

CHAPTER 47.

RELOCATION OF RAILROAD TRACKS ON PUBLIC STREETS, ETC.

H. F. 327.

AN ACT providing for the relocation of railroad tracks upon streets of certain cities so as to permit of the construction and operation of interurban railways on said streets, and for the use by interurban railways of said railroad tracks on said streets if the same are not relocated and the making of alterations in railroad tracks and the construction and maintenance of the connecting tracks, overhead trolley or other equipment of said interurban railways and for the payment of compensation for such relocation, use and other privileges, and giving to the board of railroad commissioners power to determine such alterations, relocation, use and other privileges and the terms and conditions thereof, and the amount to be paid therefor, and providing for appeals from the orders of said board of railroad commissioners.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. **Interurban railways entitled to use other tracks—**
 1 relocation—compensation. Whenever any corporation has hereto-
 2 fore, or hereafter shall be authorized by any city of this state having
 3 not less than thirty thousand (30,000) nor more than thirty-five thou-
 4 sand (35,000) inhabitants according to the federal census of A. D.
 5 1910, to construct and operate an interurban railway upon any of the
 6 streets of such city and shall desire to extend, construct and operate
 7 its said interurban railway upon other streets of said city upon which
 8 railroad track or tracks are located and shall be authorized by the
 9 city council of said city by resolution so to do and such streets are
 10 so occupied by railroad tracks that it is not practicable to construct
 11 and operate said interurban railway thereon, the owners, lessees and
 12 operators of said railroad tracks are authorized and required, if
 13 practicable, to relocate such of their tracks on said streets as are
 14 necessary to permit of the construction and operation of said inter-
 15 urban railway, and if it is not practicable to relocate said railroad
 16 tracks, then the owners, lessees and operators are authorized and re-
 17 quired to permit said interurban railway to use such of their said tracks
 18 as are necessary for the operation and carrying on of the business of
 19 said interurban railway, and to permit to be made such alterations in,
 20 attachments to and connections with said railroad tracks and to be
 21 installed and maintained such trolley system or other construction
 22 or equipment as will permit the use in common of said railroad tracks
 23 by said interurban railway for railway purposes and by the owners,
 24 lessees or other operators thereof for ordinary steam railway pur-
 25 poses.

26 Where it is practicable to relocate said railroad tracks, and it is
 27 also practicable to operate said interurban railway over said tracks
 28 without relocating the same, the owners, lessees and operators of such
 29 railroad tracks, may elect to grant the use thereof to said interurban
 30 railway and permit to be made such alterations in, attachments to and
 31 connections with the same and to the installation and maintenance of
 32 such trolley system or other construction or equipment as will permit
 33 the use in common of said railroad tracks by said interurban railway

34 and the said owners, lessees and operators thereof, and signify such
35 election in writing, filed in the proceeding before the commencement
36 of the hearing of said proceeding on appeal in the district court as
37 hereinafter provided, then said tracks may be so used in place of be-
38 ing relocated.

39 The owner of said interurban railway shall pay just compensation
40 to the owners, lessees or operators of any railroad tracks for the re-
41 location or use and alteration of said railroad tracks and for the
42 exercise of such other privileges as are granted such interurban rail-
43 way under the provisions of this act.

SEC. 2. **Railroad commission—disputes—hearing—procedure—**
1 **modification of orders.** If an agreement cannot be made between
2 the said owner of said interurban railway and the owners, lessees
3 and operators of such railroad tracks for the relocation or use of
4 such railroad tracks or as to the alterations, attachments and con-
5 nections that shall be made therein or thereto or as to the manner
6 of the installation and maintenance of the trolley system or other
7 construction or equipment such as will permit such common use of
8 such tracks, or the terms and conditions of or the compensation to
9 be paid for such relocation or use and the alterations or attachments
10 to said railroad tracks and the exercise of such other privileges as
11 are granted to such interurban railway under the provisions of this
12 act, then all said matters shall be heard and determined by the board
13 of railroad commissioners of the state of Iowa upon petition to said
14 board by the owner of said interurban railway or other party to the
15 controversy.

