
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 640 Session of
1989

INTRODUCED BY GREENLEAF, MADIGAN, AFFLERBACH, DAWIDA AND
RHOADES, MARCH 2, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 19, 1990

AN ACT

1 Authorizing the Department of Environmental Resources to acquire
2 and develop ~~abandoned~~ AVAILABLE railroad rights-of-way for <—
3 public recreational trail use; requiring the Department of
4 Transportation to coordinate certain acquisitions of rights-
5 of-way with the Department of Environmental Resources AND THE <—
6 PUBLIC UTILITY COMMISSION; AND providing a limitation on the
7 liability of persons who provide property for public
8 recreational trail use.; ~~and making an appropriation.~~ <—

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Rails to
13 Trails Act.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "~~Abandoned~~ AVAILABLE railroad right-of-way." Any railroad <—
19 right-of-way that is proposed or approved for abandonment before

1 the Interstate Commerce Commission, THE PUBLIC UTILITY <—
2 COMMISSION, OR OTHER GOVERNING AGENCY WITH JURISDICTION IN THE
3 MATTER.

4 "Department." The Department of Environmental Resources of
5 the Commonwealth.

6 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL RESOURCES OF THE <—
7 COMMONWEALTH.

8 Section 3. Rails to trails program.

9 There is established within the department the Pennsylvania
10 Rails to Trails Program, the purpose of which is to acquire, <—
11 OPERATE, MAINTAIN and develop ~~abandoned~~ AVAILABLE railroad <—
12 rights-of-way for public recreational trail use. The rights-of-
13 way shall be acquired pursuant to this act.

14 Section 4. Acquisition of land.

15 (a) Acquisition.--The department is authorized to acquire
16 pursuant to sections 1902-A and 1906-A of the act of April 9,
17 1929 (P.L.177, No.175), known as The Administrative Code of
18 1929, fee simple absolute title or any lesser interest in land,
19 including easements and leaseholds, for the development purposes
20 of the Pennsylvania Rails to Trails Program as provided in this
21 section.

22 (b) Abandoned railroads.--The department is authorized to
23 participate in abandonment proceedings with the Interstate
24 Commerce Commission for the purposes of acquiring ~~abandoned~~ <—
25 ~~railroads for use~~ AVAILABLE RAILROAD RIGHTS-OF-WAY FOR USE as <—
26 interim trails or railbanking as set forth in section 8(d) of
27 the National Trails System Act (Public Law 90-543, 16 U.S.C. §
28 1247(d)).

29 (c) Acceptance of title.--For purposes of the Pennsylvania
30 Rails to Trails Program, the department, COUNTIES or <—

1 municipalities may by gift or purchase:

2 (1) Accept title, including nonmarketable title, to
3 ~~abandoned~~ AVAILABLE railroad rights-of-way and to any areas <—
4 abutting the rights-of-way which are needed for the
5 construction of trail-user support facilities.

6 (2) Accept title to ~~abandoned~~ AVAILABLE railroad rights- <—
7 of-way conveyed by quitclaim deed or warranty deed.

8 ~~(d) Time limit. Acquisition proceedings must be initiated <—~~
9 ~~within five years of the commencement of the abandonment~~
10 ~~proceeding.~~

11 ~~(e)~~ (D) Easements over land acquired.--Easements and rights- <—
12 of-way upon, over, under, across or along any land, the fee
13 title of which has been acquired by the department, may be
14 granted by the department so long as the use of the easement or
15 right-of-way does not interfere with the purposes of this act.

16 ~~(f)~~ (E) Transfer of trails to local governmental agencies.-- <—
17 The department may transfer its interest in any recreational
18 trail or portion thereof to a local governmental agency or
19 agencies having jurisdiction over the area in which the
20 recreational trail is located for recreational purposes in a
21 manner consistent with department rules and regulations.

22 Section 5. Powers and duties of Environmental Quality Board.

23 The Environmental Quality Board shall promulgate all rules
24 and regulations necessary to effectively carry out the purposes
25 of this act, including rules and regulations relating to
26 acquisition, development and use of recreational trails.

27 Section 6. Powers and duties of department.

28 The department shall:

29 (1) Publish and distribute appropriate maps of
30 recreational trails, including recommended extensions of

1 recreational trails.

2 (2) Establish access routes and related primitive <—
3 public-use facilities, which will not substantially interfere
4 with the nature and purposes of a trail, along recreational
5 trails.

