duties under federal law.** The commissioner shall, in accordance with the provisions of United States Code, title 49, sections 10101 to 11917:

- (1) exercise the jurisdiction over common carriers vested in the commissioner by law;
- (2) review and ascertain the reasonableness and equalities of all schedules of rates and charges or any part or classification thereof, including joint through rates, and, if found unreasonable or discriminatory, establish new schedules and prescribe the form and manner of filing, posting, and publication thereof;
- (3) order the issuance of any franchises, permits, or certificates of convenience and necessity;
- (4) the commissioner may unite two or more stations or commercial centers into a common rate point and fix the mileage that shall govern between the common rate point and any or all other points in the state. The distance so fixed shall not apply as a measure of the rate for the movement of freight for similar distances between other points;

(5) prescribe a schedule of joint through railway rates for freight over two or more connecting lines of railway and revise the same from time to time. In so doing, the commissioner shall consider, among other things, rates established for shipments within this state for like distances over single lines, rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing rates for shipments in less than carload lots, in cases where connecting railways are not required to have common stations or stopping place for loading or unloading freight at connecting points, the commissioner shall regulate the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The share of any railway company of any joint through rates shall not be construed to fix the charge that it may make for a similar distance over any part of its line for any single rate shipment, or the share of any other joint rate. Where the line of a railway company connects the point of shipment with the point of destination but would require a longer haul than a joint haul for which a joint rate has been established, the commissioner may authorize charging the joint rate for the single haul without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance upon that railroad, all of the shorter hauls being included within the longer;

(6) define switching and drayage service to apply to the movement of traffic within and between points and fix reasonable maximum rates for the same, which shall be independent of any rates that may be made for line haul transportation. If it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor and be liable to each company doing subsequent switching for its just share of such charge as may be agreed upon among the companies, or, in the event of disagreement, as prescribed by the commissioner.

Subd. 3. [Repealed, 1Sp1981 c 4 art 2 s 24]

Subd. 4. **Commissioner's duties upon petition.** (a) The commissioner shall, upon petition, direct the repair, reconstruction, or replacement of any inadequate or unsafe trackage, structure or facility.

(b) Upon receipt of a petition for action pursuant to this subdivision the commissioner shall give notice to all persons known to the commissioner to have an interest in the matter and publish notice of the petition in the State Register. The commissioner may grant the petition 30 days after notice has been fully made. If the commissioner receives a written objection to the petition from any person within 20 days after the notice of filing has been fully made, the exemption must be granted or denied only after a contested case hearing has been held on the matter. The commissioner may elect to hold a contested case hearing if no objections to the petition or application are received. If a timely objection is not received and the commissioner declines to act without a hearing, the petitioner may request within 30 days of receiving a notice of denial, and must be granted, a contested case hearing on the application.

Subd. 5. **Investigative and enforcement duties generally.** The commissioner shall:

(1) investigate and determine whether any common carriers are granting rebates or, in any other particular, failing to comply with laws or with orders, rules, or directives of the commissioner; and

(2) institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of this chapter; the orders, rules, and directives of the commissioner issued under this chapter; and any violations thereof.

Subd. 6. **Investigative powers.** In the exercise of powers granted in this chapter, the commissioner may:

(1) subpoena books, papers, or accounts kept by any regulated business within or without the state, or compel production of verified copies;

(2) prepare all forms or blanks for obtaining information that the commissioner may deem necessary or useful for the proper exercise of the authority and duties of the commissioner in connection with regulated businesses, and prescribe the time and manner within which the blanks and forms must be completed and filed;

(3) inspect, at all reasonable times, and copy the books, records, memoranda, correspondence, or other documents and records of any business under the commissioner's jurisdiction;

(4) examine, under oath, any officer, agent, or employee of a business under the commissioner's jurisdiction concerning any matter within the commissioner's jurisdiction; and

(5) assess common carriers, administer the state rail safety inspection account, and perform other duties on behalf of the state rail safety inspector under section 219.015.

Subd. 7. **Ratemaking powers.** The commissioner may, upon the commissioner's discretion and without hearing:

(1) upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interest of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings;

(2) approve the establishment, change, or alteration of any rate, charge or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of the common carrier in writing, when the application appears to be noncontroversial;

(3) authorize, on less than ten days' public notice, schedules containing classifications, rates, fares and charges for the transportation of freight and passengers;

(4) retain general ratemaking authority in intrastate transportation of livestock.

