

As Passed by the Senate

**128th General Assembly
Regular Session
2009-2010**

Sub. S. B. No. 116

Senator Buehrer

**Cosponsors: Senators Goodman, Patton, Miller, D., Sawyer, Cates, Faber,
Gibbs, Harris, Hughes, Miller, R., Morano, Schiavoni, Seitz, Turner, Wagoner,
Wilson, Fedor, Kearney, Smith**

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A B I L L

To amend sections 4905.54, 4905.57, 4907.23, 1
4907.472, 4909.28, 4909.29, 4955.21, 4955.36, and 2
5561.16; to enact new section 4955.22; and to 3
repeal section 4955.22 of the Revised Code to 4
authorize the Public Utilities Commission to hear 5
complaints regarding a railroad's failure to 6
properly sustain certain areas near its tracks and 7
to authorize forfeiture for noncompliance and to 8
update certain provisions of law governing 9
railroads. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4905.54, 4905.57, 4907.23, 4907.472, 11
4909.28, 4909.29, 4955.21, 4955.36, and 5561.16 be amended and new 12
section 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 the following: 22

(1) A forfeiture of not more than ten thousand dollars for 23
each violation or failure against a public utility or railroad 24
that violates a provision of those chapters or that after due 25
notice fails to comply with an order, direction, or requirement of 26
the commission that was officially promulgated; 27

(2) A forfeiture of not more than five thousand dollars for 28
each violation or failure against a public utility or railroad 29
that violates section 4955.20, 4955.21, 4955.36, or 5561.16 of the 30
Revised Code or that after due notice fails to comply with an 31
order, direction, or requirement of the commission that was 32
officially promulgated. Each 33

(B) Each day's continuance of the violation or failure under 34
this section is a separate offense. All 35

(C) All forfeitures collected under this section shall be 36
credited to the general revenue fund, except as follows: 37

(1) Other than a forfeiture collected as provided in division 38
(C)(2) of this section, each forfeiture collected for violating 39
sections 4955.20, 4955.21, 4955.36, and 5561.16 of the Revised 40
Code shall be credited to the grade crossing protection fund 41
created by section 4907.472 of the Revised Code. 42

(2) In the case of a violation of section 5561.16 of the 43
Revised Code related to a state highway or extension thereof, the 44
forfeiture shall be credited to the general revenue fund. 45

Sec. 4905.57. Except as otherwise specifically provided in 46
sections 4905.83, 4905.96, 4919.99, 4921.99, and 4923.99 of the 47

Revised Code, actions to recover forfeitures provided for in this 48
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 49
of the Revised Code shall be prosecuted in the name of the state 50
and may be brought in the court of common pleas of any county in 51
which the public utility or railroad is located. Such actions 52
shall be commenced and prosecuted by the attorney general ~~when he~~ 53
~~is directed to do so by~~ upon the request of the public utilities 54
commission. Moneys recovered by such actions shall be deposited in 55
the state treasury to the credit of the general revenue fund, 56
except as follows: 57

(A) Other than moneys recovered as provided in division (B) 58
of this section, the moneys recovered for violating sections 59
4955.20, 4955.21, 4955.36, and 5561.16 of the Revised Code shall 60
be credited to the grade crossing protection fund created by 61
section 4907.472 of the Revised Code. 62

(B) In the case of a violation of section 5561.16 of the 63
Revised Code related to a state highway or extension thereof, all 64
moneys recovered by an action under this section shall be 65
deposited to the credit of the general revenue fund. 66

Sec. 4907.23. Whenever an accident attended with loss of 67
human life occurs within this state upon the line of any railroad, 68
or on the depot grounds or yards of any railroad, such railroad 69
shall give immediate notice of such accident to the public 70
utilities commission. 71

In case of such accident, the commission, if it deems the 72
public interest requires it, shall cause an investigation to be 73
made forthwith, which shall be held in the locality of the 74
accident, unless for greater convenience of those concerned, the 75
commission orders such investigation held at some other place. 76
Such investigation may be adjourned from place to place as is 77
necessary and convenient. The commission shall give reasonable 78

notice to an officer, division engineer, roadmaster, or station 79
agent track supervisor of the company of the time and place of the 80
investigation. 81

The cost of such investigation shall be certified by the 82
~~chairman~~ chairperson of the commission, and audited and paid by 83
the state as other expenses. The commission shall keep a record or 84
file of the proceedings and evidence. 85

Sec. 4907.472. (A) There is hereby created in the state 86
treasury the grade crossing protection fund for the purpose of 87
paying: 88

(1) The public share of the cost of reducing hazards at 89
public highway-railway crossings at any location where a railway 90
and a public highway intersect each other at a common grade, when 91
such protection is ordered by the public utilities commission 92
pursuant to section 4907.47, 4907.471, or 4907.49 of the Revised 93
Code; 94

(2) The costs incurred by the commission in administering 95
sections 4907.47 to 4907.476 of the Revised Code. 96