16 Upon filing of said petition said board shall fix a time for the hear-
17 ing thereof, and twenty (20) days notice of the filing of said petition
18 and of the time fixed for the hearing thereof shall be given by the
19 petitioner to the opposite parties. Said notice shall be served in the
20 manner provided by law for the service of notices of the commence-
21 ment of a civil action in the district court.

22 The commission shall have the power and upon the demand of
23 any party appearing in said proceeding shall appoint a shorthand
24 reporter who shall take the evidence offered or introduced upon the
25 hearing, and the commission shall have power to require any party
26 to said hearing to produce books, records, papers or other documents
27 material to said inquiry, and shall have the power to subpoena and
28 require the attendance of witnesses.

29 All orders of the commission or revisions or modifications of said
30 orders shall be subject to revision or modification by the commission
31 upon application of any party to the original proceeding, made in
32 the same manner and under the same procedure as is provided for
33 applications for original orders, provided that there shall be no revis-
34 ions or modification of any order for the relocation of railroad tracks
35 or of compensation, if the total compensation was fixed at one definite
36 sum; provided further, that in the event of additional cost of con-
37 struction or additional cost of maintenance occasioned by viaducts,
38 track elevation or depression, crossing gates or other safety ap-
39 pliances or the installation of more expensive types of track con-
40 struction, the compensation shall be subject to revision and modifi-
41 cation in the manner and by the method as in this act provided.

SEC. 3. Appeal—how taken—service—record certified—consolidation of appeals—trial. Any party to said proceeding may appeal to the district court of the county where said city is located from any order made by the board of railroad commissioners under this act within twenty (20) days from the date of the order appealed from.

Such appeal shall be taken and perfected by the party appealing by serving a notice in writing upon the other parties to said proceeding, specifying the order or part thereof appealed from and by filing in the office of the clerk of the district court of the county to which said appeal is taken, a petition stating the general nature of the proceeding before said board of railroad commissioners and of the order or part thereof appealed from and that an appeal has been taken and asking the court to determine the matter in controversy.

Such notice of appeal shall be served and proof of service thereof made in the same manner as an original notice in a civil action, and shall be filed with the secretary of the board of railroad commissioners. Service of such notice of appeal may be made upon any attorney appearing for any party in the proceedings before the board of railroad commissioners with the same force and effect as if served upon such party.

Such petition filed in the office of the clerk of the district court to which an appeal is taken shall be entitled in the name of the interurban railway company as plaintiff and the other parties to the appeal as defendants.

Immediately after twenty (20) days from the date of any order appealed from said board of railroad commissioners shall certify to the clerk of the district court to which an appeal or appeals have been taken, a transcript of the papers and proceedings before said board and its order thereon and all notices of appeal therefrom with proofs of service thereof.

All appeals growing out of a single order of said board of railroad commissioners shall be consolidated and tried together, provided that if the owners, lessees and operators of said railroad tracks have filed their election to permit the use of said tracks by said interurban railway after an appeal has been taken by any party to the proceedings as herein provided, each and all of the matters and things heard and determined by the board of railroad commissioners shall, subject to such election, be heard and determined by the district court the same as if each of the parties to said proceeding had appealed from the entire order of said board.

The proceedings upon appeal shall be in equity and subject to all of the rules of equity practice, except that the court shall require the issues to be made up at the first term after the petition is filed and give the proceedings precedence over other civil business and try the same thereat, if possible. The action shall be triable de novo upon said appeal; provided, however that the question of the amount of compensation for the relocation or use of any tracks and for the other privileges granted shall be tried in the same manner and with the same effect as trials upon appeal from assessments for the taking of private property for works of internal improvement, as provided in chapter four of title ten of the code and acts amendatory thereto.