6 ~~(3) Evaluate existing and potential abandoned railroad <—~~
7 ~~rights-of-way to identify the corridors which are suitable~~
8 ~~for acquisition for recreational trail use and compile lists~~
9 ~~of suitable corridors, ranking them in order of priority for~~
10 ~~acquisition; and, for this purpose, devise a method of~~
11 ~~evaluation which includes, but is not limited to,~~
12 ~~consideration of the following:~~

13 ~~(i) Current and future recreational need.~~

14 ~~(ii) Potential for local sharing in the acquisition,~~
15 ~~development, operation or maintenance of abandoned rail~~
16 ~~corridors.~~

17 ~~(iii) Costs of acquisition, development, operation~~
18 ~~and maintenance.~~

19 ~~(iv) Time of availability of rights of ways.~~

20 ~~(4) Maintain updated lists of abandoned and to be~~
21 ~~abandoned railroad rights-of-way and request information on~~

22 (3) EVALUATE EXISTING AND POTENTIAL AVAILABLE RAILROAD <—
23 RIGHTS-OF-WAY TO IDENTIFY THE CORRIDORS WHICH ARE SUITABLE
24 FOR RECREATIONAL TRAIL USE.

25 (4) MAINTAIN UPDATED LISTS OF RAILROAD RIGHTS-OF-WAY
26 AUTHORIZED OR PROPOSED FOR ABANDONMENT BY THE INTERSTATE
27 COMMERCE COMMISSION AND REQUEST INFORMATION ON current and
28 potential railroad abandonments from the Department of
29 Transportation, the Interstate Commerce Commission and
30 railroad companies operating within this Commonwealth. At a

1 minimum, lists shall be updated on a quarterly basis.

2 ~~(5) Provide information, including probable costs of~~ <—
3 ~~purchase or lease of the corridors, to public and private~~
4 ~~agencies and organizations concerning abandoned rail~~
5 ~~corridors which are or will be available for acquisition from~~
6 ~~railroads or which are or will be available for lease for~~
7 ~~interim recreational use from the Department of~~
8 ~~Transportation.~~

9 ~~(6) Cooperate with municipalities and other appropriate~~
10 ~~agencies and organizations and, where possible and practical,~~
11 ~~allocate expenditures among the several regions of this~~
12 ~~Commonwealth, proportionately based on need, rail line~~
13 ~~availability, population and other appropriate factors.~~

14 SECTION 7. ADVISORY COMMITTEE. <—

15 (A) PURPOSE.--THE DEPARTMENT SHALL NOT DEVELOP OR OPERATE
16 ANY RAILROAD RIGHT-OF-WAY FOR RECREATIONAL OR HISTORICAL
17 PURPOSES UNTIL AN ADVISORY COMMITTEE, AS PROVIDED BY THIS
18 SECTION, HAS BEEN APPOINTED AND HAS MET WITH THE SECRETARY OR
19 HIS DESIGNEE FOR THE PURPOSE OF REVIEWING PRELIMINARY PLANS FOR
20 THE DEVELOPMENT AND OPERATION OF THE PROPERTY.

21 (B) APPOINTMENT.--THE SECRETARY SHALL APPOINT THIS COMMITTEE
22 TO BE COMPOSED OF THE FOLLOWING PERSONS, OR THEIR DESIGNEES:

23 (1) THE CHAIRMAN OF THE COUNTY PLANNING COMMISSION OF
24 THE COUNTY OR COUNTIES AFFECTED.

25 (2) THE CHAIRMAN OF THE BOARD OF COMMISSIONERS OR OF
26 SUPERVISORS, AS THE CASE MAY BE, OF EACH OF THE TOWNSHIPS IN
27 THE COUNTY OR COUNTIES AFFECTED.

28 (3) THE CHAIRMAN OF THE COUNTY BOARD OF COMMISSIONERS OF
29 THE COUNTY OR COUNTIES AFFECTED.

30 (C) MEETINGS.--THE ADVISORY COMMITTEE SHALL MEET WITH

1 APPROPRIATE OFFICIALS OF THE DEPARTMENT AT LEAST FOUR TIMES A
2 YEAR FOR THE FIRST TWO YEARS FOLLOWING THE DATE THE DEPARTMENT
3 ACQUIRES THE RIGHT TO DEVELOP ANY PROPERTY FOR THE PENNSYLVANIA
4 RAILS TO TRAILS PROGRAM UNDER THIS ACT, AND SEMIANNUALLY
5 THEREAFTER. DURING THE FIRST TWO YEARS, AT LEAST ONE MEETING OF
6 THE ADVISORY COMMITTEE SHALL BE HELD IN EACH OF THE COUNTIES
7 AFFECTED.

