

Sunset Public Hearing Questions for
Rail Service Authorities
South Central Tennessee Railroad Authority
Tri-County Railroad Authority
Created by Sections 7-56-201, 64-2-201, and 64-2-301, *Tennessee Code Annotated*
(Sunset termination June 2015)

1. Provide a brief introduction to short-line railroads and the railroad authorities, including information about the authorities' purpose, statutory duties, and general organization. Describe the Tennessee Department of Transportation's involvement with the authorities.

Following the Staggers Act of 1980, Class I railroads began abandoning branch lines that were not profitable to them. Tennessee's railroad authorities were established to help preserve some of these former branch lines of Class I railroads as "short lines." Shortlines interchange with the Class I railroads but are operated by independent railroad operators.

The Tennessee Department of Transportation (TDOT) Division of Multimodal Transportation Resources oversees the Shortline Rehabilitation Program and works closely with the authorities and railroad operators. Public railroad authorities are the only eligible recipients to participate in TDOT's shortline rehabilitation program. They are local governmental entities enabled by the General Assembly to preserve and maintain essential rail service in areas, mostly rural, where it is vital to the local economies. Authorities are representative of the counties, cities, and communities in which the railroad operates. Each authority is governed by a board of directors and is expected to be actively involved in the management and administration of the State funds received. Shippers work closely with the authorities and their representatives may be on these boards.

2. Provide a list of all Tennessee railroad authorities that receive funding from the Tennessee Department of Transportation (TDOT). For each authority, provide information on the counties/cities involved, the railroad's operator, the miles of rail operated, and the types of commodities hauled.

Please see Exhibit 1 (attached).

3. Detail the funding TDOT provided to each railroad authority during fiscal years 2013 and 2014. What is the source of that funding and for what purposes were those funds used? Does TDOT expect to be able to provide similar funding during the foreseeable future? If not, what changes are anticipated?

While Transportation Equity Fund (TEF) funds were available, each railroad received an allocation of available funding. TDOT would hold any available funds in reserve until a railroad authority indicated that they wished to initiate a project. For any given year, the amount of a railroad authority's annual allocation may be more or less than the amount of grant funding the authority actually received in contracts. TDOT provides contracts for four general purposes: track rehabilitation, bridge rehabilitation, track engineering, and bridge engineering. Each contract has a provision for administration expenses of the railroad authority.

Allocations for FY13 are shown Exhibit 2. TDOT did not allocate any funds to railroad authorities in F14 in the wake of the July 2013 court decision.

4. How does the department determine how much money is allocated to each authority? Does the department require each authority to provide matching funds? If yes, please describe.

Traditionally, funding has been allocated based on the relative cost of bringing each railroad authority's track and bridges up to industry standard. For each railroad authority participating in TDOT's shortline program, TDOT conducted an evaluation of track and bridge condition and the cost of bringing all track and bridges up to the industry standard of 286,000 pound railcar capacity. To bring all shortline track up to this standard, \$107M was the approximate cost of bringing bridges up to standard and \$187M was the cost of bringing track up to this standard. Each railroad authority's pro rata share of this amount has been considered to be their need relative to other shortlines. If an authority's share of the total identified cost was 5% of the statewide total, then each year that authority was allocated 5% of the available funds.

Railroad authorities are required to provide a 10% match for all grant-funded projects. In the past TDOT has permitted the authorities to use goods or services provided by the operator as in-kind matching funds.

5. Are there any railroad authorities operating in Tennessee that do not receive funding from TDOT? Please provide details and explain why those authorities do not receive funding. Are there other short-line railroads in Tennessee that are not under the jurisdiction of an authority? Please explain.

All railroad authorities that currently exist received funding each time TDOT has allocated funds, with the last allocation taking place in Fall 2012. TDOT provides assistance to local governments that wish to create a new railroad authority. Memphis is in the process of establishing a railroad authority for the Tennessee Terminal Railway under the umbrella of Economic Development Growth Engine (EDGE), and once it is legally established they will apply for inclusion in TDOT's shortline program.

Fentress-Morgan Rail Authority was formed in 2005 and applied for admission into TDOT's shortline rehabilitation program. The Authority envisioned creating a new rail connection between the Plateau and East Tennessee via either a northern or southern alignment. TDOT provided \$40,000 for a study to assess feasibility and it was determined that the project proposals were not feasible. Fentress-Morgan Rail Authority was not admitted into the shortline program, and since that time it has dissolved.

