

Assembly Bill No. 696—Committee on Government Affairs

CHAPTER 566

AN ACT creating the Tricounty Railway Commission of Carson City and Lyon and Storey counties; providing for the appointment, number, terms, reimbursement, powers and duties of the commissioners; specifying the powers of the commission; and providing other matters properly relating thereto.

[Approved July 12, 1993]

WHEREAS, On February 19, 1869, ground was broken for the Virginia and Truckee Railroad and 8 months later it was doing business between Virginia City and Carson City, a distance of 21 miles; and

WHEREAS, The 13-mile portion of the track between Virginia City and the Carson River is a continuous incline that has caused the Virginia and Truckee Railroad to be called the “crookedest” railway in the United States because the total of the curves in the track are equal to going 17 times around a circle; and

WHEREAS, Running from 30 to 45 trains per day, the Virginia and Truckee Railroad carried supplies of all kinds, including heavy machinery for the mines and goods and merchandise for the towns of Virginia City and Gold Hill and returned with ore from the mines for the mills on the Carson River, carrying from 500 to 800 tons of ore daily out of the Comstock Lode; and

WHEREAS, The Virginia and Truckee Railroad has been recognized nationally as one of the greatest engineering feats of the 1800s; and

WHEREAS, The Nevada Legislature hereby finds and declares that a general law cannot be made applicable because of the unique nature of the opportunity to restore this “iron horse” of the past and the variety of local governments that must be involved in the restoration; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. As used in this act, unless the context otherwise requires:

1. “Commission” means the Tricounty Railway Commission created pursuant to section 2 of this act.
2. “Commissioner” means a person appointed to serve on the commission pursuant to section 3 of this act.
3. “County” includes Carson City.
4. “Governing bodies” means the board of supervisors of Carson City and the boards of county commissioners of Lyon and Storey counties.

Sec. 2. 1. The Tricounty Railway Commission of Carson City and Lyon and Storey counties is hereby created.

2. The property and revenues of the commission, and any interest therein, are exempt from all state and local taxation.

3. The commission is a body corporate and politic, the geographical jurisdiction of which is Carson City and Lyon and Storey counties.

4. The provisions of this act must be broadly construed to accomplish its purposes.

Sec. 3. 1. The commission must be composed of five commissioners appointed as follows:

(a) Two members appointed by the board of supervisors of Carson City, at least one of whom must be a member of that board;

(b) One member appointed by the board of county commissioners of Lyon County from among its members;

(c) One member appointed by the board of county commissioners of Storey County from among its members; and

(d) One member appointed by the Virginia and Truckee Historical Railroad Society from among its members.

2. If the Virginia and Truckee Historical Railroad Society ceases to exist but is replaced by an entity which is organized for the same purposes, that entity is entitled to appoint the member pursuant to paragraph (d) of subsection 1. If the society ceases to exist and is not replaced, the number of commissioners is reduced to four and no member may be appointed pursuant to paragraph (d) of subsection 1.

3. As soon as practicable after July 1, 1993, the appointing authorities shall make the appointments required by subsection 1. One commissioner appointed pursuant to paragraph (a) of subsection 1, as determined by the board of supervisors of Carson City, and the member appointed pursuant to paragraph (d) of subsection 1 must be appointed to an initial term of 2 years. All of the other appointments must be for initial terms of 4 years. After the initial terms, the term of office of each commissioner is 4 years. A member is eligible for reappointment.

4. The office of a member who is required as a qualification for appointment to be a member of the body appointing him becomes vacant on the date he ceases to be a member of that appointing body.

5. Each commissioner serves at the pleasure of his appointing authority and all vacancies must be filled for the unexpired term in the same manner as the original appointment.

Sec. 4. 1. Each commissioner appointed pursuant to paragraph (b) or (c) of subsection 1 of section 3 of this act shall file his oath of office with the clerk of the county from which he was appointed and all other commissioners shall file their oaths of office with the clerk of Carson City.

2. The commissioners must serve without compensation, but a commissioner may be reimbursed for expenses actually incurred by him for travel authorized by the commission.

3. The commission shall elect a chairman, vice chairman, secretary and treasurer from among its members. The secretary and the treasurer may be one person. The terms of the officers expire on July 1 of each odd-numbered year.

4. The secretary shall maintain a record of all of the proceedings of the commission, minutes of all meetings, certificates, contracts and other acts of the commission. The records must be open to the inspection of all interested persons at a reasonable time and place.

5. The treasurer shall keep an accurate account of all money received by and disbursed on behalf of the commission. He shall file with the clerk of Carson City, at the expense of the commission, a fidelity bond in an amount not less than \$10,000, conditioned for the faithful performance of his duties.

Sec. 5. 1. The commission shall meet upon the call of the chairman or a majority of the commissioners.

2. A majority of the commissioners constitutes a quorum at any meeting.

3. The governing bodies shall each make available an appropriate meeting room and provide adequate clerical staff and equipment to provide adequate notice of the meeting and to produce minutes of the meeting and any other assistance necessary to allow the commission to comply with the provisions of chapter 241 of NRS.