8 SECTION 8. REVIEW BY GENERAL ASSEMBLY.

9 NOTWITHSTANDING ANY PROVISION OF THIS ACT, THE DEPARTMENT
10 SHALL NOT DEVELOP OR OPERATE ANY RAILROAD RIGHT-OF-WAY FOR
11 RECREATIONAL OR HISTORICAL PURPOSES UNTIL THE DESIGNATED
12 STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF
13 REPRESENTATIVES HAVE REVIEWED A DEPARTMENT MANAGEMENT PLAN, AS
14 IT SPECIFICALLY RELATES TO THE MAINTENANCE AND OPERATION OF ANY
15 SUCH PROJECT.

16 Section 7 9. Coordination with Department of Transportation. <—

17 (a) Method of coordination.--The Department of
18 Transportation and the Department of Environmental Resources
19 shall coordinate their evaluations of potential acquisitions and
20 acquisition priorities with respect to ~~abandoned~~ AVAILABLE <—
21 railroad rights-of-way in order to avoid competing for the same
22 corridors. The Department of Transportation and the Department
23 of Environmental Resources shall enter into a memorandum of
24 understanding which shall contain a method by which the
25 coordination of evaluations and acquisition priorities is to be
26 accomplished.

27 (b) Interim lease of rights-of-way.--Should the Department
28 of Transportation acquire OR LEASE ~~abandoned~~ AVAILABLE rights- <—
29 of-way for future transportation purposes, it shall lease OR <—
30 SUBLEASE such rights-of-way to a public agency or private

1 organization for interim public recreational trail use if:

2 (1) The public agency or private organization has
3 requested the right-of-way for interim public recreational
4 trails use.

5 (2) The public agency or private organization agrees in
6 writing to assume all liability and management
7 responsibilities as prescribed by the Department of
8 Transportation to the extent authorized by law.

9 (3) The use of the right-of-way as a recreational trail
10 does not interfere with the ultimate transportation purposes
11 of the property as determined by the Department of
12 Transportation.

13 (c) Transportation use and trail use.--If the Department of
14 Transportation determines that an ~~abandoned~~ AVAILABLE railroad <—
15 right-of-way leased for interim recreational trail use is needed
16 for transportation purposes, the Department of Transportation
17 shall work with the leasing agency to accommodate, when feasible
18 AS DETERMINED BY THE DEPARTMENT, the existing trail use in <—
19 conjunction with the transportation use.

20 (d) Future disposal.--If the Department of Transportation
21 determines that an ~~abandoned~~ AVAILABLE railroad right-of-way it <—
22 owns is no longer needed by the Department of Transportation for
23 present or future transportation uses, nothing in this act shall
24 prevent the ~~department~~ DEPARTMENT OF TRANSPORTATION from <—
25 disposing of that property in accordance with its own procedures
26 or applicable Commonwealth laws. Prior to disposing of the
27 property, the Department of Transportation shall first notify
28 the department.

29 SECTION 8 10. COORDINATION WITH THE PUBLIC UTILITY COMMISSION. <—

30 (A) METHOD OF COORDINATION.--WHENEVER THE PUBLIC UTILITY

1 COMMISSION RECEIVES OR CONSIDERS ANY REQUEST FOR THE ABANDONMENT
2 OR REMOVAL OF A RAILROAD GRADE CROSSING, BRIDGE OR TUNNEL, THE
3 COMMISSION SHALL NOTIFY THE DEPARTMENT OF ENVIRONMENTAL
4 RESOURCES. THE DEPARTMENT SHALL EVALUATE THE PROPOSED
5 ABANDONMENT OR REMOVAL IN ORDER TO DETERMINE THE IMPACT OF SUCH
6 ACTION UPON THE DEVELOPMENT, EXPANSION AND EXISTING USE OF
7 PUBLIC RECREATIONAL TRAILS AND MAY PARTICIPATE IN PROCEEDING
8 BEFORE THE COMMISSION CONCERNING SUCH MATTER.

9 (B) ACTIONS BY THE COMMISSION.--BEFORE TAKING FINAL ACTION
10 ON ANY REQUEST FOR THE ABANDONMENT OR REMOVAL OF A RAILROAD
11 GRADE CROSSING, BRIDGE OR TUNNEL, THE COMMISSION SHALL CONSIDER
12 THE IMPACT OF SUCH ACTION UPON THE DEVELOPMENT, EXPANSION AND
13 EXISTING USE OF RECREATIONAL TRAILS PURSUANT TO THIS ACT AND
14 IDENTIFY AND EVALUATE ALTERNATIVES WHICH WILL MINIMIZE ANY
15 ADVERSE IMPACTS OF COMMISSION ACTIONS UPON THE DEVELOPMENT AND
16 USE OF RECREATIONAL TRAILS.

