

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)

RESPONSE OF SOUTH CENTRAL TENNESSEE RAILROAD AUTHORITY

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. (Should this come from TDOT? Probably.)

ANSWER: Most of the Short line railroads in Tennessee are former Class 1 Railroad branch lines that were sold off because the Class 1's believed that they could not operate over the lines and make a profit. The Class 1's deferred maintenance on the track, roadbed, bridges, culverts, turnouts, grade crossings and other railroad infrastructure in Tennessee from the 1940's through the 1980's, creating unsafe operating conditions throughout the state. After the passing of the Staggers Act in the early 1980's, the Class 1 Railroad ceased railroad operations, divested themselves of their unprofitable branch lines, or leased portions of their tracks to short line operators. In 1990, most of the track and bridges were not suitable for modern railroad freight car loading, and were in a state of disrepair.

To preserve the economic benefit derived by the short-line railroads, the State of Tennessee created the Short-line Railroad Authorities to preserve and maintain the State's railroad infrastructure. The Short-line Railroad Authorities are comprised of representatives from the local municipalities served by the line. Each Short-Line Railroad authority is governed by a Board of Directors. As a governmental entity, funding for track and bridge rehabilitation may be provided by the State of Tennessee, through the Department of Transportation. The Department of Transportation participates in all funding decisions involving the Short-Line Railroad Authorities.

1. 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.

ANSWER: Members of South Central are Counties of Dickson, Hickman, Lewis, Perry and Wayne, and Cities of Dickson, Centerville, Hohenwald, Linden and Waynesboro. Our line is 50 miles long and runs from its intersection with the Class I railroad, CSX, in Dickson, then through Hickman County to Hohenwald. Our railroad operator ships LP Gas, frozen potatoes, steel wire, rosin solution, clay, chlorine, tile products and PVC components. Our operator is South Central Tennessee Railroad LLC., headquartered in Centerville.

TDOT should provide this information on other authorities. Attached will be a roster of all Short-Line Railroad Authorities receiving funding from the Department of Transportation and information regarding their location, the operators, the miles of rail operated and descriptions of the commodities transported by railway.

2. 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?

ANSWER: Funding allocations for fiscal year 2013 - 2014 were made; however, all worked on Authority Projects was stopped on September 20, 2013, so no projects were actually started. Funding is based on collections from diesel fuel tax which is placed into the Transportation Equity Fund. Equity Fund collections are managed by the Department of Revenue. As appropriations allow, State Highway Funds are also directed toward satisfying rail needs.

In Fiscal Year 2013 – 2014, no funding from the Transportation Equity Fund was provided for track repairs. Future funding allocations to the Short-Line Railroad Authorities are dependent upon Transportation Equity Fund collection. In 2013 a Federal Court enjoined collection of the diesel fuel tax due to a lawsuit filed by the Class I railroads. On September 20, 2013 TDOT stopped all disbursements to authorities and froze \$40 million already in the equity fund. Authorities could ask for crucial funds but only a small number have been granted. None of our authority's efforts have been successful.

3. 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.

**ANSWER: In 1999, the Tennessee Department of Transportation's, Office of Rail and Waterways allocated funds to the Authorities for the Authority Engineers to perform an assessment of railroad bridge conditions and rehabilitation needs. And, in 2005, the Tennessee Department of Transportation's, Office of Rail and Waterways commissioned an assessment of railroad track and other infrastructure conditions. Funding allocations correlate to the rehabilitation needs identified by the bridge rehabilitation needs and rail rehabilitation needs assessments. The results of the needs assessment are available at the following link:
<http://www.tdot.state.tn.us/publictrans/trackassessment.htm#assess>.**

In an effort to prepare for and promote increased reliance on freight transportation by rail, additional funding has been directed toward bridge repairs and upgrading railroad bridges and track to carry 286,000 lb freight cars. Railroads were originally designed for 210,000 lb loading, and were upgraded in the mid-1900's for 263,000 lb loading. In the 1990's, the industry standard became 286,000 lb loading. This action is being taken in preparation for projected increases to rail freight transportation being generated by coastal import traffic and economic development of our surrounding states especially, Alabama and Mississippi.