52 Upon trial to determine the amount of compensation, the court
53 shall first determine the basis, whether as rental or otherwise, upon
54 which compensation shall be paid, and the terms and conditions of
55 such payment, and all questions of the amount of compensation shall
56 upon such appeal be tried before the same jury, who shall return a
57 separate verdict fixing the amount of compensation to which each
58 party to the proceedings is entitled, and in the event of appeal to
59 the supreme court, the proceedings tried before a jury shall be heard
60 and determined the same as in a law action.

1 SEC. 4. Order not suspended by appeal—bond. The appeal shall
2 not suspend any order appealed from, if the interurban railway
3 company in whose behalf any order is made by the board of railroad
4 commissioners shall file in the office of the clerk of the district court
5 of the county to which such appeal is taken, a bond in such amount
6 and upon such conditions as the district court to which such appeal
7 is taken, or a judge thereof, may, upon application of said interurban
8 railway, require.

SEC. 5. Commission to inspect appliances—specifications for
1 construction—rules—enforcement. The railway commission is
2 hereby authorized, directed and empowered to inspect any and all
3 wires and appliances authorized by this act and to condemn and order
4 removed, or placed in safe condition, all wires and appliances erected
5 or maintained in violation of the terms and conditions hereof.

6 No wire or cable used to conduct electricity for light and power
7 shall be erected or maintained on any pole or appliance attached to
8 such pole, within a less distance than thirteen inches from the center
9 line of such pole; nor shall any wire or cable be erected or maintained
10 in the vicinity of any pole, and unattached thereto, within the distance
11 of thirteen (13) inches from the center line of such pole.

12 Nor shall any wire or cable carrying less than six hundred (600)
13 volts of electricity be erected or maintained within a distance of forty
14 (40) inches from any wire or cable which carries at any time more
15 than six hundred (600) volts of electricity.

16 Nor shall any wire or cable which carries at any time more than
17 six hundred (600) volts of electricity, be erected or maintained with-
18 in a distance of forty (40) inches from any wire or cable carrying less
19 than six hundred (600) volts of electricity.

20 Nor shall any wire be erected or maintained running parallel, cross-
21 ing or attached to same pole at a less distance than seven (7) feet
22 from any wire carrying thirteen thousand (13,000) volts or more.

23 No wire or cable carrying more than thirteen thousand (13,000)
24 volts of electricity shall be erected or maintained across or above any
25 wire or cable carrying less than thirteen thousand (13,000) volts, at
26 point of crossing without at all times maintaining approved methods
27 of construction to prevent falling and coming in contact with wires
28 of lesser voltage.

29 No "guy" wire or "guy" cable attached to any pole or appliance to
30 which is attached any wire or cable used to conduct electricity for
31 light and power shall be erected or maintained without causing such
32 "guy" wire or "guy" cable to be kept effectively insulated by approved
33 insulators placed in such wire or cable not less than nine (9) feet,
34 nor more than eleven (11) feet, from each end thereof, provided, how-

35 ever, that the lower insulator shall not be less than eight (8) feet,
36 perpendicularly from the ground.

37 No wire or cable shall be erected or maintained vertically on any
38 wooden pole, without causing such wire or cable to be at all times
39 encased in a casing of wooden material not less than three-quarters
40 of an inch in thickness, or of other insulating material approved by
41 the railway commission; provided, however, that the provisions of this
42 section shall not apply to any vertical wire which is more than thirteen
43 (13) inches from center line of pole.

44 Trolley span wires shall be insulated by not less than two approved
45 insulators between such trolley wire and the pole or other support,
46 such insulators shall be placed not less than two or more than four
47 (4) feet from point of attachment to wire or pole.

48 No pole or other structure used for the support of wires shall be
49 erected or maintained at a less distance than six (6) feet from the
50 nearest rail of any steam, electric or other railway track over which
51 freight cars may be operated.

52 All poles must be distinctly and permanently marked with owners
53 name, at a point not less than five (5) nor more than seven (7) feet
54 above the ground. All wooden poles of any lead must be as nearly as
55 practicable uniformly spaced, or uniform height, and not less than
56 forty (40) poles to the mile.

