

As Introduced

**128th General Assembly
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S. B. No. 116

Senator Buehrer

Cosponsors: Senators Goodman, Patton, Miller, D.

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A B I L L

To amend sections 4905.54, 4905.57, 4907.23, 4909.28, 1
4909.29, 4955.21, 4955.36, and 5561.16; to enact 2
new section 4955.22; and to repeal section 4955.22 3
of the Revised Code to authorize the Public 4
Utilities Commission to hear complaints regarding 5
a railroad's failure to properly sustain certain 6
areas near its tracks and to authorize forfeiture 7
for noncompliance and to update certain provisions 8
of law governing railroads. 9
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4905.54, 4905.57, 4907.23, 4909.28, 11
4909.29, 4955.21, 4955.36, and 5561.16 be amended and new section 12
4955.22 of the Revised Code be enacted to read as follows: 13

Sec. 4905.54. (A) Every public utility or railroad and every 14
officer of a public utility or railroad shall comply with every 15
order, direction, and requirement of the public utilities 16
commission made under authority of this chapter and Chapters 17
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 18
so long as they remain in force. Except as otherwise specifically 19

provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 20
4923.99 of the Revised Code, the public utilities commission may 21
assess a forfeiture of not more than ten thousand dollars for each 22
violation or failure against a public utility or railroad that 23
violates does any of the following: 24

(1) Violates a provision of those chapters ~~or that after due~~ 25
notice fails; 26

(2) Violates section 4955.20, 4955.21, 4955.36, or 5561.16 of 27
the Revised Code; 28

(3) Fails to comply, after due notice, with an order, 29
direction, or requirement of the commission that was officially 30
promulgated. Each day's continuance of the violation or failure is 31
a separate offense. ~~All~~ 32

(B) All forfeitures collected under this section shall be 33
credited to the general revenue fund, except that, of each 34
forfeiture collected for violating sections 4955.20, 4955.21, 35
4955.36, and 5561.16 of the Revised Code, half shall be credited 36
to the general revenue fund and the other half shall be credited 37
to the general fund of the municipal corporation, township, or 38
county most directly affected by the violation. However, the 39
entire forfeiture shall be credited to the general revenue fund in 40
the case of a violation of section 5561.16 of the Revised Code 41
related to a state highway or extension thereof. 42

Sec. 4905.57. Except as otherwise specifically provided in 43
sections 4905.83, 4905.96, 4919.99, 4921.99, and 4923.99 of the 44
Revised Code, actions to recover forfeitures provided for in this 45
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 46
of the Revised Code shall be prosecuted in the name of the state 47
and may be brought in the court of common pleas of any county in 48
which the public utility or railroad is located. Such actions 49
shall be commenced and prosecuted by the attorney general ~~when he~~ 50

~~is directed to do so by~~ upon the request of the public utilities 51
commission. Moneys recovered by such actions shall be deposited in 52
the state treasury to the credit of the general revenue fund, 53
except that, of the moneys recovered for violating sections 54
4955.20, 4955.21, 4955.36, and 5561.16 of the Revised Code, half 55
shall be credited to the general revenue fund in the state 56
treasury and the other half shall be credited to the general fund 57
of the municipal corporation, township, or county most directly 58
affected by the violation. However, all moneys recovered by an 59
action under this section shall be deposited to the credit of the 60
general revenue fund in the case of a violation of section 5561.16 61
of the Revised Code related to a state highway or extension 62
thereof. 63

Sec. 4907.23. Whenever an accident attended with loss of 64
human life occurs within this state upon the line of any railroad, 65
or on the depot grounds or yards of any railroad, such railroad 66
shall give immediate notice of such accident to the public 67
utilities commission. 68

In case of such accident, the commission, if it deems the 69
public interest requires it, shall cause an investigation to be 70
made forthwith, which shall be held in the locality of the 71
accident, unless for greater convenience of those concerned, the 72
commission orders such investigation held at some other place. 73
Such investigation may be adjourned from place to place as is 74
necessary and convenient. The commission shall give reasonable 75
notice to an officer, division engineer, roadmaster, or ~~station~~ 76
~~agent~~ track supervisor of the company of the time and place of the 77
investigation. 78

