

**BYLAWS OF  
THE CINCINNATI SOUTHERN RAILWAY**

Adopted on April 4, 2007

## **BYLAWS OF THE CINCINNATI SOUTHERN RAILWAY**

### **ARTICLE 1 – THE BOARD OF TRUSTEES**

The Board of Trustees (the "Board" or "Trustees") of the Cincinnati Southern Railway ("CSR") was created according to the provisions of the Ohio General Code §15093 et seq. and any supplemental legislation including applicable ordinances of the City of Cincinnati, as the same exists or may hereafter be amended (hereinafter referred to collectively as the "Ferguson Act").

### **ARTICLE 2 – CORPORATE OFFICES**

#### **Section 2.1 REGISTERED OFFICE.**

The registered office of CSR shall be c/o City of Cincinnati Law Department, 214 City Hall, 801 Plum Street, Cincinnati, Ohio 45202.

#### **Section 2.2 OTHER OFFICES.**

The Board may at any time establish other offices at any place or places where CSR is qualified to do business.

### **ARTICLE 3 – MEETINGS OF TRUSTEES**

#### **Section 3.1 PLACE OF MEETINGS.**

Meetings of Trustees shall be held at the Trustees' office in the City of Cincinnati, or any other place designated by the Trustees, but the Trustees may adjourn from time to time to meet at any time and place they may think proper.

#### **Section 3.2 REGULAR MEETINGS.**

The Trustees shall hold regular meetings for the transaction of business.

### Section 3.3 SPECIAL MEETINGS.

Special meetings of the Board may be called by or at the request of the President or any three (3) Trustees. The person[s] authorized to call special meetings of the Board may fix the place for holding any special meeting of the Board called by them. The Clerk of the Board shall give notice of special meetings to the Trustees.

### Section 3.4 QUORUM.

A majority of the Trustees shall constitute a quorum for the transaction of business at all meetings of the Trustees. If, however, such quorum is not present or represented at any meeting of the Trustees, then either (a) the chairperson of the meeting, or (b) the Trustees present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

### Section 3.5 ADJOURNED MEETING; NOTICE.

When a meeting is adjourned to another time or place, unless these Bylaws otherwise require, notice need not be given of the adjourned meeting if the time and place, if any thereof, by which Trustees may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the continuation of the adjourned meeting, CSR may transact any business

that may have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Trustee.

#### Section 3.6 CONDUCT OF BUSINESS.

The chairperson of any meeting of Trustees shall determine the order of business and procedure at the meeting, including the regulation of the manner of voting and the conduct of business.

#### Section 3.7 VOTING.

Except as otherwise provided by law or these Bylaws, a majority of the votes cast at a meeting of the Trustees duly called and at which quorum is present shall be sufficient to take or authorize action upon such matter.

#### Section 3.8 PROXIES.

Each Trustee may authorize another Trustee or Trustees to act for such Trustee by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three (3) months from its date, unless the proxy provides for a longer period.

## **ARTICLE 4 – TRUSTEES**

### **Section 4.1 POWERS.**

The business and affairs of CSR shall be managed and all corporate powers shall be exercised by or under the direction of the Trustees subject to resolutions, these Bylaws, and the Ferguson Act.

### **Section 4.2 NUMBER OF TRUSTEES.**

In accordance with the Ferguson Act, the Board shall consist of five members who shall be appointed by the Mayor of the City of Cincinnati with the approval of the Cincinnati City Council. At no time shall there be more than three members of the same political party serving on the Board.

### **Section 4.3 TERM OF OFFICE OF TRUSTEES.**

In accordance with the Ferguson Act, the Trustees shall serve for a term of five years.

### **Section 4.4 RESIGNATION AND VACANCIES.**

Resignation and vacancies shall be filled by as provided in Section 4.2.

## **ARTICLE 5 – COMMITTEES**

### **Section 5.1 COMMITTEE OF TRUSTEES.**

The Board may designate one or more committees, each committee to consist of one or more of the Trustees. The Board may designate one or more Trustees as alternative members of any committee, who may replace any absent or disqualified

member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in these Bylaws or resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of CSR, and may authorize the seal of CSR to be affixed to all papers that may require it, but no such committee shall have the power or authority to adopt, amend or repeal any Bylaw of CSR.

#### Section 5.2 COMMITTEE MINUTES.

Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

#### Section 5.3 MEETINGS AND ACTIONS OF COMMITTEES.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (a) Section 3.1 (place of meetings);
- (b) Section 3.2 (regular meetings);
- (c) Section 3.3 (special meetings and notice);
- (d) Section 3.4 (quorum);

(e) Section 3.7 (voting); and

(f) Section 3.8 (proxies)

with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board and its members. However, (i) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee; (ii) special meetings of committees may also be called by resolution of the Board; and (iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee.