(B) Moneys for the fund shall be provided from forfeitures 97
assessed pursuant to section 4905.54 of the Revised Code, the 98
motor fuel tax levied under section 5735.05 of the Revised Code, 99
and any federal funds apportioned and allocated to the state for 100
the reduction of hazards at railroad grade crossings. One hundred 101
thousand dollars shall be transferred to the fund each month as 102
provided for in section 5735.23 of the Revised Code, and may be 103
expended by the commission to pay the public share of the costs 104
for reducing hazards at railway crossings with highways, roads, or 105
streets on the state, county, township, or municipal highway and 106
street systems and the costs incurred by the commission in 107
administering sections 4907.47 to 4907.476 of the Revised Code, 108
provided that not more than ten per cent of the amounts thus 109

transferred each fiscal year may be used for paying such 110
administrative costs that fiscal year. 111

Sec. 4909.28. If, upon an investigation under Chapters 4901., 112
4903., 4905., 4907., 4909., 4921., and 4923., ~~and 4925.~~ of the 113
Revised Code, the public utilities commission finds that any 114
existing rate, fare, charge, or classification, any joint rate, or 115
any regulation or practice affecting the transportation of persons 116
or property, or service in connection therewith, is unreasonable 117
or unjustly discriminatory, or that any service is inadequate, it 118
shall determine and by order fix a reasonable rate, fare, charge, 119
classification, joint rate, regulation, practice, or service to be 120
imposed, observed, and followed in the future, in place of that so 121
found to be unreasonable, unjustly discriminatory, or inadequate. 122
A certified copy of each such order shall be delivered to an 123
officer, division engineer, roadmaster, or ~~station agent track~~ 124
supervisor of the railroad affected, and such order shall of its 125
own force take effect and become operative thirty days after 126
service. 127

All railroads to which such order applies shall make such 128
changes in their schedules on file as are necessary to conform to 129
such order, and no change shall thereafter be made by any railroad 130
in any such rate, fare, or charge, or in any joint rate, without 131
the approval of the commission. 132

Sec. 4909.29. Certified copies of all orders, other than 133
those referred to in section 4909.28 of the Revised Code, of the 134
public utilities commission shall be delivered to an officer, 135
division engineer, roadmaster, or ~~station agent track supervisor~~ 136
of each railroad affected thereby, and shall take effect within 137
such time thereafter as the commission prescribes. 138

Sec. 4955.21. The officers having charge of a public highway, 139

street, or alley intersected by a railroad shall serve a written 140
notice upon the nearest ~~station agent or section foreman~~ division 141
engineer, roadmaster, or track supervisor having charge of that 142
portion of the railroad where such intersection occurs that the 143
crossing, approach, or sidewalk described in section 4955.20 of 144
the Revised Code must be built or repaired, setting forth its kind 145
and extent and the time and manner of constructing it, as ordered 146
by the legislative authority of the municipal corporation or board 147
of township trustees. 148

A railroad company so notified must comply with such notice 149
within a period of thirty days after receiving it, unless the 150
public utilities commission specifies a different time period. On 151
failure to do so, the board or legislative authority may ~~cause~~ 152
~~such crossing, approach, or sidewalk to be constructed or repaired~~ 153
~~as ordered, and recover the cost of so doing with interest in a~~ 154
~~civil action against the railroad company in the name of the board~~ 155
~~or municipal corporation~~ file a complaint with the public 156
utilities commission pursuant to sections 4905.04 and 4907.08 of 157
the Revised Code. 158

Sec. 4955.22. If, pursuant to section 4907.08 of the Revised 159
Code, the public utilities commission determines that the company 160
or person having control or management of a railroad is in 161
violation of section 4955.20, 4955.21, 4955.36, or 5561.16 of the 162
Revised Code, the commission may order compliance. 163

Sec. 4955.36. Every railroad company shall destroy or remove 164
plants, trees, brush, or other obstructive vegetation upon its 165
right-of-way at each intersection with a public road or highway, 166
for a distance of six hundred feet or a reasonably safe distance 167
from the roadway of such public road or highway as shall be 168
determined by the public utilities commission. 169

When any railroad company fails to destroy or remove such 170
vegetation after ten-day written notice served on its local agent, 171
or after a different time period as specified by the commission, 172
the ~~commission,~~ board of county commissioners, board of township 173
trustees, or legislative authority of a municipal corporation, in 174
which the intersection is located, having the care of such road or 175
highway, ~~shall remove such plants, trees, brush, or other~~ 176
~~obstructive vegetation and shall recover the cost of removal from~~ 177
~~the responsible railroad company. If the company fails to pay the~~ 178
~~amount demanded within thirty days, after such company has been~~ 179
~~notified by certified mail at the address to which tax bills are~~ 180
~~sent, the commission, board of county commissioners, board of~~ 181
~~township trustees, or legislative authority of a municipal~~ 182
~~corporation shall certify the amount demanded to the county~~ 183
~~auditor of the county in which the work was performed to be~~ 184
~~collected as other taxes and assessments and upon collection shall~~ 185
~~be credited to the general fund of the public body causing said~~ 186
~~work to be performed~~ may file a complaint with the commission 187
pursuant to sections 4905.04 and 4907.08 of the Revised Code. 188

