

SENATE BILL No. 443

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-6-7.7; IC 34-30-2-24.6.

Synopsis: Railroad crossing safety measures. Requires the Indiana department of transportation to order the installation of automatic warning signals at a railroad crossing that is the site of at least two fatal accidents. Requires the department to annually upgrade with automatic signals the 20 most hazardous railroad crossings. Provides that the funds to pay for the signals must come first from federal funds dedicated to railroad purposes and then from state highway funds that may be used for railroads. Provides that the state will pay the 10% local match of funds for the automatic signals from the railroad grade crossing fund. Requires the department to facilitate the installation of the following at crossings: (1) Reflective tape on existing crossbucks. (2) Stop signs. (3) Pavement markings or rumble strips. Provides (Continued next page)

Effective: July 1, 1999.

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January 13, 1999, read first time and referred to Committee on Transportation and Interstate Cooperation.

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Digest Continued

that a local unit may be reimbursed for installation expenses from the railroad grade crossing fund. Provides that the state and local unit is immune from any civil liability for injury or property damage that is proximately caused by the installation. Creates a diagnostic review team effective July 1, 2009, to evaluate whether to continue upgrading the 20 most hazardous railroad crossings.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 443



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-6-7.7-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The Indiana
 3 department of transportation, whenever it orders the construction,
 4 installation, replacement, relocation, modernization, or improvement
 5 of automatic train-activated warning signals, may prescribe the division
 6 of the costs of the equipment, the installation of the equipment, the
 7 construction, and the operation and maintenance of the equipment
 8 between the railroad and the public. **Except as provided in section 4.3**
 9 **of this chapter**, the share of the costs allocated to the public shall be
 10 paid with funds appropriated to the department for such purpose. In
 11 allotting the costs, IC 8-23-5-2 applies except as provided in
 12 subsections (b) through (c) **and section 4.3 of this chapter**.
 13 (b) **Except as provided in section 4.3 of this chapter**, whenever a
 14 grade crossing not protected by automatic warning signals is ordered
 15 so protected, the department shall prescribe the division of the cost of



1 the equipment, its installation, its operation and maintenance, and its
 2 construction between the railroad involved and the public, giving due
 3 regard to the net benefits received by the parties, and the causes
 4 creating the need for signals at the crossing.

5 (c) The physical work of constructing, installing, replacing,
 6 relocating, modernizing, or improving, and thereafter operating and
 7 maintaining automatic warning signals under order of the department
 8 shall be performed by the railroad involved. All orders of the
 9 department relating to the signals shall provide for allocation among
 10 the parties involved for the extraordinary costs of signal repair or
 11 replacement if they are damaged or destroyed by accident or external
 12 causes.

13 (d) When the department orders the railroad to proceed with the
 14 construction, installation, relocation, modernization, or replacement of
 15 automatic signals at a grade crossing **under this subsection or section**
 16 **4.1 or 4.2 of this chapter**, the department shall order the railroad
 17 involved to complete the construction, installation, relocation,
 18 modernization, or replacement of signals not later than twelve (12)
 19 months after the date of the order.

20 (e) A railroad may request the department for additional time to
 21 complete the construction, installation, relocation, modernization, or
 22 replacement of signals specified in the department's order under
 23 subsection (d) **or section 4.1 or 4.2 of this chapter**. The railroad shall
 24 submit the request for additional time in writing to the department. The
 25 request shall specifically set forth the basis for the railroad's need for
 26 additional time to complete the work. The department's decision to
 27 grant or deny a request for additional time is not subject to review
 28 under IC 4-21.5.

29 (f) If the railroad fails to complete the construction, installation,
 30 relocation, modernization, or replacement of signals by the date
 31 specified:

32 (1) in the department's order under subsection (d) **or section 4.1**
 33 **or 4.2 of this chapter**; or

34 (2) by the department if a request for additional time is granted by
 35 the department under subsection (e);

36 the department may assess a civil penalty against the railroad of not
 37 more than one thousand dollars (\$1,000) for each day the construction,
 38 installation, relocation, modernization, or replacement of signals is late.

