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HOUSE BILL 2013

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Pearson and Edwards

Read first time 02/19/2003. Referred to Committee on Transportation.

1            AN ACT Relating to allocating costs for railroad crossings of  
2 private roads; amending RCW 81.53.275; adding new sections to chapter  
3 81.53 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** The legislature finds that railroad  
6 crossings of private roads can pose a danger to the property owner on  
7 which such crossings are located and to the public at large. The  
8 legislature intends to allocate the cost of placing safety devices at  
9 such crossings in an equitable manner according to the benefits that  
10 the railroads, the property owners, the local municipalities, and the  
11 state enjoy from such safety devices.

12            NEW SECTION.    **Sec. 2.** A new section is added to chapter 81.53 RCW  
13 to read as follows:

14            Whenever the secretary of transportation or the governing body of  
15 a city, town, or county, a property owner, or a railroad company whose  
16 road is crossed by a private road deems that the public safety requires  
17 signals or other warning devices, including signs and crossbucks, at a  
18 crossing of a railroad at common grade by a private road, he, she, or

1 it shall file with the utilities and transportation commission a  
2 petition in writing, alleging that the public safety requires the  
3 installation of specified signals or other warning devices at the  
4 crossing or specified changes in the method and manner of existing  
5 crossing warning devices. Upon receiving the petition, the commission  
6 shall promptly set the matter for hearing, giving at least twenty days'  
7 notice to the railroad company or companies, the property owner, and  
8 the county or municipality affected by it, or the secretary of  
9 transportation in the case of a state highway, of the time and place of  
10 the hearing. At the time and place fixed in the notice, all persons  
11 and parties interested are entitled to be heard and introduce evidence,  
12 which must be reduced to writing and filed by the commission. If the  
13 commission determines from the evidence that public safety does not  
14 require the installation of the signal or other warning device or a  
15 change in the existing warning device specified in the petition, it  
16 shall make determinations to that effect and enter an order denying the  
17 petition in toto. If the commission determines from the evidence that  
18 public safety requires the installation of the signals or other warning  
19 devices at the crossing or the change in the existing warning devices  
20 at the crossing, it shall make determinations to that effect and enter  
21 an order directing the installation of the signals or other warning  
22 devices or directing that the changes be made in existing warning  
23 devices. The commission shall also at the hearing apportion the entire  
24 cost of installation and maintenance of the signals or other warning  
25 devices as provided in section 3 of this act. However, upon agreement  
26 by all parties to waive the hearing, the commission shall enter its  
27 order.

28 No railroad may be required to install any signal or other warning  
29 device until the public body or private property owner involved has  
30 either paid or executed its promise to pay to the railroad its portion  
31 of the estimated cost.

32 Nothing in this section forecloses the right of the interested  
33 parties to enter into an agreement, franchise, or permit arrangement  
34 providing for the installation of signals or other warning devices at  
35 any such crossing or for the apportionment of the cost of installation  
36 and maintenance of them, or compliance with an existing agreement,  
37 franchise, or permit arrangement providing for the signals.

1 The hearing and determinations authorized by this section may be  
2 instituted by the commission on its own motion, and the proceedings,  
3 hearing, and consequences of them must be the same as for the hearing  
4 and determination of a petition authorized by this section.

5 No part of the record, or a copy of it, of the hearing and  
6 determination provided for in this section, and no finding, conclusion,  
7 or order made pursuant to it may be used as evidence in a trial, civil  
8 or criminal, arising out of an accident at or in the vicinity of a  
9 crossing before installation of signals or other warning devices under  
10 an order of the commission as a result of any such investigation.

11 An order entered by the utilities and transportation commission  
12 under this section is subject to review, supersedeas, and appeal as  
13 provided in RCW 81.04.170 through 81.04.190, respectively.