57 Wires or cables carrying electric current for light and power must
58 not be erected or maintained on any bracket or knob attached directly
59 to any pole or cross arm.

60 No trolley wire authorized by this act shall be erected or maintained
61 at a less distance than twenty-two (22) feet above any track.

62 All devices and materials, insulators, and other methods of insula-
63 tion of wires shall conform to specifications approved by the railway
64 commission. No wire shall be stretched within four (4) feet of any
65 building without being attached to and insulated therefrom. No wires
66 shall hang within a less distance than twenty-two (22) feet of the
67 ground at the lowest point of sag. In case of leads crossing each
68 other, each lead must pass above or below the other, and under no cir-
69 cumstances shall any wire of one lead run through the other lead.

70 Primary or high potential wire must be provided with approved
71 line cut-outs on all branches, and at all transformers; and mains shall
72 be divided into sections by approved cut-outs located as directed by
73 the railway commission. All wires and cut-outs on same cross arm
74 must be at least fourteen (14) inches apart, except pole wires which
75 must be twenty-six (26) inches apart.

76 In any case where it is found impracticable to comply with the fore-
77 going requirements or when to the satisfaction of the railroad com-
78 mission it is found that in the advancement of the art or trade, im-
79 proved methods, appliances, fixtures and requirements will the better
80 conserve persons and property, including the operation of such prop-
81 erty, the railroad commission is hereby empowered, upon application
82 made in writing, to allow such reasonable deviation therefrom as may
83 be deemed reasonably safe and necessary.

84 It shall be unlawful for any person, firm, association or corporation
85 including a municipal corporation to place, construct, keep or main-
86 tain any fixture, appliance or other thing contrary to the terms and

87 provisions of this act, and the railroad commission is hereby em-
88 powered to enforce the provisions of this act with reference to such
89 matter.

90 The railway commission is hereby authorized and empowered to
91 make such other rules and regulations and fix standards of and for
92 appliances and fixtures as may be deemed reasonably necessary from
93 time to time for the purpose of protecting persons and property; and
94 such order made by the commission shall be deemed reasonable and
95 necessary and the burden of proof shall rest upon any complainant to
96 prove the contrary.

97 The railway commission shall give reasonable notice of any order
98 or requirement within the contemplation of this act, and cause the
99 same to be enforced by an action in equity.

100 The terms, conditions and provisions of section 5, of this act shall
101 only apply to such interurban railway construction and conditions
102 contemplated by section one of this act.

1 SEC. 6. **Publication clause.** This act being deemed of im-
2 mediate importance shall take effect and be enforced from and after
3 its publication in The Des Moines News, a newspaper published in
4 Des Moines, Iowa, and the Evening Gazette, a newspaper published
5 at Cedar Rapids, Iowa, without expense to the state.

Approved March 24, A. D. 1915.

I hereby certify that the foregoing act was published in the Des Moines News
March 27, 1915 and in the Cedar Rapids Gazette March 29, 1915.

W. S. ALLEN, *Secretary of State.*

CHAPTER 48.

PAVING HIGHWAYS LEADING INTO CITIES.

S. F. 143.

AN ACT authorizing cities (other than special charter cities) having a population of two thousand or more to construct, repair, improve and reconstruct paved roadways along streets, avenues and highways constituting main traveled ways into and out of such cities, to establish paving districts, the lots and tracts of land within which may be assessed to pay all or a portion of the cost of such improvement and providing for the levying of a general municipal tax to defray any balance thereof.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. **Paving highways leading into cities.** Cities having
2 a population of two thousand or more, shall have power to construct
3 paved roadways along such streets, avenues or highways within said
4 cities as, in the judgment of the city councils thereof, constitute main
5 traveled ways into and out of such cities, and to repair, improve and
6 reconstruct the same, all as in this chapter hereinafter provided.

1 SEC. 2. **Paving districts—assessments—limitations.** Such
2 cities shall have power to establish paving districts to embrace such
3 portions of said cities as, in the judgment of the city councils thereof,