39 (g) All civil penalties collected under this section shall be deposited
 40 with the treasurer of state to be deposited by the treasurer of state in the
 41 railroad grade crossing fund created under IC 8-6-7.7-6.1.

42 SECTION 2. IC 8-6-7.7-4.1 IS ADDED TO THE INDIANA CODE



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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 1999]: **Sec. 4.1. (a) This section applies to a railroad grade
3 crossing that is:**

- 4 (1) the site of at least two (2) fatal accidents; and
5 (2) not equipped with automatic warning signals.

6 (b) The department shall take steps to install automatic warning
7 signals at the railroad crossing as set forth in this section and
8 section 4 of this chapter.

9 (c) The department shall do the following:

- 10 (1) Determine the type of automatic warning signals
11 appropriate for the railroad grade crossing.
12 (2) Order the railroad involved to complete the physical work
13 of installing the automatic warning signals.

14 (d) The railroad shall complete the preparatory engineering
15 work for the installation of automatic warning signals at the
16 crossing not later than six (6) months after the railroad grade
17 crossing meets the criteria of subsection (a)(1).

18 SECTION 3. IC 8-6-7.7-4.2 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 1999]: **Sec. 4.2. (a) Every fiscal year the department shall order
21 the upgrade to active warning devices of at least the twenty (20)
22 most hazardous railroad crossings in Indiana based on a priority
23 list established under this section. The railroads must complete the
24 upgrades as set forth in this section and section 4 of this chapter.**

25 (b) The railroad crossing priority list established by the
26 department shall:

- 27 (1) indicate the probability of an accident at each railroad
28 crossing in Indiana;
29 (2) assign the highest priority to railroad crossings with the
30 highest probability of an accident; and
31 (3) assign the lowest priority to railroad crossings with the
32 least probability of an accident.

33 (c) In creating the railroad crossing priority list, the department
34 may consider the following criteria:

- 35 (1) Volume of vehicular traffic.
36 (2) Volume of train traffic.
37 (3) History of previous accidents.
38 (4) Train type and speed.
39 (5) Limitations of view.
40 (6) Intersection angle.
41 (7) Number of tracks.
42 (8) Highway alignment.

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1 **(9) Other factors and conditions that the department**
 2 **considers relevant.**

3 SECTION 4. IC 8-6-7.7-4.3 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 1999]: **Sec. 4.3. (a) The costs of automatic warning signals**
 6 **installed under sections 4.1 and 4.2 of this chapter shall be paid**
 7 **from the following funds in order:**

8 **(1) First, from available federal funds dedicated for railroad**
 9 **purposes.**

10 **(2) Second, from available state highway safety funds that**
 11 **may be used for railroad purposes.**

12 **(b) The state shall pay the ten percent (10%) local match of**
 13 **funds from the railroad grade crossing fund established under**
 14 **IC 8-6-7.7-6.1.**

15 SECTION 5. IC 8-6-7.7-4.4 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 1999]: **Sec. 4.4. (a) At every public passive railroad crossing in**
 18 **Indiana, the department shall:**

19 **(1) order the railroads to adhere reflective tape in a highly**
 20 **conspicuous manner to the front and back sides of existing**
 21 **crossbucks;**

22 **(2) erect stop signs or order the local unit having jurisdiction**
 23 **to erect stop signs, if appropriate under the Indiana Manual**
 24 **on Uniform Traffic Control Devices for Streets and**
 25 **Highways; and**