There are a few shortline railroads in Tennessee that do not have an associated railroad authority:

- Chattooga and Chickamauga Railway Company (3 miles in Hamilton County, TN)
- Hiwassee River Railroad Company (43 miles in Polk County, TN)
- Mississippi Central Railroad Company (5 miles in Fayette and Hardeman Counties)
- Mississippi Tennessee Railway (5 miles in Hardeman County)
- Tennessee Terminal Railway (estimated 25 miles in Shelby County)

6. Please explain the relationship between the railroad authorities and the rail line operators. Who owns the rail lines under the authorities' jurisdiction? Who performs the rail line rehabilitation work funded by TDOT?

Please see Exhibit 1 (attached).

In all cases, the owner of the track and the shortline operator are signatories to TDOT contracts along with the railroad authority. The contract binds them to continue provision of rail service and imposes repayment requirements in the event that service is discontinued.

Rail line rehabilitation work funded by TDOT is awarded to contractors through a competitive bidding process. A number of different contracting companies have been awarded projects. In some cases, shortline operators and construction companies bidding on projects are under common ownership. These related companies are allowed to participate in the bidding process as long as the construction company is legally separate from the shortline operator and competitive bidding procedures are followed. State law also allows railroads to use their own forces on track projects but not bridge projects. Typically, the railroad authorities opt for competitive bidding over the use of force accounts. When a force account is used, the railroad operator performs the work at cost and cannot charge any profit to the state.

7. Describe in general the membership of the authorities' boards of directors. Who appoints those members who are not ex officio? What are the requirements for board meetings?

The railroad authorities will need to respond to this question individually since the composition of boards and meeting frequency varies by railroad authority. In general, the board of directors consists of the county and city mayors from the areas in which the railroad operates. Board membership may include other members as well, such as shippers on the line.

The requirements for board membership and the scheduling of board meetings are detailed in the by-laws of each railroad authority.

8. Describe TDOT's oversight of the railroad authorities and the rail line operators. How does the department ensure that state dollars were only spent on allowable items, that the rehabilitation work performed was of acceptable quality, and that the prices paid for labor and materials were reasonable?

TDOT provides oversight for the shortline grants that are provided to railroad authorities. Prior to submitting an invoice to TDOT, railroad authorities must have the work certified for payment by a qualified engineer that is independent from the railroad operator and the company performing the construction work. The engineer is responsible for ensuring that bid prices are reasonable and that the work performed meets the specifications included in the bid documents. After TDOT receives an invoice for completed work, TDOT conducts a site visit to see the work that was performed and determine whether payment of the invoice can go forward. Annually, TDOT External Audit audits a sample of grants to railroad authorities in accordance with Policy 22.

9. Who is responsible for ensuring that these short-line railroads are operated safely and maintained appropriately? How often are the rail lines inspected and by whom?

The track owner and railroad operator are responsible for safety and maintenance. Railroad authorities that own track will need to answer individually regarding the contractual relationship that exists between the authority/owner and the private railroad operator. TDOT is encouraging public railroad authorities that own track to ensure that the private sector operators are fulfilling their contractual obligations to maintain the track, including documentation of work performed and expenses incurred if needed to evaluate contractual compliance.

Recent changes to federal law have increased inspection requirements for railroads, and by 2016 shortlines must have established a program of annual bridge inspections and bridge load ratings. Under federal law, track owners are responsible for performing annual bridge inspections, load ratings, and developing a bridge maintenance plan. Unless the responsibility for bridge inspection and maintenance is formally transferred to the operator through the FRA, the FRA holds the owner of the track responsible for bridge safety.

In addition to inspections performed by railroad operators and/or track owners, TDOT's railroad inspectors provide track and rail-highway grade crossing inspections. Several of TDOT's inspectors are certified to issue violation notices on behalf of FRA. TDOT's railroad inspectors do not currently perform bridge inspections.

10. Does the department track statistics for numbers and types of accidents on the short-line railroads? If yes, please provide information for fiscal years 2013 and 2014. How do these numbers compare (e.g., per rail mile) to those for other types of rail lines?

TDOT does not track railroad accident statistics. The Federal Railroad Administration (FRA) tracks all accidents and incidents that surpass a certain threshold. When a reportable accident occurs, a railroad is required to report it to FRA. FRA has not yet published 2014 data so data for calendar years 2012 and 2013 is provided below. Although the data show a much lower rate of accidents per mile for shortlines than for Class I railroads, it is important to remember that the Class I track has much higher traffic density (traffic volume per track mile) than shortlines, and this impacts accident rates when expressed per mile.

	Track Miles	2012 Accidents	2013 Accidents	Total	Accidents per Mile
Class I Railroads	3305	28	46	74	0.0224
Shortline (Class III) Railroads	826	1	4	5	0.0061

11. What reports do the authorities and the rail line operators prepare on their operations, activities, and accomplishments? Who receives these reports?

TDOT's Multimodal Division receives the following annually:

- Annual report from each railroad authority and each shortline operator.
- Audit report prepared by a certified public accountant according to generally accepted accounting principles.