14 Nothing in this section relieves a railroad from liability on  
15 account of failure to provide adequate protective devices at any such  
16 crossing.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.53 RCW  
18 to read as follows:

19 The petition must set forth by description the location of the  
20 crossing or crossings, the type of signal or other warning device to be  
21 installed, the necessity from the standpoint of public safety for the  
22 installation, the approximate cost of installation and related work,  
23 and the approximate annual cost of maintenance. If the commission  
24 directs the installation of a grade crossing protective device, and a  
25 federal-aid funding program is available to participate in the costs of  
26 the installation, both installation and maintenance costs of the device  
27 must be apportioned in accordance with RCW 81.53.295. Otherwise if  
28 installation is directed by the commission, it shall apportion the cost  
29 of installation and maintenance as provided in this section:

30 (1) Installation:

31 (a) If the petition referred to in section 2 of this act was filed  
32 by the railroad or a public entity:

33 (i) Sixty percent to the grade crossing protective fund, created by  
34 RCW 81.53.281;

35 (ii) Thirty percent to the city, town, county, or state; and

36 (iii) Ten percent to the railroad:

1           However, if the proposed installation is located at a new crossing  
2 requested by a railroad, then the entire cost must be apportioned to  
3 the railroad. If the city, town, county, or state concurrently  
4 petitions the commission and secures an order authorizing the closure  
5 of an existing crossing or crossings in proximity to the crossing for  
6 which installation of signals or other warning devices has been  
7 directed, the apportionment to the petitioning city, town, county, or  
8 state must be reduced by ten percent of the total cost for each  
9 crossing ordered closed and the apportionment from the grade crossing  
10 protective fund increased accordingly. This exception may not be  
11 construed to permit a charge to the grade crossing protective fund in  
12 an amount greater than the total cost otherwise apportionable to the  
13 city, town, county, or state. No reduction may be applied where one  
14 crossing is closed and another opened in lieu thereof, nor to crossings  
15 of a private nature.

16           (b) If the petition referred to in section 2 of this act was filed  
17 by a private landowner:

18           (i) Eighty percent to the grade crossing protective fund, created  
19 by RCW 81.53.281;

20           (ii) Ten percent to the private landowner; and

21           (iii) Ten percent to the railroad:

22           However, if the proposed installation is located at a new crossing  
23 requested by a railroad, then the entire cost must be apportioned to  
24 the railroad.

25           (2) Maintenance:

26           (a) If the petition referred to in section 2 of this act was filed  
27 by the railroad or a public entity:

28           (i) Twenty-five percent to the grade crossing protective fund,  
29 created by RCW 81.53.281; and

30           (ii) Seventy-five percent to the railroad:

31           However, if the proposed installation is located at a new crossing  
32 requested by a railroad, then the entire cost must be apportioned to  
33 the railroad.

34           (b) If the petition referred to in section 2 of this act was filed  
35 by a private landowner:

36           (i) Twenty-five percent to the grade crossing protective fund,  
37 created by RCW 81.53.281;

38           (ii) Sixty-five percent to the railroad; and

1 (iii) Ten percent to the private landowner:

2 However, if the proposed installation is located at a new crossing  
3 requested by a railroad, then the entire cost must be apportioned to  
4 the railroad.

5 **Sec. 4.** RCW 81.53.275 and 1969 ex.s. c 281 s 18 are each amended  
6 to read as follows:

7 In the event funds are not available from the grade crossing  
8 protective fund, the commission shall apportion to the parties on the  
9 basis of the benefits to be derived by the public, the private  
10 landowner, and the railroad, respectively, that part of the cost which  
11 would otherwise be assigned to the fund: PROVIDED, That in such  
12 instances the city, town, county, or state shall not be assessed more  
13 than sixty percent of the total cost of installation on other than  
14 federal aid designated highway projects, and the private property owner  
15 may not be assessed more than ten percent of the cost of installation:  
16 AND PROVIDED FURTHER, That in such instances the entire cost of  
17 maintenance shall be apportioned to the railroad.

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