Short-Line Railroad Authorities must provide a 10% match of funds to receive a grant from the Department of Transportation. An “in kind” match is acceptable with verifiable documentation.

The Authority’s Engineer has performed annual bridge inspections, and has maintained bridge repair information during the years that TDOT funded the Bridge Rehabilitation Allocations.

4. 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.

ANSWER: All Short-Line Railroads receiving funding from the Department of Transportation must operate under an Authority. Authority legitimacy is verified by the Department to verify legitimacy prior to awarding funds.

5. 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?

ANSWER: South Central Tennessee Railroad Authority owns its line and leases the tracks, bridges and right-of-way to the operator.

All projects are governed by three party contracts entered into by the State of Tennessee, the Authority and the contractor awarded the contract after making the lowest and best bid. Except in rare cases in which the operator is the successful bidder contracting for the job and doing the work itself, the operator is not a party to the contract.

There are two categories of short-line railroads: Public and Private:

- 1) **Public short-line railroads hold ownership of all amenities; such as tracks and bridges and employ an operator for the railroad. Examples of this arrangement include the South Central Tennessee Railroad Authority and the Nashville and Eastern Railroad Authority.**
- 2) **Private short-line railroads are owned by the operator and must cooperate with the Short-line Rail Authority to receive funding. Examples of this arrangement include the KWT Railway and Carroll-Henry County Railroad Authority, and, the Tennessee Southern and the Tennessee Southern Railroad Authority.**

Railroad track and bridge rehabilitation that is funded by the Tennessee Department of Transportation through the Authorities is performed by contractors selected by the Authorities through a rigid public bid process. Contractor selection

must conform to Authority and departmental public bid procedures and guidelines and is monitored by the Authority Engineer, and by department staff through onsite reviews and reporting requirements. TDOT also requires that the Authority's attorney approve each contract.

6. 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?

ANSWER: The board of directors governs the Short-Line Rail Authority. Board members are representatives of counties and municipalities that are serviced by the short-line railroad, usually including the County Mayors and City Mayors. Local population censuses may dictate the number of members who serve on the board of directors. Each county and city has the opportunity to select one member from outside the local government, such as a representative from among the freight movers or shippers.

Most authorities conduct quarterly board meetings.

South Central has 20 board members. Each mayor of the local governmental members are on the board by virtue of office and each government appoints an additional member.

7. 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?

ANSWER: The Department of Transportation provides each Authority with funding for engineering and administration purposes. The Authority hires a qualified, licensed, railway engineering firm. The Engineer performs track and bridge inspections to verify the priority work to be performed each fiscal year, and prepares plans, specifications, and other bidding documents. Contractor selection is subject to TDOT requirements and the Authority's approved public bid process. The public bid process is extensively advertised and is very competitive. TDOT requires that documentation be submitted verifying that work was properly completed and inspected prior to making payment. The project, bid, and construction phase work, and verification, must be completed by the Authority Engineer.

TDOT closely monitors how state money is spent by South Central to make sure only allowable expenses are paid.

At the request of management, South Central requires each officer handling money be covered by a corporate bond of \$500,000. Any check for more than \$500 must be

signed by two members of the executive committee. Any check to a managing officer for any sum must have two signatures.

8. 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?

ANSWER: Each independent Authority is responsible for maintaining a safe rail line. The Department of Transportation regulates their condition and operations through the Office of Rail Safety by conducting periodic rail crossing, track and bridge inspections.

9. 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?

ANSWER: This responsibility was assumed by the Federal Railroad Administration's, Office of Safety.

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

ANSWER: Each Authority is required to provide the Department of Transportation with an 1) annual audit report which must be prepared by a certified public accountant according to generally accepted accounting practices; 2) an annual report prepared and submitted by the operators and 3) a report on the results of annual bridge inspections. (Note that bridge inspections were not funded by TDOT in the 2013 – 2014 fiscal year).