- Bridge inspection reports.

12. Have the Rail Service Authorities developed and implemented quantitative performance measures to ensure they are meeting their goals? (Please answer either yes or no). If the authorities have developed and implemented quantitative performance measures, answer questions thirteen through twenty. If the committee has not developed quantitative performance measures, proceed directly to question twenty-one.

Railroad authorities will need to respond to this question individually.

13. What are your key performance measures for ensuring the rail authorities are established goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

14. What aspect[s] of the program are you measuring?

15. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

16. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

17. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

18. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

19. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

20. Describe any concerns about the rail authorities performance measures and any changes or improvements you think need to be made in the process.

21. Describe any items related to the railroad authorities that require legislative attention and your proposed legislative changes.

TDOT has no legislative proposals.

22. Should the authorities be continued? To what extent and in what ways would the absence of the authorities affect the public health, safety, or welfare?

Yes, the railroad authorities should be continued. Rail access supports industry and agriculture in Tennessee, leading to economic growth and job retention. Transporting heavy materials by rail also helps preserve our roads by avoiding pavement damage.

23. Should the state continue to fund rehabilitation work on short-line railroads? Even in cases where the rail lines are owned by private operators? If yes, why?

Yes, there is public benefit from strategic investment in rail projects. Partnership with the private sector can promote economic growth for our communities.

24. Please list all railway authority programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

No federal funds pass through TDOT to the railroad authorities. A few railroad authorities (or the shortlines they serve) have received loans or grants from federal agencies. Since TDOT is often not involved in these grants/loans, individual railroad authorities will need to respond to this question.

If the rail authorities do receive federal assistance, please answer questions 25 through 32. If the rail authorities do not receive federal assistance, proceed directly to question 31.

**Exhibit 1
TENNESSEE RAILROAD AUTHORITIES**

Authority	Operator	Track Owner	Tennessee Track Miles	# of Bridges	Public/Private	Commodities	Counties
Bedford County Railroad Authority	Walking Horse and Eastern Railroad Company, Inc.	Bedford Railroad Authority	8.6	8	Public	plastic and molasses	Bedford
Carroll-Henry County Rail Authority	KWT Railway, Inc.	Genessee & Wyoming	66.7	28	Private	rail cars and clay	Carroll, Henry, Weakley
Cheatham County Railroad Authority	Nashville and Western Railroad Corporation	Cheatham County Railroad Authority	21.5	16	Public	Scrap coal cars, Steel, Perlite rock, Scrap paper, Cement, Waste oil, Plastic Pellets, Scrap metal, Cullet, Plate steel, Ethanol, and Bio fuel	Cheatham, Davidson
Cumberland County Railroad Authority	Franklin Industrial Minerals	Lhoist North America, Inc.	15.8	20	Private	Chemical grade limestone (Calcium carbonate)	Cumberland, Roane
East Tennessee Railroad Authority	East Tennessee Railway, LP	Genessee & Wyoming	7	9	Private	Scrap, Plastic and Various	Washington
Gibson County Railroad Authority	West Tennessee Railroad Company	Gibson County Railroad Authority owns the Kenton Branch NS owns Fulton KY to Corinth, MS	45	45	Private	Scrap metal, finished steel, pulp board, plastic, grains, fertilizer, propane, logs, lube oil, lumber and bricks	Gibson, Madison
Hamilton County Railroad Authority	Tyner Terminal Railway/TVRM East Chattanooga Belt Railway Company	Tennessee Valley Railroad Museum	23.3	11	Public/Private	Automobiles, steel, sugar and MTV cars Zinc, RR passenger cars, talc, and rail	Hamilton
Knox County Railroad Authority	Knoxville and Holston River Railroad	Gulf & Ohio Railways	21	4	Private	Coiled steel, scrap metal, Road salt, Oil, Plastic resin, lumber	Knox
Marion County Railroad Authority	Sequatchie Valley Railroad	Sequatchie Valley Railroad	8.8	4	Private	Plastic resin, steel, Plastic pellets, Gypsum board, Synthetic gypsum, Perlite and Starch	Marion, Sequatchie
Montgomery County Rail Service Authority	R.J. Corman Railroad Company	RJ Corman Railroad Company	36	7	Private	lime, sulfuric acid, pulp board, paper and plastics	Montgomery, Stewart
Nashville and Eastern Railroad Authority	Nashville and Eastern Railroad Corporation	Nashville & Eastern Railroad Authority	129.4	4	Public	steel, aggregate, sand, pulp board and plastics	Davidson, Putnam, Smith, Wilson
North East Tennessee Railroad Authority	R.J. Corman Railroad Company	RJ Corman Railroad Company	42	25	Private	premium coal	Anderson, Campbell, Scott
Oak Ridge-Heritage Railroad Authority	Waldet's Ridge Railroad Company	Heritage Railroad Corporation	11.5	5	Private	passenger excursion, empty railcars, hazardous materials	Anderson
South Central Tennessee Railroad Authority	South Central Tennessee Railroad Company, LLC	South Central Tennessee Railroad Authority	50	18	Public	metals, paper, frozen foods, automotive and other	Dickson, Hickman, Lewis
Tennessee Southern Railroad Authority	Tennessee Southern Railroad, LLC	Patriot Rail	107.5	50	Private	chemicals, coal, coke, pulp board, aluminum, plastics, cross ties and resin	Giles, Lawrence, Maury
TennKen Railroad Authority	TennKen Railroad, LLC	Hickman River City Development Council	41.5	7	Private	coiled steel, steel pipe, petroleum coke, electro binder, plastics, synthetic resin, carbon black, fertilizer and grain	Dyer, Lake
Tri-County Railroad Authority	Caney Fork & Western Railroad	Tri-County Railroad Authority	59.6	29	Public	Carbon black, Scrap metal, Green cross ties, Military vehicles, Propane, Fertilizer, Grain, LP gas, Transformers	Coffee, White, Warren
West Tennessee Rail Authority	West Tennessee Railroad Company	Norfolk Southern	136.6	143	Private	scrap metal, finished steel, pulp board, plastic, grain, propane, lube oil, lumber and bricks	Chester, Gibson, Madison, McNairy, Weakley