4. The commission shall alternate the location of its meetings among the facilities provided pursuant to subsection 1.

5. A commissioner is not personally liable for any actions taken or omitted in good faith in the performance of his duties pursuant to the provisions of this act.

Sec. 6. The commission may:

1. Acquire by gift, devise, purchase, lease or trade any real and personal property it deems necessary for any project authorized by this act.
2. Lease, sell or otherwise dispose of any property.
3. Enter into any contracts necessary for any project authorized by this act. The duration of any such contracts may exceed the terms of office of the commissioners.
4. Construct and provide for the maintenance of walkways, parks and pathways for bicycles.
5. Solicit, accept and use gifts, grants and other donations from public and private sources.
6. Exercise the power of eminent domain as provided in chapter 37 of NRS to acquire the property rights necessary for any project authorized by this act, which is hereby declared to be a public purpose.
7. Adopt, enforce, amend and repeal any rules and regulations necessary for the administration and use of any railway, park, walkways, pathway for bicycles or other facilities leased, constructed, created or acquired by the commission.
8. Employ or contract with any persons or governmental entities necessary for the operation or maintenance of any project authorized pursuant to this act.
9. Establish fees and other charges for the use of any railway, park, walkways, pathway for bicycles or other facilities leased, constructed, created or acquired by the commission.
10. Regulate vehicular traffic on the right of ways and property leased or owned by the commission.
11. Grant any exclusive franchises and concessions it deems appropriate to carry out the provisions of this act.
12. Take such other actions necessary to accomplish the purposes of this act and to comply with any statute or regulation of this state or of the Federal Government.

Sec. 7. 1. The commission may do all things necessary to establish and maintain a railway, including, without limitation:

- (a) Purchasing, leasing or otherwise acquiring right of ways and constructing railways and any facilities or other appurtenances it deems appropriate in connection therewith; and
- (b) Operating or granting franchises for the operation of a railroad that carries passengers to locations within the jurisdiction of the commission.

2. In addition to regulation by another agency related to public health and safety that is required by local ordinance or state or federal law, the commission shall regulate all franchisees and concessionaires who operate on the right of way or property owned or leased by the commission.

3. A railway acquired, constructed or leased by the commission pursuant to this act is not a street railway for the purposes of chapter 709 of NRS.

4. Notwithstanding any provision of Title 58 of NRS to the contrary, the rates charged by a railroad operated by the commission or pursuant to a franchise or other agreement with the commission, are not subject to regulation by the public service commission of Nevada.

Sec. 8. 1. The commission may enter into an agreement with the district attorney of Carson City or Lyon or Storey County, or any combination thereof, to provide legal services to the commission. The commission may authorize payment to the district attorney for the costs to the district attorney for providing such services.

2. The commission shall enter into an agreement with the treasurer of Carson City or Lyon or Storey County to create a fund for the commission and pay all claims against the fund that are properly approved by the commission. The commission may authorize payment to the treasurer for the costs to the treasurer for providing such services.

3. All money received by the commission must be deposited in the fund created pursuant to subsection 2. The money in the fund must be used only for the necessary expenses of the commission and the costs of the projects authorized by this act.

Sec. 9. 1. The commission shall adopt a budget for its operation and for each project it proposes for presentation to the governing bodies. Each budget must be accompanied by a proposed allocation of the net cost of the budget among the governing bodies which must be based upon the benefit of the commission or project to the jurisdiction of the governing body or another equally appropriate indicator.

2. Upon final determination and allocation of the costs by agreement of the governing bodies, each governing body shall include its portion of the costs in its budget for the purposes of chapter 354 of NRS and shall fund its share of the cost by:

(a) Issuing bonds pursuant to chapter 350 of NRS;

(b) Imposing an additional tax on the rental of transient lodging;

(c) Upon approval by the voters, imposing an additional tax upon retailers at a rate not exceeding one-half of 1 percent of the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed in the county;

(d) Upon approval of the voters, levying a property tax not exceeding 2 cents per \$100 of assessed valuation on all taxable property in the county; or

(e) Any combination of the options provided in paragraphs (a) to (d), inclusive, including the issuance of bonds which will be repaid from the revenue of one or more of the taxes authorized in this section which may be treated as pledged revenues for the purposes of NRS 350.020.

3. If the county imposes a tax pursuant to paragraph (c) of subsection 2 it shall include in the ordinance imposing the tax:

(a) Provisions substantially identical to those contained in chapter 374 of NRS;

(b) A provision stating that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the provisions of the ordinance, automatically become a part of the ordinance;

(c) A provision that the county shall contract before the effective date of the ordinance with the department to perform all functions incident to the administration or operation of the tax in the county; and

(d) The date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the adoption of the ordinance by the governing body.

4. The commission is not entitled to a distribution of revenue from the supplemental city-county relief tax.

Sec. 10. If any provision of this act or the application thereof to any person, thing or circumstance is held invalid, the invalidity does not affect the provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 11. This act becomes effective on July 1, 1993.