Sec. 5561.16. Any person, firm, or corporation operating a 189
railroad for the transportation of passengers, freight, or 190
express, crossing at grade any street or road, shall construct, 191
reconstruct, improve, maintain, and repair that portion of the 192
highway at such crossing and lying between the outside ends of the 193
ties, and also that portion lying between the tracks, in the case 194
of two or more tracks, and the cost and expense of this 195
construction, reconstruction, improvement, maintenance, or repair 196
shall be borne by said individual, firm, or corporation. Such 197
construction, reconstruction, improvement, maintenance, or repair 198
shall be done in accordance with plans, profiles, and 199
specifications first approved by the director of transportation, 200
in case of state highways or extensions thereof, or by the county 201

engineer, in case of county and township roads or extensions 202
thereof. 203

Such individual, firm, or corporation, upon being notified by 204
the director, in case of state highways or extensions thereof, or 205
the engineer, in case of county or township roads or extensions 206
thereof, that ~~he~~ the director or engineer has determined that it 207
is necessary that such individual, firm, or corporation make such 208
improvement, and being informed of the character thereof in a 209
general way, shall, within thirty days from receiving such notice, 210
which shall be served by the sheriff in the same manner as summons 211
in civil action, prepare and submit to the director or engineer 212
for ~~his~~ approval, detailed plans and specifications covering such 213
improvement. The director or engineer may approve such plans and 214
specifications as submitted, or ~~he~~ the director or engineer may 215
change such plans and specifications and approve them as changed. 216
Within thirty days after the approval of such plans by the 217
director or engineer, such individual, firm, or corporation shall 218
proceed to make such improvement, in accordance with the plans and 219
specifications approved, and complete it in a reasonable time. 220

~~If such individual, firm, or corporation does not, within the 221
time limited, prepare and submit for approval such plans and 222
specifications, or proceed to make such improvement, or, having 223
proceeded to make such improvement within the time limited, fail 224
to complete the same within a reasonable time, or proceed to make 225
such improvement not in accordance with the plans and 226
specifications so approved, the director or engineer may enter 227
upon and make such improvement in accordance with the plans and 228
specifications so approved, or if plans and specifications have 229
not been submitted and approved, then in accordance with plans and 230
specifications prepared by the director or engineer. 231~~

~~The costs of making such improvement, including engineering 232
and inspection, by the director or engineer, shall, in the first 233~~

~~instance, be paid by the director or county out of any~~ 234
~~appropriation of the department of transportation or county~~ 235
~~available for the construction, reconstruction, improvement,~~ 236
~~maintenance, or repair of highways.~~ 237

~~Upon the completion of such improvement, the director or~~ 238
~~engineer shall certify the amount of the costs, including~~ 239
~~engineering and inspection of such improvement, to the attorney~~ 240
~~general or prosecuting attorney, for collection by civil action.~~ 241
~~The director or engineer, in such certificate to the attorney~~ 242
~~general or prosecuting attorney, may set out the amount of the~~ 243
~~payments and the time of making the various payments as set out,~~ 244
~~as deemed reasonable by the director or engineer.~~ 245

~~The prosecuting attorney or attorney general shall proceed to~~ 246
~~collect such costs and expenses, in accordance with the~~ 247
~~certificate of the director or engineer. Whenever a road or street~~ 248
~~is improved where a street, interurban, or other railroad or~~ 249
~~railway lies within the improved portion of the roadway, such the~~ 250
~~individual, firm, or corporation operating the railroad shall~~ 251
~~change the railroad or railway grade ~~shall~~, in all respects, be~~ 252
~~changed to meet the approval of the engineer, unless otherwise~~ 253
~~provided for in the grant or franchise by virtue of which such~~ 254
~~railroad or railway operates on or occupies said highway. Costs of~~ 255
~~such change shall be paid by the ~~company,~~ individual, firm, or~~ 256
~~corporation under the law or by the terms of its franchise or~~ 257
~~grant, ~~shall be a lien upon the property of such company, and the~~~~ 258
~~proper authorities may provide for the payment of the amount~~ 259
~~chargeable against said company, under the law or by the terms of~~ 260
~~its franchise or grant, in installments as in the case of other~~ 261
~~property owners. Such installments shall bear interest as in other~~ 262
~~eases, and the board of county commissioners or other authorities~~ 263
~~may issue bonds in anticipation of the collection of such~~ 264
~~installments.~~ 265

The director, engineer, or other proper authority may file a 266
complaint with the public utilities commission pursuant to 267
sections 4905.04 and 4907.08 of the Revised Code for any failure 268
to comply with this section. 269

Section 2. That existing sections 4905.54, 4905.57, 4907.23, 270
4907.472, 4909.28, 4909.29, 4955.21, 4955.36, and 5561.16 and 271
section 4955.22 of the Revised Code are hereby repealed. 272