Exhibit 2
FY 2012-13 Total Allocations

<u>RAILROAD AUTHORITY</u>	<u>TOTAL NEEDS</u>	<u>PER CENT</u>	<u>C & A</u>	<u>CONST</u>	<u>ADMIN</u>	<u>ENG</u>	<u>TOTAL</u>
Bedford County	4,621,468	1.57%	233,724	225,220	8,504	22,151	255,875
Carroll-Henry County	20,960,797	7.14%	1,034,948	1,010,733	24,215	76,476	1,111,424
Cheatham County	13,550,130	4.62%	515,496	501,467	14,029	62,688	578,184
Cumberland County	14,880,922	5.07%	512,237	498,272	13,965	71,877	584,114
East Tennessee	2,732,523	0.93%	116,569	110,362	6,207	17,575	134,144
Gibson County	23,334,034	7.95%	1,199,211	1,171,775	27,436	81,037	1,280,248
Hamilton County	10,132,622	3.45%	532,232	517,874	14,358	38,509	570,741
Knox County	7,468,873	2.54%	312,897	302,840	10,057	35,820	348,717
Marion County	2,487,495	0.85%	124,888	118,518	6,370	15,347	140,235
Montgomery County	3,387,036	1.15%	143,307	136,575	6,732	20,123	163,430
Nashville & Eastern	35,298,924	12.02%	1,841,533	1,801,503	40,030	116,952	1,958,485
North East Tennessee	10,615,322	3.62%	514,974	500,955	14,019	42,960	557,934
Oak Ridge-Heritage	3,832,196	1.31%	181,280	173,804	7,476	20,481	201,761
South Central Tennessee	29,348,260	10.00%	1,306,123	1,276,592	29,531	114,107	1,420,230
Tennessee Southern	40,755,347	13.88%	2,139,593	2,093,718	45,875	132,974	2,272,567
TennKen	13,395,519	4.56%	566,871	551,834	15,037	58,074	624,945
Tri-County	24,160,806	8.23%	1,111,441	1,085,726	25,715	92,707	1,204,148
West Tennessee	32,589,480	11.10%	1,468,151	1,435,442	32,709	124,667	1,592,818
	293,551,754	100.00%	\$ 13,855,475	\$ 13,513,210	\$ 342,265	\$ 1,144,525	15,000,000

Total Allocation is based upon estimated \$15,000,000 Transportation Equity Fund Collections for fiscal year 2012-13.

Total Administration is based upon 2% of construction, plus an additional \$2,000 for Bridge and an additional \$2,000 for Track.

**Exhibit 2
FY 2013-14 Total Allocations**

<u>RAILROAD AUTHORITY</u>	<u>TOTAL NEEDS</u>	<u>PER CENT</u>	<u>C & A</u>	<u>CONST</u>	<u>ADMIN</u>	<u>ENG</u>	<u>TOTAL</u>
Bedford County	4,621,468	1.57%	233,724	225,220	8,504	22,151	255,875
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Total Allocation is based upon estimated \$15,000,000 Transportation Equity Fund Collections for fiscal year 2013-14.

Total Administration is based upon 2% of construction, plus an additional \$2,000 for Bridge and an additional \$2,000 for Track.