Subd. 8. **Intrastate rail passenger service rules.** The commissioner, as appropriate, may take action to promulgate rules in areas including, but not limited to the following: rates, routes, depots, schedules, quality of service, and safety requirements relating to intrastate rail passenger service.

**History:** *Ex1957 c 10 s 4; 1971 c 25 s 67; 1976 c 166 s 18; 1977 c 346 s 12; 1980 c 460 s 6; 1980 c 534 s 25; 1980 c 614 s 123; 1Sp1981 c 4 art 2 s 18-20; 1982 c 424 s 130; 1982 c 561 s 7,8; 1983 c 77 s 2; 1985 c 248 s 70; 1986 c 444; 1998 c 403 s 29; 2001 c 213 s 22-24; 2008 c 287 art 1 s 75*

**218.05** [Repealed, Ex1957 c 10 s 8]

**218.051** [Repealed, 1976 c 166 s 119]

**218.06** [Repealed, Ex1957 c 10 s 8]

**218.061** [Repealed, 1976 c 166 s 119]

**218.07** [Repealed, Ex1957 c 10 s 8]



**218.071 OFFENSES AND PENALTIES.**

Subdivision 1. **Authority; rules, orders, and directives.** The commissioner may promulgate rules, orders, and directives necessary to carry out the respective duties conferred on them by this chapter. The rules, orders, and directives may not be contrary to United States Code, title 49, sections 10101 to 11917. Every duly adopted rule, order, or directive of the commissioner shall have the full force and effect of law.

Subd. 2. **Violations generally; penalty.** Unless a different penalty or punishment is specifically prescribed, any person, firm, or corporation who performs any unlawful act, or fails to perform any duty imposed by this chapter, or to obey any valid and final order, rule, or directive of the commissioner, or who assists and aids therein, shall be guilty of a misdemeanor, and, if the violation be a continuing one, shall be guilty of a new offense for each day of such continuance, and for each offense shall be punished by a fine of one hundred dollars (\$100).

Subd. 3. **Discriminatory practices; penalty.** Any common carrier, willfully granting any special rate, rebate, drawback, or directly or indirectly charging, demanding or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$10,000 for each such offense.

Subd. 4. **Failure to comply; penalty.** Any common carrier failing to comply with any order of the commissioner shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply, to be recovered for the state in a civil action by the commissioner.

**History:** *Ex1957 c 10 s 7; 1971 c 25 s 67; 1976 c 166 s 19; 1980 c 534 s 26; 1982 c 561 s 9; 1983 c 77 s 3; 1984 c 628 art 3 s 11; 1986 c 444; 1998 c 403 s 29*

**218.08-218.73** [Repealed, Ex1957 c 10 s 8]

**218.75 MIDWEST INTERSTATE PASSENGER RAIL COMPACT.**

The contracting states solemnly agree:

## ARTICLE I

## STATEMENT OF PURPOSE

The purposes of this compact are, through joint or cooperative action:

- A) to promote development and implementation of improvements to intercity passenger rail service in the Midwest;
- B) to coordinate interaction among Midwestern state-elected officials and their designees on passenger rail issues;
- C) to promote development and implementation of long-range plans for high-speed rail passenger service in the Midwest and among other regions of the United States;
- D) to work with the public and private sectors at the federal, state and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote Midwestern interests regarding passenger rail; and
- E) to support efforts of transportation agencies involved in developing and implementing passenger rail service in the Midwest.

## ARTICLE II

## ESTABLISHMENT OF COMMISSION

To further the purposes of the compact, a commission is created to carry out the duties specified in this compact.

### ARTICLE III

#### COMMISSION MEMBERSHIP

The manner of appointment of commission members, terms of office consistent with the terms of this compact, provisions for removal and suspension, and manner of appointment to fill vacancies shall be determined by each party state pursuant to its laws, but each commissioner shall be a resident of the state of appointment. Commission members shall serve without compensation from the commission.