Future funding availability is dependent on the submission of these documents.

11. 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.

ANSWER: Yes. Each Authority reports the miles of track, and sections of track upgraded to 286k compliance standards. Each Authority submits bridge programs to TDOT as they are Bid that identify upgrades to the 286k standard. Each Authority Engineer maintains records of track and bridge rehabilitation programs and upgrades.

Questions 12 through 20 seem to be directed to TDOT.

12. 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. N/A
13. What aspect[s] of the program are you measuring? N/A
14. 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. N/A
15. 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. N/A
16. 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? N/A
17. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate. N/A
18. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures. N/A
19. Describe any concerns about the rail authorities performance measures and any changes or improvements you think need to be made in the process. N/A
20. Describe any items related to the railroad authorities that require legislative attention and your proposed legislative changes. N/A
21. 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?

ANSWER: Yes, the Short-Line Railroad Authorities provide an essential transportation mode for bulky and hazardous materials, competition between transportation modes, reduced truck traffic on state highways, and economic, environmental, quality of life, and safety benefits to the state. Most sort lines serve some rural areas, providing opportunities for industrial development and job creation and maintenance.

With the expansion of costal ports, the movement of increased volumes of container freight and agricultural products in and through Tennessee will continue to escalate at a continual rate. As freight transportation increases, roadways will become more

congested, environments more polluted and vehicle collisions more likely. In contrast, rail transportation to and from the points of destination or origination is less expensive, more fuel efficient, reduces highway traffic and produces less pollutants.

The state of Tennessee must focus on freight transportation alternatives not only to maintain a satisfactory quality of life but to continue to attract employers to accommodate the increasing population. Employers recognize the benefits of rail transportation not only in cost savings but in time savings. Inventory spent on highways in stalled transportation routes is money lost. The state's ability to mitigate the concerns of business will greatly impact the economic landscape for citizens.

The 18 authorities and their short lines serve over a third of Tennessee's counties. In many rural areas they are vital and shippers have no viable alternative to get their products to market. In South Central's case, failure to establish an authority, the first one organized, would have caused the closing of a plant employing over 500 people. It had no alternative means to bring in components of its products.

22. 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?

ANSWER: Yes, in fact an increase in funding of rehabilitation efforts should be considered. The rail system is aged and facing a re-emergence of demand based on the information shared above. An increase in the need for freight transportation brings with it the need to increase in the load bearing capabilities of track and bridges as well as increased tunnel and pass-through heights. Tennessee would be wise to aid the short-lines in preparing for this inevitable reality.

23. 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.

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.

ANSWER: Short-Line Rail Authorities receive no federal funding.

24. Does the committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

ANSWER: No.

25. Does the committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues. N/A

26. To which state or federal agency (if any) does the committee report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted. **N/A**
27. Describe the committee's actions to ensure that association staff and clients/program participants understand the requirements of Title VI. **N/A**
28. Describe the committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any association monitoring or tracking activities related to Title VI, and how frequently these activities occur. **N/A**
29. Please describe the committee's procedures for handling Title VI complaints. Has your association received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status). **N/A**
30. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

ANSWER: (A complete listing will be made available at the review)

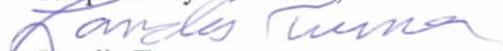
Most Authority members are appointees or volunteers and receive no compensation for their services. They are chaired by a locally elected official and in most situations there is only one paid administrative staff person.

South Central is chaired by a director appointed by the City of Hohenwald. He is not an elected official of the city. Only his bookkeeper and secretary are compensated. No one else connected with South Central is paid.

31. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

ANSWER: (A complete listing of all Authority/Grant Recipients will be made available at the review) The Department of Transportation executes grant agreements with the Short-Line Railroad Authorities which in turn contract with engineering firms and short-line rail operators.

Respectfully submitted,



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