

No. 1998-113

AN ACT

SB 914

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for construction, relocation, suspension and abolition of crossings and for compensation for damages occasioned by construction, relocation or abolition of crossings.

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

Section 1. Section 2702(c) of Title 66 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding a subsection to read:

§ 2702. Construction, relocation, suspension and abolition of crossings.

* * *

(c) **Mandatory relocation, alteration, suspension or abolition.**—Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be suspended or abolished upon such reasonable terms and conditions as shall be prescribed by the commission. In determining the plans and specifications for any such crossing, the commission may lay out, establish, and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway, or make such crossing more available to public use; and may abandon or vacate such highways or portions of highways as, in the opinion of the commission, may be rendered unnecessary for public use by the construction, relocation, or abandonment of any of such crossings. The commission may order the work of construction, relocation, alteration, protection, suspension or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth *or an established nonprofit organization with a recreational or conservation purpose.*

* * *

(h) Assignment of crossing responsibilities to certain nonprofit organizations.—

(1) The commission may order the work of abolition of any crossing in whole or in part, including any future obligations, to be performed by a municipal authority created to advance recreation or conservation purposes or a nonprofit organization with a recreation or conservation purpose if:

(i) *the municipal authority or nonprofit organization provides adequate security for the work or demonstrates financial responsibility to the satisfaction of the commission; and*

(ii) *the commission does not order any Commonwealth agency to bear ancillary responsibility for the work of abolition of any crossing, or the cost associated with the work, without the prior written consent of the head of the Commonwealth agency.*

(2) *In accordance with the provisions of section 2704 (relating to compensation for damages occasioned by construction, relocation or abolition of crossings), the commission may order the municipal authority or nonprofit organization assuming responsibility for the abolition of the crossing to bear all or a portion of the costs associated with the work. This section shall not apply to any proceeding wherein the commission has issued a final order prior to the effective date of its enactment.*

Section 2. Section 2704(a) of Title 66 is amended to read:

§ 2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.

(a) General rule.—The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this part, shall, after due notice and hearing, be ascertained and determined by the commission. Such compensation, as well as the cost of construction, relocation, alteration, protection, or abolition of such crossing, and of facilities at or adjacent to such crossing which are used in any kind of public utility service, shall be borne and paid, as provided in this section, by the public utilities [or], municipal corporations, *municipal authority or nonprofit organization authorized under section 2702(h) (relating to construction, relocation, suspension and abolition of crossings)* concerned, or by the Commonwealth, in such proper proportions as the commission may, after due notice and hearing, determine, unless such proportions are mutually agreed upon and paid by the interested parties.

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Section 3. This act shall take effect in 60 days.

APPROVED—The 3rd day of December, A.D. 1998.

THOMAS J. RIDGE