

enforcing the provisions of this act. In carrying out and enforcing the provisions of this act and in exercising the jurisdiction herein conferred, the procedure shall be the same as that provided by chapter 189, Laws of 1919, for exercising and carrying out the jurisdiction and powers therein conferred.

Scope of act. SEC. 2. This act shall not be construed as repealing directly or by implication any of the provisions of chapter 189, Laws of 1919, but is intended to confer additional power and jurisdiction upon the director of public works.

Passed the Senate March 3, 1921.

Passed the House March 8, 1921.

Approved by the Governor March 19, 1921.

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## CHAPTER 138.

[S. B. 87.]

### RAILROAD AND HIGHWAY CROSSINGS.

AN ACT relating to existing and proposed railroad and highway crossings and to the changing and elimination of such crossings, and amending sections 4 and 6 of chapter 30, Session Laws of 1913.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. That section 4 of chapter 30 of the Session Laws of 1913, be and the same is hereby amended to read as follows:

Petition to  
change  
crossing.

Section 4. The mayor and city council, or other governing body of any city or town, or the county commissioners of any county within which there exists any under-crossing, over-crossing or grade crossing, or where any street or highway is proposed to be located or established across any railroad, or any railroad company whose road is crossed by any highway, may file with the commission their or its

petition in writing, alleging that the public safety requires the establishment of an under-crossing or over-crossing, or an alteration in the method and manner of an existing crossing, and its approaches, or in the style and nature of construction of any existing over-crossing, under-crossing or grade crossing, or a change in the location of an existing highway or crossing, the closing or discontinuance of an existing highway crossing, and the diversion of travel thereon to another highway or crossing, or if not practicable, to change such crossing from grade or to close and discontinue the same, the opening of an additional crossing for the partial diversion of travel and praying that the same may be ordered. If the existing or proposed crossing is on a state road or highway the petition may be filed by the state highway commissioner. Upon such petition being filed, the commission shall fix a time and place for hearing the petition and shall give not less than ten days' notice thereof to the petitioner, the railroad company and the municipality or county in which the crossing is situate. If the highway involved is a state highway like notice shall be given to the state highway commissioner. If the change petitioned for requires that private lands, property, or property rights be taken, damaged, or injuriously affected to open up a new route for the highway, or requires that any portion of any existing highway be vacated and abandoned, ten days' notice of the hearing shall be given to the owner or owners of the private lands, property, and property rights which it is necessary to take, damage or injuriously affect, and to the owner or owners of the private lands, property, or property rights that will be affected by the proposed vacation and abandonment of the existing highway. The commission shall also cause said notice of hear-

Hearing.

ing to be published once in some newspaper of general circulation in the community where such crossing is situate, which publication shall appear at least two days prior to the date of hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence. At the conclusion of the hearing the commission shall make and file its written findings of fact concerning the matters inquired into in like manner as provided in the preceding section for findings of fact upon petition for new crossings. The commission shall also enter its order based upon said findings of fact, which shall specify whether the highway shall continue at grade or whether it shall be changed to cross over or under the railroad in its existing location or at some other point, and whether an over-crossing or under-crossing shall be established at the proposed location of any street or highway or at some other point, or whether the style and nature of construction of an existing crossing shall be changed, or whether said highway shall be closed and travel thereon diverted to another channel, or any other change that the commission may find advisable or necessary. In case the order made requires that private lands, property, or property rights be taken, damaged or injuriously affected, the right to take, damage or injuriously affect the same shall be acquired as hereinafter provided.

Any petition herein authorized may be filed by the commission on its own motion, and proceedings thereon shall be the same as herein provided for the hearing and determination of a petition filed by a railroad company.

SEC. 2. That section 6 of chapter 30, Session Laws of 1913, be and the same is hereby amended to read as follows:

## Section 6. Apportionment of Cost of Crossings.

## SUBDIVISION A.

Whenever, under the provisions of this act, new railroads are constructed across existing highways, or highway changes are made either for the purpose of avoiding grade crossings on such new railroads, or for the purpose of crossing at a safer and more accessible point than otherwise available, the entire expense of crossing above or below the grade of the existing highway, or changing the route thereof, for the purpose mentioned in this subdivision, shall be paid by the railroad company.

Railroad to pay cost of construction.

## SUBDIVISION B.

Whenever, under the provisions of this act, a new highway is constructed across a railroad, or an existing grade crossing is eliminated or changed, or the style and nature of construction of an existing crossing is changed, the entire expense of constructing an over-crossing, under-crossing, or safer grade crossing, or changing the nature and style of construction of an existing crossing, including the expense of constructing approaches to such crossing and the expense of securing rights-of-way for such approaches, as the case may be, shall be apportioned by the commission between the railroad, municipality or county affected, or if the highway is a state road, between the railroad and the state, as justice may require, regard being had for the benefits accruing to the railroad, municipality, county or state by reason of the improvement. If the highway involved is a state road, the amount not apportioned to the railroad company shall be paid as provided by law for constructing such state road. When an existing grade crossing is ordered eliminated by the construction of an over-crossing or under-crossing, the commission may in its discretion pay an amount not to

Railroad to pay part of cost when.

exceed ten per cent of the cost thereof out of the appropriation provided in this act, and in such case the state auditor is hereby authorized and required upon the requisition of the commission, to draw warrants on the state treasury payable to the party designated by the commission for such amount, and the state treasurer is hereby authorized and required to pay such warrants on presentation.

#### SUBDIVISION C.

Whenever two or more lines of railroad owned or operated by different companies cross a highway, or each other, by an over-crossing, under-crossing or grade crossing required or permitted by this act or by an order of the commission, the portion of the expense of making such crossing not chargeable to any municipality, county or to the state, shall be apportioned between said railroad companies by the commission unless said companies shall mutually agree upon an apportionment. If it becomes necessary for the commission to make an apportionment between the railroad companies, a hearing for that purpose shall be held, at least ten days' notice of which shall be given.

Passed the Senate February 28, 1921.

Passed the House March 8, 1921.

Approved by the Governor March 19, 1921.

Apportionment of costs between railroads.