The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

#### **ARTICLE 6- EXECUTIVE SESSION**

By vote of a majority of the Trustees present at any meeting of the Board, the meeting may be closed to the public, subject to the requirements of the Ohio Open Meetings Act, Ohio Rev. Code § 121.22.

#### **ARTICLE 7 - MINUTES**

The Secretary shall take minutes of all meetings of the Board; shall file, index and preserve all minutes, papers, and documents pertaining to the business and proceedings of the Board; and shall be custodian of all records of the Board, all in accordance with the Ohio Public Records Act, Ohio Rev. Code § 149.43.

## **ARTICLE 8- PARLIAMENTARY AUTHORITY**

The rules contained in the current edition of Robert's Rules of Order shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Bylaws, any special rules of order this Board may adopt, and any laws applicable to the Board.

## **ARTICLE 9 – AMENDMENTS**

The Board is expressly empowered to adopt, amend or repeal these Bylaws by an affirmative vote of at least three members of the Board..

## **ARTICLE 10 – INDEMNIFICATION**

### **Section 10.1 RIGHT TO INDEMNIFICATION.**

Each person who was or is made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he/she is or was a Trustee or officer of CSR shall be indemnified and held harmless by CSR to the fullest extent authorized by Ohio state law as the same exists or may hereafter be amended, against any expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by such person in connection therewith. Notwithstanding the above, no Trustee or officer shall be indemnified nor held harmless by CSR unless:

- (a) In the case of conduct in his/her official capacity with CSR, he/she acted in good faith and in a manner he/she reasonably believed to be in the best interests of CSR;



(b) In all other cases, his/her conduct was not opposed to the best interests of CSR nor in violation of the these Bylaws, or the Ferguson Act; and

(c) In the case of any criminal proceeding, he/she had no reasonable cause to believe that his/her conduct was unlawful.

#### Section 10.2 RIGHT TO ADVANCEMENT OF EXPENSES.

The right to indemnification conferred in Section 10.1 of this Article shall include the right to be paid by CSR the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that such an advancement of expenses shall be made only upon delivery to CSR of (a) a statement of his/her good faith belief that he/she has met the standard of conduct described in Section 10.1; and (b) an undertaking by or on behalf of the indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision that he/she is not entitled to be indemnified for such expenses.

#### Section 10.3 DETERMINATION AND AUTHORIZATION TO INDEMNIFY.

CSR may not indemnify a Trustee or officer under this Article 9 unless authorized after a determination has been made that indemnification of the Trustee or officer is permissible in the circumstances because he/she has met the standard of conduct in Section 10.1. This determination shall be made by the Board by a majority vote of a quorum consisting of Trustees not at the time parties to the proceeding, or if the foregoing is inapplicable, then by a majority vote of a quorum of Trustees, notwithstanding any provision of Ohio law inconsistent with the foregoing.

Section 10.4 NON-EXCLUSIVITY OF RIGHTS.

The rights to indemnification and to the advancement of expenses conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, agreement, or otherwise.

Section 10.5 INSURANCE.

CSR may maintain insurance, at its expense, to protect itself and any Trustee or officer of CSR against any expense, liability or loss.

**ARTICLE 11 – INTERPRETATION OF BYLAWS**

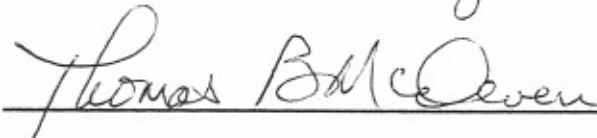
These Bylaws are intended to supplement the Ferguson Act, and to the extent there is a conflict between the Bylaws and the Ferguson Act, the Ferguson Act shall control.

**CERTIFICATE OF ADOPTION OF  
BYLAWS OF**

**THE CINCINNATI SOUTHERN RAILWAY**

The undersigned hereby certifies that he/she is the duly elected, qualified and acting Secretary of the Cincinnati Southern Railway and that the foregoing Bylaws, comprising 9 pages plus a cover page, were adopted as the Bylaws of the Cincinnati Southern Railway on April 4, 2007, by the Board of Trustees of the Cincinnati Southern Railway.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand affixed the corporate seal this 31 day of May, 2007.

  
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Thomas B. McOwen  
Secretary

Attest: \_\_\_\_\_

Clerk