The cost of such investigation shall be certified by the 79
~~chairman~~ chairperson of the commission, and audited and paid by 80
the state as other expenses. The commission shall keep a record or 81

file of the proceedings and evidence. 82

Sec. 4909.28. If, upon an investigation under Chapters 4901., 83
4903., 4905., 4907., 4909., 4921., and 4923., ~~and 4925.~~ of the 84
Revised Code, the public utilities commission finds that any 85
existing rate, fare, charge, or classification, any joint rate, or 86
any regulation or practice affecting the transportation of persons 87
or property, or service in connection therewith, is unreasonable 88
or unjustly discriminatory, or that any service is inadequate, it 89
shall determine and by order fix a reasonable rate, fare, charge, 90
classification, joint rate, regulation, practice, or service to be 91
imposed, observed, and followed in the future, in place of that so 92
found to be unreasonable, unjustly discriminatory, or inadequate. 93
A certified copy of each such order shall be delivered to an 94
officer, division engineer, roadmaster, or station agent track 95
supervisor of the railroad affected, and such order shall of its 96
own force take effect and become operative thirty days after 97
service. 98

All railroads to which such order applies shall make such 99
changes in their schedules on file as are necessary to conform to 100
such order, and no change shall thereafter be made by any railroad 101
in any such rate, fare, or charge, or in any joint rate, without 102
the approval of the commission. 103

Sec. 4909.29. Certified copies of all orders, other than 104
those referred to in section 4909.28 of the Revised Code, of the 105
public utilities commission shall be delivered to an officer, 106
division engineer, roadmaster, or station agent track supervisor 107
of each railroad affected thereby, and shall take effect within 108
such time thereafter as the commission prescribes. 109

Sec. 4955.21. The officers having charge of a public highway, 110
street, or alley intersected by a railroad shall serve a written 111

notice upon the nearest ~~station agent or section foreman~~ division 112
engineer, roadmaster, or track supervisor having charge of that 113
portion of the railroad where such intersection occurs that the 114
crossing, approach, or sidewalk described in section 4955.20 of 115
the Revised Code must be built or repaired, setting forth its kind 116
and extent and the time and manner of constructing it, as ordered 117
by the legislative authority of the municipal corporation or board 118
of township trustees. 119

A railroad company so notified must comply with such notice 120
within a period of thirty days after receiving it. On failure to 121
do so, the board or legislative authority may ~~cause such crossing,~~ 122
~~approach, or sidewalk to be constructed or repaired as ordered,~~ 123
~~and recover the cost of so doing with interest in a civil action~~ 124
~~against the railroad company in the name of the board or municipal~~ 125
~~corporation~~ file a complaint with the public utilities commission 126
pursuant to sections 4905.04 and 4907.08 of the Revised Code. 127

Sec. 4955.22. If, pursuant to section 4907.08 of the Revised 128
Code, the public utilities commission determines that the company 129
or person having control or management of a railroad is in 130
violation of section 4955.20, 4955.21, 4955.36, or 5561.16 of the 131
Revised Code, the commission may order compliance. 132

Sec. 4955.36. Every railroad company shall destroy or remove 133
plants, trees, brush, or other obstructive vegetation upon its 134
right-of-way at each intersection with a public road or highway, 135
for a distance of six hundred feet or a reasonably safe distance 136
from the roadway of such public road or highway as shall be 137
determined by the public utilities commission. 138

When any railroad company fails to destroy or remove such 139
vegetation after ten-day written notice served on its local agent, 140
the ~~commission,~~ board of county commissioners, board of township 141

trustees, or legislative authority of a municipal corporation, in 142
which the intersection is located, having the care of such road or 143
highway, ~~shall remove such plants, trees, brush, or other~~ 144
~~obstructive vegetation and shall recover the cost of removal from~~ 145
~~the responsible railroad company. If the company fails to pay the~~ 146
~~amount demanded within thirty days, after such company has been~~ 147
~~notified by certified mail at the address to which tax bills are~~ 148
~~sent, the commission, board of county commissioners, board of~~ 149
~~township trustees, or legislative authority of a municipal~~ 150
~~corporation shall certify the amount demanded to the county~~ 151
~~auditor of the county in which the work was performed to be~~ 152
~~collected as other taxes and assessments and upon collection shall~~ 153
~~be credited to the general fund of the public body causing said~~ 154
~~work to be performed may file a complaint with the commission~~ 155
~~pursuant to sections 4905.04 and 4907.08 of the Revised Code.~~ 156