The commission shall consist of four resident members of each state as follows: the governor or the governor's designee who shall serve during the tenure of office of the governor, or until a successor is named; one member of the private sector who shall be appointed by the governor and shall serve during the tenure of office of the governor, or until a successor is named; and two legislators, one from each legislative chamber, who shall serve two-year terms, or until successors are appointed, and who shall be appointed by the appropriate appointing authority in each legislative chamber. All vacancies shall be filled in accordance with the laws of the appointing states. Any commissioner appointed to fill a vacancy shall serve until the end of the incomplete term. Each member state shall have equal voting privileges, as determined by the commission bylaws.

### ARTICLE IV

#### POWERS AND DUTIES OF THE COMMISSION

The duties of the commission are to:

- 1) advocate for the funding and authorization necessary to make passenger rail improvements a reality for the region;
- 2) identify and seek to develop ways that states can form partnerships, including with rail industry and labor, to implement improved passenger rail in the region;
- 3) seek development of a long-term, interstate plan for high-speed rail passenger service implementation;
- 4) cooperate with other agencies, regions and entities to ensure that the Midwest is adequately represented and integrated into national plans for passenger rail development;
- 5) adopt bylaws governing the activities and procedures of the commission and addressing, among other subjects: the powers and duties of officers; the voting rights of commission members, voting procedures, commission business, and any other purposes necessary to fulfill the duties of the commission;
- 6) expend such funds as required to carry out the powers and duties of the commission; and
- 7) report on the activities of the commission to the legislatures and governor of the member states on an annual basis.

In addition to its exercise of these duties, the commission is empowered to:

- 1) provide multistate advocacy necessary to implement passenger rail systems or plans, as approved by the commission;
- 2) work with local elected officials, economic development planning organizations, and similar entities to raise the visibility of passenger rail service benefits and needs;

3) educate other state officials, federal agencies, other elected officials and the public on the advantages of passenger rail as an integral part of an intermodal transportation system in the region;

4) work with federal agency officials and members of Congress to ensure the funding and authorization necessary to develop a long-term, interstate plan for high-speed rail passenger service implementation;

5) make recommendations to member states;

6) if requested by each state participating in a particular project and under the terms of a formal agreement approved by the participating states and the commission, implement or provide oversight for specific rail projects;

7) establish an office and hire staff as necessary;

8) contract for or provide services;

9) assess dues, in accordance with the terms of this compact;

10) conduct research; and

11) establish committees.

#### ARTICLE V OFFICERS

The commission shall annually elect from among its members a chair, a vice-chair who shall not be a resident of the state represented by the chair, and others as approved in the commission bylaws. The officers shall perform such functions and exercise such powers as are specified in the commission bylaws.

#### ARTICLE VI MEETINGS AND COMMISSION ADMINISTRATION

The commission shall meet at least once in each calendar year, and at such other times as may be determined by the commission. Commission business shall be conducted in accordance with the procedures and voting rights specified in the bylaws.

#### ARTICLE VII FINANCE

Except as otherwise provided for, the monies necessary to finance the general operations of the commission in carrying forth its duties, responsibilities and powers as stated herein shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states. Nothing in this compact shall be construed to commit a member state to participate in financing a rail project except as provided by law of a member state.

The commission may accept, for any of its purposes and functions, donations, gifts, grants, and appropriations of money, equipment, supplies, materials and services from the federal government, from any party state or from any department, agency, or municipality thereof, or from any institution, person, firm, or corporation. All expenses incurred by the commission in executing the duties imposed upon it by this compact shall be paid by the commission out of the funds available to it. The commission shall not issue any debt instrument. The commission shall submit to the officer designated by the laws of each party state, periodically as required by the laws of each party state, a budget of its actual past and estimated future expenditures.

## ARTICLE VIII

## ENACTMENT, EFFECTIVE DATE AND AMENDMENTS

The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin are eligible to join this compact. Upon approval of the commission, according to its bylaws, other states may also be declared eligible to join the compact. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by any three (3) party states incorporating the provisions of this compact into the laws of such states. Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

## ARTICLE IX

## WITHDRAWAL, DEFAULT AND TERMINATION

Withdrawal from this compact shall be by enactment of a statute repealing the same and shall take effect one year after the effective date of such statute. A withdrawing state shall be liable for any obligations which it may have incurred prior to the effective date of withdrawal.

If any compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other commission members. Any such defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission.

## ARTICLE X

## CONSTRUCTION AND SEVERABILITY

The provisions of this compact entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected hereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

**History:** 2000 c 459 s 2