17 Section ~~8-9~~ 11. Limitation on liability of persons making land <—
18 available for trail use.

19 (a) General rule.--Except as specifically recognized or
20 provided in subsection (d), an owner or lessee who provides the
21 public with land for use as a trail under this act or who owns
22 land adjoining any trail developed under this act owes no duty
23 of care to keep the land safe for entry or use by others for
24 recreational purposes, or to give any warning to persons
25 entering or going on that trail land of a dangerous condition,
26 use, structure or activity thereon.

27 (b) Owner.--Any person, public agency, or corporation owning
28 an interest in land utilized for recreational trail purposes
29 pursuant to this act shall be TREATED AS an "owner" for purposes <—
30 of the act of February 2, 1966 (1965 P.L.1860, No.586), entitled

1 "An act encouraging landowners to make land and water areas
2 available to the public for recreational purposes by limiting
3 liability in connection therewith, and repealing certain acts."

4 (c) Specific limitations on liability.--Except as
5 specifically recognized by or provided in subsection (d), an
6 owner or lessee who provides the public with land under this act
7 shall not, by providing that trail or land:

8 (1) be presumed to extend any assurance that the land is
9 safe for any purpose;

10 (2) incur any duty of care toward a person who goes on
11 that land; or

12 (3) become liable for any injury to persons or property
13 caused by an act or an act of omission of a person who goes
14 on that land.

15 (d) Exception.--

16 (1) This section shall not apply to the owner or lessee
17 of the land used as a trail if there is any charge made or
18 usually made for entering or using the trail or land, or any
19 part thereof, ~~or if any commercial or other activity whereby~~ <—
20 ~~profit is derived from the patronage of the general public is~~
21 ~~conducted on the land, or on any part thereof.~~

22 (2) This section shall not apply to the owner of land
23 adjoining a trail if there is any charge made or usually made
24 by the owner of such adjoining land for using the trail or
25 land, or any part thereof, or if any commercial or other
26 activity relating to the use of the trail whereby profit is
27 derived from the patronage of the general public is conducted
28 on such adjoining land, or on any part thereof PROVIDED, <—
29 HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
30 AUTHORIZE AN ADJOINING LAND OWNER CLAIMING AN INTEREST IN AN

1 AVAILABLE RAILROAD RIGHT-OF-WAY TO CHARGE FOR OR INHIBIT THE
2 USE OF SUCH A RIGHT-OF-WAY AS A RECREATIONAL TRAIL.

3 (3) Nothing in this act limits in any way any liability
4 which otherwise exists for willful or malicious failure to
5 guard or warn against a dangerous condition, use, structure
6 or activity.

7 ~~Section 9. Appropriations.~~ <—

8 ~~(a) Initial appropriation. The sum of \$3,000,000, or as~~
9 ~~much thereof, as may be necessary, is hereby appropriated to the~~
10 ~~Department of Environmental Resources for the fiscal year July~~
11 ~~1, 1989, to June 30, 1990, to carry out the provisions of this~~
12 ~~act.~~

13 ~~(b) Annual appropriation. Subsequent to the initial~~
14 ~~appropriation, the annual appropriation to the department shall~~
15 ~~include funds necessary to carry out the provisions of this act.~~
16 ~~The department may accept and expend Federal funds granted for~~
17 ~~the purposes contained in this act.~~

18 SECTION 12. NOTICES. <—

19 (A) SERVICE OF NOTICE.--THE RAILROAD SHALL SERVE ANY NOTICES
20 AS REQUIRED BY THE INTERSTATE COMMERCE COMMISSION, THE PUBLIC
21 UTILITY COMMISSION AND OTHER GOVERNING AGENCIES UPON THE
22 GOVERNOR AND THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.

23 (B) NOTIFICATION OF JURISDICTION.--IF THE DEPARTMENT
24 DETERMINES THAT JURISDICTIONAL CONTROL IS NOT APPROPRIATE BY THE
25 DEPARTMENT OR OTHER STATE AGENCIES, THEN THE DEPARTMENT SHALL
26 HAVE THE RESPONSIBILITY TO NOTIFY THE COUNTY GOVERNMENT AND
27 MUNICIPALITIES OF THE AVAILABILITY OR POTENTIAL AVAILABILITY OF
28 THE RAILROAD RIGHT-OF-WAY.

29 Section ~~10~~ 13. Effective date. <—

30 This act shall take effect in 90 days.