Sec. 5561.16. Any person, firm, or corporation operating a 157
railroad for the transportation of passengers, freight, or 158
express, crossing at grade any street or road, shall construct, 159
reconstruct, improve, maintain, and repair that portion of the 160
highway at such crossing and lying between the outside ends of the 161
ties, and also that portion lying between the tracks, in the case 162
of two or more tracks, and the cost and expense of this 163
construction, reconstruction, improvement, maintenance, or repair 164
shall be borne by said individual, firm, or corporation. Such 165
construction, reconstruction, improvement, maintenance, or repair 166
shall be done in accordance with plans, profiles, and 167
specifications first approved by the director of transportation, 168
in case of state highways or extensions thereof, or by the county 169
engineer, in case of county and township roads or extensions 170
thereof. 171

Such individual, firm, or corporation, upon being notified by 172
the director, in case of state highways or extensions thereof, or 173

the engineer, in case of county or township roads or extensions 174
thereof, that ~~he~~ the director or engineer has determined that it 175
is necessary that such individual, firm, or corporation make such 176
improvement, and being informed of the character thereof in a 177
general way, shall, within thirty days from receiving such notice, 178
which shall be served by the sheriff in the same manner as summons 179
in civil action, prepare and submit to the director or engineer 180
for ~~his~~ approval, detailed plans and specifications covering such 181
improvement. The director or engineer may approve such plans and 182
specifications as submitted, or ~~he~~ the director or engineer may 183
change such plans and specifications and approve them as changed. 184
Within thirty days after the approval of such plans by the 185
director or engineer, such individual, firm, or corporation shall 186
proceed to make such improvement, in accordance with the plans and 187
specifications approved, and complete it in a reasonable time. 188

~~If such individual, firm, or corporation does not, within the 189
time limited, prepare and submit for approval such plans and 190
specifications, or proceed to make such improvement, or, having 191
proceeded to make such improvement within the time limited, fail 192
to complete the same within a reasonable time, or proceed to make 193
such improvement not in accordance with the plans and 194
specifications so approved, the director or engineer may enter 195
upon and make such improvement in accordance with the plans and 196
specifications so approved, or if plans and specifications have 197
not been submitted and approved, then in accordance with plans and 198
specifications prepared by the director or engineer. 199~~

~~The costs of making such improvement, including engineering 200
and inspection, by the director or engineer, shall, in the first 201
instance, be paid by the director or county out of any 202
appropriation of the department of transportation or county 203
available for the construction, reconstruction, improvement, 204
maintenance, or repair of highways. 205~~

~~Upon the completion of such improvement, the director or 206
engineer shall certify the amount of the costs, including 207
engineering and inspection of such improvement, to the attorney 208
general or prosecuting attorney, for collection by civil action. 209
The director or engineer, in such certificate to the attorney 210
general or prosecuting attorney, may set out the amount of the 211
payments and the time of making the various payments as set out, 212
as deemed reasonable by the director or engineer. 213~~

~~The prosecuting attorney or attorney general shall proceed to 214
collect such costs and expenses, in accordance with the 215
certificate of the director or engineer. Whenever a road or street 216
is improved where a street, interurban, or other railroad or 217
railway lies within the improved portion of the roadway, such the 218
individual, firm, or corporation operating the railroad shall 219
change the railroad or railway grade ~~shall~~, in all respects, ~~be 220
changed~~ to meet the approval of the engineer, unless otherwise 221
provided for in the grant or franchise by virtue of which such 222
railroad or railway operates on or occupies said highway. Costs of 223
such change shall be paid by the ~~company,~~ individual, firm, or 224
corporation under the law or by the terms of its franchise or 225
grant, ~~shall be a lien upon the property of such company, and the 226
proper authorities may provide for the payment of the amount 227
chargeable against said company, under the law or by the terms of 228
its franchise or grant, in installments as in the case of other 229
property owners. Such installments shall bear interest as in other 230
cases, and the board of county commissioners or other authorities 231
may issue bonds in anticipation of the collection of such 232
installments. 233~~~~

The director, engineer, or other proper authority may file a 234
complaint with the public utilities commission pursuant to 235
sections 4905.04 and 4907.08 of the Revised Code for any failure 236
to comply with this section. 237

Section 2. That existing sections 4905.54, 4905.57, 4907.23,	238
4909.28, 4909.29, 4955.21, 4955.36, and 5561.16 and section	239
4955.22 of the Revised Code are hereby repealed.	240