



Ohio Revised Code

Section 4981.31 Franchise for rail system.

Effective: October 20, 1994

Legislation: House Bill 250 - 120th General Assembly

(A) The award by the Ohio rail development commission of a franchise for all or part of a rail system shall be the sole license required for a franchisee to exercise all specified franchise powers and enjoy all specified franchise rights. The franchise shall be for a term of not less than thirty-five, but not more than fifty years from the date of commencement of actual service operations. With the approval of the general assembly, the commission may extend a franchise beyond the time period specified in the original franchise award, on terms mutually agreeable to the franchisee and the commission. If the commission does not grant an extension, any portion of the rail system owned by the franchisee shall revert to the state upon expiration of the franchise.

(B) In the absence of a material default by a franchisee under the franchise agreement, any termination by the commission of a franchise prior to the expiration of its stated terms shall be deemed to be either an impairment of contract by the state or the equivalent of the commencement of an appropriation action by the state, as the franchisee may elect, and shall entitle the franchisee to full compensation for its loss, including reimbursement of all costs incurred in the development of the franchise. Any terms of the franchise agreement designed to protect the reasonable expectations of persons providing financing for the portion of the system comprising the franchise shall not be affected by any proposed franchise termination, and any termination based upon an alleged material default in performance by the franchisee is subject to the hearing and appeal provisions of Chapter 119. of the Revised Code.

(C) The franchise agreement may authorize the franchisee to plan, design, finance, construct, operate, and maintain its designated portion of the rail system and any ancillary system facilities.

(D) The franchise agreement shall require the franchisee to construct, operate, and maintain the rail system in accordance with the franchise agreement. All minimum technical standards for the design, construction, and operation of the portion of the system comprising the franchise shall be included in the franchise agreement or incorporated by reference. The conditions of the franchise agreement relating to the actual operation of the trains, including train speed, capacity, construction and



maintenance standards, environmental enhancement and protection, safety, and noise levels, supersede any conflicting rule, ordinance, resolution, standard, or charter provision of any agency or political subdivision of the state.

(E) Provision may be included in the franchise agreement for a development and construction schedule, subject to extension for events beyond the control of the franchisee and changes in applicable state and federal law.

(F) The franchise agreement shall obligate the commission, upon request of the franchisee, to assist in obtaining permits and licenses necessary for the construction and operation of the rail system and ancillary facilities.

(G) If a franchisee develops and either transfers its portion of the rail system to the commission and then leases that portion from the commission, or leases its portion to the commission and continues to operate that portion of the rail system, the state shall indemnify the franchisee against claims that, if made against the commission or the state, would be subject to a defense of sovereign immunity.

(H) In the franchise agreement, the commission may furnish the franchisee with reasonable assurances that the state will not take any action that would have the effect of depriving the franchisee of the anticipated economic benefits of franchise operation, including the award of franchises subsequent to the award of the 3-C corridor franchise which have such effect, and that the commission will take such reasonable actions to dissuade other agencies of the state from taking actions that might have an adverse economic or regulatory impact on the franchisee.

(I) If more than one franchise is awarded, the franchisees shall bear all costs necessary for the interconnection of their respective franchises, which costs shall be allocated equitably by the commission.

(J) After a franchise is awarded, the terms under which it is awarded may be modified only by written agreement of the parties, after observation of notice and comment procedures initially agreed to by the commission and the franchisee.

(K) The commission shall cooperate with the environmental protection agency in the franchise



procurement review and award process. In consultation with the agency, the commission shall adopt or amend reasonable procedural rules in order to simplify and expedite the process by which the franchisee applies for and obtains required state permits.

(L) The commission shall assist franchisees in meeting environmental requirements, including, if requested by a franchisee, serving as the lead agency in connection with environmental impact analysis requirements.