26 **(3) implement pavement markings or rumble strips, or both.**

27 **(b) Notwithstanding IC 8-6-7.7-4(b), if a local unit is required to**
 28 **expend resources during the installation of the passive railroad**
 29 **crossing devices under subsection (a), the local unit may apply for**
 30 **total reimbursement for services from the railroad grade crossing**
 31 **fund under IC 8-6-7.7-6.1 upon submitting proper documentation**
 32 **itemizing the local unit's expenses. The department shall reimburse**
 33 **a local unit not later than sixty (60) days after receiving an invoice**
 34 **from a local unit.**

35 **(c) The passive railroad crossing devices under subsection (a)**
 36 **shall be completed not later than July 1, 2001.**

37 **(d) The state or a local unit that orders the installation of, or**
 38 **installs at a railroad crossing, the items set forth in subsection (a)**
 39 **is immune from civil liability for injury or property damage that**
 40 **occurs at the crossing that is proximately caused by the**
 41 **installation.**

42 SECTION 6. IC 8-6-7.7-4.5 IS ADDED TO THE INDIANA CODE



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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 1999]: **Sec. 4.5. (a) Beginning July 1, 2009, the governor shall**
3 **appoint a diagnostic review team consisting of the following**
4 **members:**

5 (1) **One (1) citizen member who has a knowledge of railroads.**

6 (2) **One (1) representative of a Class 1 railroad (as defined in**
7 **49 C.F.R. Part 1201, Subpart A).**

8 (3) **A representative of the Indiana department of**
9 **transportation.**

10 (4) **A representative of a nonprofit organization for rail**
11 **crossing safety.**

12 (b) **The governor may not appoint an individual under section**
13 **(a)(1):**

14 (1) **who is an employee of a railroad;**

15 (2) **who is a lobbyist (as defined in IC 2-2.1-3-1) for a railroad;**
16 **or**

17 (3) **who may have had a pecuniary interest in a railroad or**
18 **has an immediate family member who may have had a**
19 **pecuniary interest in a railroad;**

20 **within three (3) years preceding the individual's appointment.**

21 (c) **If all members of the team determine by clear and**
22 **convincing evidence that the crossings, which have not been**
23 **upgraded with automatic warning signals, no longer pose a threat**
24 **to persons using Indiana's railroad crossings, the department shall**
25 **cease making the upgrades under section 4.2 of this chapter.**

26 (d) **If the team determines under subsection (c) that the**
27 **upgrades should not cease, the team shall reconvene annually**
28 **before July 1 to analyze whether the upgrades should continue.**

29 (e) **A member of the team who is a state employee is entitled to**
30 **reimbursement for travel expenses and other expenses actually**
31 **incurred in connection with the member's duties as provided in the**
32 **state travel policies and procedures established by the Indiana**
33 **department of administration and approved by the budget agency.**

34 (f) **A member of the team who is not a state employee is entitled**
35 **to the minimum salary per diem provided by IC 4-10-11-2.1(b).**
36 **The member is also entitled to reimbursement for travel expenses**
37 **and other expenses actually incurred in connection with the**
38 **member's duties as provided in the state travel policies and**
39 **procedures established by the Indiana department of**
40 **administration and approved by the budget agency.**

41 (g) **Not later than November 1 of each year, the team shall**
42 **submit a report to the general assembly containing the team's**



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1 **findings and recommendations concerning whether the department**
2 **should continue to update crossings under section 4.2 of this**
3 **chapter.**
4 SECTION 7. IC 34-30-2-24.6 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 1999]: **Sec. 24.6. IC 8-6-7.7-4.4 (concerning**
7 **political subdivisions installing stop signs, markings, and reflective**
8 **tape at passive crossings.)**
9 SECTION 8. [EFFECTIVE JULY 1, 1999] (a) **The Indiana**
10 **department of transportation shall submit to the Federal Highway**
11 **Administration not later than September 1, 1999, requests for**
12 **approval of the projects to upgrade at least the twenty (20) most**
13 **hazardous railroad crossings in Indiana with active warning**
14 **devices as set forth in IC 8-6-7.7-4.2, as added by this act.**
15 (b) **This SECTION expires July 1, 2000.**

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