
HOUSE BILL No. 1495

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-5-2.

Synopsis: Maintenance of roads occupied by railroad tracks. Provides that the department of transportation, a county, or a municipality may provide highway or road surface maintenance at a railroad crossing at its own cost, if the railroad approves the work in advance. Prohibits the department, a county, a municipality, or a railroad from charging access or inspection fees in connection with construction or maintenance at a railroad crossing. Provides that highway or road construction and maintenance work at railroad crossings may be paid for from federal rail safety funds. Provides the standard by which a railroad must grade, surface, and maintain a public highway, public road, and railroad tracks at a railroad crossing. Provides the boundaries within which the railroad is responsible for the repair and maintenance of the grade and surface occupied by the railroad tracks.

Effective: July 1, 2005.

Foley

January 18, 2005, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1495



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 8-23-5-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a highway or road is being
3 constructed or reconstructed so that it crosses or intersects the existing
4 tracks of a railroad at grade level at a point where no crossing
5 previously existed, the department, county, city, or town under whose
6 jurisdiction the crossing lies shall pay the cost of the construction of the
7 new crossing, the approaches to the crossing, and the cost of the
8 necessary protective or crossing warning signals. After construction,
9 the owner or lessee of the railroad shall maintain the crossing and
10 protective or crossing warning signals and keep them in repair at the
11 owner's or lessee's cost.

12 (b) If the owner or lessee of a railroad is constructing or
13 reconstructing railroad tracks so that the tracks cross or intersect a
14 highway or road at grade level at a point where no railroad crossing
15 previously existed, the owner or lessee of the railroad shall pay the cost
16 of the construction of the new crossing, the approaches to the crossing,
17 and the cost of the necessary protective or crossing warning signals.



1 After construction, the owner or lessee of the railroad shall maintain
2 the crossing and protective or crossing warning signals and keep them
3 in repair at the owner's or lessee's cost.

4 (c) If a highway or road crosses or intersects the tracks of a railroad
5 at grade level and the highway or road is reconstructed to alter the
6 existing crossing or intersection by a change of grade, widening or
7 changing the type of pavement, or by changing the angle of the
8 intersection, the department, county, city, or town under whose
9 jurisdiction the crossing lies shall pay the cost of the reconstruction of
10 the crossing, the approaches to the crossing, and the cost of the
11 necessary protective or crossing warning signals. After reconstruction,
12 the owner or lessee of the railroad shall maintain the crossing and
13 protective or crossing warning signals and keep them in repair at the
14 owner's or lessee's cost.

15 (d) If the owner or lessee of a railroad reconstructs or alters the
16 tracks of a railroad that crosses or intersects a highway or road at grade
17 level so that it is necessary to reconstruct or alter the crossing or
18 intersection, the owner or lessee of the railroad shall pay the cost of the
19 reconstruction or altering of the crossing, the approaches to the
20 crossing, and the cost of the necessary protective or crossing warning
21 signals. After construction, the owner or lessee of the railroad shall
22 maintain the crossing and protective or crossing warning signals and
23 keep them in repair at the owner's or lessee's cost.

24 **(e) Notwithstanding subsections (a) through (d), the department,**
25 **a county, a city, or a town under whose jurisdiction a railroad**
26 **crossing lies may provide highway or road surface maintenance at**
27 **a railroad crossing at its own cost, if the department, county, city,**
28 **or town requests and receives written approval from the railroad**
29 **owner or lessee before commencing the highway or road surface**
30 **maintenance.**

31 **(f) The department, a county, a city, a town, or an owner or**
32 **lessee of a railroad may not impose or charge any access fee,**
33 **inspection fee, or right of entry fee in connection with the**
34 **performance of any construction, reconstruction, or maintenance**
35 **work provided for in subsections (a) through (e).**

36 **(g) Any construction, reconstruction, or maintenance of**
37 **highway or road surfaces provided for in this section may be paid**
38 **for from funds obtained under 23 U.S.C. 130.**

39 **(h) A railroad whose tracks lie in any public highway or road**
40 **shall properly grade, surface, and maintain the highway, road, and**
41 **railroad tracks within the boundaries described in subsection (i):**

42 **(1) in accordance with the grade and surfacing material of the**

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- 1 highway or road; and
- 2 (2) in a manner as to afford security for life and property of
- 3 persons and vehicles using the highway or road.
- 4 (i) The railroad is responsible for the repair and maintenance of
- 5 the grade and surface occupied by the railroad tracks, including
- 6 the space:
 - 7 (1) between the rails of a railroad track;
 - 8 (2) between the railroad tracks if there are at least two (2)
 - 9 railroad tracks; and
 - 10 (3) that extends eighteen (18) inches in width on the outside of
 - 11 each rail of a railroad track.

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