

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 736 Session of
2003

INTRODUCED BY STOUT, KUKOVICH, LOGAN, ORIE, WOZNIAK, COSTA,
A. WILLIAMS, ERICKSON, RHOADES, FERLO, MOWERY, RAFFERTY,
KITCHEN, KASUNIC, TARTAGLIONE, BOSCOLA, MUSTO, WAGNER, WAUGH
AND WONDERLING, MAY 21, 2003

REFERRED TO TRANSPORTATION, MAY 21, 2003

AN ACT

1 Authorizing the Department of Transportation to establish a
2 pilot program for funding of repairs, replacement, relocation
3 or removal of local road at-grade crossings of railroad
4 rights-of-way; establishing the Local Road Rail Crossing
5 Project Assessment Committee; and making an appropriation.

6 The General Assembly finds that:

7 (1) Many local municipalities do not have adequate
8 financial resources to assume financial responsibility for
9 the repair, replacement, relocation or removal of local
10 railroad at-grade crossings of railroad tracks and rights-of-
11 way.

12 (2) Railroads, as a result of Federal deregulation and
13 increased transportation competition, no longer can recover
14 the substantial cost associated with the repair, replacement,
15 relocation or removal of public highway at-grade crossing
16 structures of railroad tracks and rights-of-way from the
17 rates charged for rail service.

18 (3) The allocation of crossing responsibilities and the

1 assessment of costs associated therewith by the Pennsylvania
2 Public Utility Commission pursuant to the Public Utility Code
3 can be a time-consuming and costly process. Moreover, State
4 jurisdiction over railroads regulated by the Surface
5 Transportation Board can be subject to Federal preemption
6 under the ICC Termination Act of 1995.

7 (4) As a result of these economic and regulatory
8 changes, the safety of local at-grade crossing structures of
9 railroad tracks and rights-of-way is jeopardized thereby
10 endangering the traveling public within this Commonwealth.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Local Road
15 Rail Crossing Assistance Act.

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Crossing structure." Any bridge, tunnel, overpass or other
21 structure so designed and constructed as to permit a local
22 highway or road to at-grade cross a railroad track and rights-
23 of-way.

24 "Department." The Department of Transportation of the
25 Commonwealth.

26 "Local highway or road." Any way open to the use of the
27 public for purposes of motorized vehicular travel and publicly
28 administered and maintained by a municipality.

29 "Municipality." A legally incorporated or duly authorized
30 organization of local government, including a county, city,

1 borough, incorporated town or township, that administers and
2 maintains local highways and roads.

3 "Program." The Local Road Rail Crossing Pilot Program
4 established by this act.

5 "Railroad." Any person that provides common carrier rail
6 transportation for compensation subject to the jurisdiction of
7 the Surface Transportation Board but does not include street,
8 suburban or interurban electric railways not operating as part
9 of the general system of rail transportation.

10 Section 3. Local Road Rail Crossing Pilot Program.

11 There is established within the department the Local Road
12 Rail Crossing Pilot Program to provide funding to municipalities
13 and railroads where local roads at-grade cross the track and
14 rights-of-way of railroad and the crossing structures are
15 identified by certified bridge inspection reports as requiring
16 repair, replacement, relocation or removal, costing in excess of
17 \$100,000. For purposes of this pilot program, the department
18 shall provide State funding for the crossing projects in fiscal
19 year 2003 in accordance with the recommendations of a Local Road
20 Rail Crossing Project Advisory Committee which shall include the
21 respective chairman and minority chairman of the Transportation
22 Committee of the Senate and the chairman and minority chairman
23 of the Transportation Committee of the House of Representatives.

24 Section 4. Removal of Pennsylvania Public Utility Commission
25 jurisdiction.

26 All crossing structures funded under this act shall be
27 subject to the jurisdiction of the Pennsylvania Public Utility
28 Commission for the purpose of the allocation of costs, design
29 and construction responsibilities for the crossing structures.
30 All other public utilities with facilities in or on a crossing

1 structure shall bear the cost of the repair, replacement,
2 relocation or removal of their own facilities in or on said
3 structure.

4 Section 5. Public safety modifications.

5 All matters regarding public safety, including the design of
6 structural modifications associated with the repair,
7 replacement, relocation or removal of a crossing structure,
8 shall be determined by the municipality and the railroad
9 involved and shall be reviewed, approved and funded by the
10 department consistent with the recommendations of the Local Road
11 Rail Crossing Project Advisory Committee. Supervision and
12 performance of the repair, replacement, relocation or removal of
13 a crossing structure hereunder shall be undertaken by the
14 municipality and shall be reviewed, approved and funded by the
15 department.

16 Section 6. Future maintenance responsibility.

17 All crossing structures repaired, replaced or relocated under
18 this act shall be maintained by the municipality responsible for
19 the local road which crosses the structure, subject, however, to
20 any crossing maintenance agreement which may be negotiated
21 between the municipality and the railroad.

22 Section 7. Waiver of damages.

23 To be eligible for participation in the program, a railroad
24 must agree in writing to waive any claim for damages or
25 compensation for that railroad property required by the
26 municipality for the repair, replacement, relocation or removal
27 of the crossing structure. The railroad shall convey such
28 property to the municipality by quitclaim deed in lieu of
29 condemnation.

30 Section 8. Project Assessment Board.

1 At quarterly intervals to be designated by the department, a
2 Local Railroad Crossing Project Assessment Board consisting of
3 representatives of the department and one representative from
4 each municipality and railroad involved in each crossing project
5 funded under this act shall convene to establish procedures,
6 identify problems and review the implementation of the program.
7 The board shall prepare a written report, evaluating the
8 effectiveness of the program as an alternative to the provisions
9 of 66 Pa.C.S. (relating to public utilities) of funding and
10 allocating crossing costs, design and construction
11 responsibilities for local road at-grade crossings of railroad
12 tracks and rights-of-way. Copies of the reports shall be
13 submitted annually to the Governor, with copies to the Secretary
14 of Transportation, the Chairman of the Pennsylvania Public
15 Utility Commission and the chairman and minority chairman of the
16 Transportation Committee of the Senate and the chairman and
17 minority chairman of the Transportation Committee of the House
18 of Representatives.

19 Section 9. Appropriation.

20 The sum of \$2,000,000 is hereby appropriated from the Motor
21 License Fund to the Department of Transportation for the Local
22 Road Rail Crossing Program and shall be allocated to the
23 crossing projects in section 3 and disbursed in advance by the
24 department to the municipality at various stages of each
25 crossing project as a grant to be expended as authorized in
26 section 5 and subject to postproject audit by the department.
27 These funds may match section 3 funding for railroad crossings
28 or any other project funding including those projects included
29 in the annual capital budget authorizations.

30 Section 10. Effective date.

1 This act shall take effect in 60 days.