

SENATE FILE 213

By ROBINSON

FILED FEB 10 1973

Two June 2-19

Hansen, Chairman
Palmer
Griffin

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of railroads in cities and
2 towns and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section three hundred eighty-seven point fifteen
2 (387.15), Code 1973, is amended by striking the section and
3 inserting in lieu thereof the following:

4 387.15 MANDAMUS. When required by a city ordinance or
5 resolution, a railroad company shall proceed within the time
6 and in the manner required by the city to erect, construct,
7 reconstruct, or repair any viaduct or underpass. If any rail-
8 road company fails, neglects or refuses to perform such duty
9 it shall be guilty of a misdemeanor, and upon conviction,
10 the railroad company or its officers shall be fined one hun-
11 dred dollars for each day the company fails, neglects or re-
12 fuses to perform such duty. If any railroad company neglects
13 or refuses to comply with the requirements of the city ordi-
14 nance, the city may enforce the ordinance by proceedings in
15 mandamus.

16 Sec. 2. Section three hundred seventy-eight point six-
17 teen (387.16), Code 1973, is amended by striking the section
18 and inserting in lieu thereof the following:

19 387.16 IMPROVEMENTS--LIEN AGAINST RAILROADS. The city
20 may, after the railroad company fails, neglects, or refuses
21 to comply with the ordinance or resolution, erect, construct,
22 reconstruct, or repair any viaduct or underpass, and assess
23 the costs of the improvements against the property of the
24 railroad company. The costs shall be a lien against rail-
25 road property and are collectible in the same manner as other
26 taxes under the provisions of section four hundred forty-five
27 point six (445.6) of the Code. The railroad company shall
28 be liable for damages sustained by persons or property due
29 to the work performed by the city or contractor employed by
30 the city.

31 Sec. 3. Section three hundred eighty-nine point forty-
32 one (389.41), Code 1973, is amended to read as follows:

33 389.41 FLAGMEN AND GATES. Cities and towns shall have
34 power by ordinance or resolution, to compel railroad compa-
35 nies to place flagmen, or to erect, construct, maintain, and

1 operate suitable mechanical signal devices or gates, upon
2 public streets at railroad crossings, ~~under such regulations~~
3 ~~as may from time to time be made by the council,~~ provided
4 ~~that in cases where a controversy arises between the rail-~~
5 ~~road company and the council as to the necessity for such~~
6 ~~flagmen, signal devices, or gates, the Iowa state commerce~~
7 ~~commission shall determine the matter of necessity, and the~~
8 ~~type of crossing protection.~~

9 The city may make written application to the Iowa state
10 commerce commission, setting forth the need for flagmen, or
11 the erection, construction, maintenance and operation of suit-
12 able mechanical signal devices or gates at railroad crossings
13 and the commission shall determine the manner of necessity,
14 and the type of crossing protection in the same manner and
15 procedure provided in section four hundred seventy-eight point
16 twenty-three (478.23) of the Code. If it orders signals to
17 be erected, constructed, maintained and operated, the com-
18 mission shall specify in the order a specific date for com-
19 pletion of the erection and operation of the signals, which
20 date shall not be later than ninety days from the date the
21 order is issued. If the signals are not erected and in oper-
22 ation by the date specified in the order, the city may pro-
23 ceed with the erection and construction of the signals and
24 assess the costs against the property of the railroad company.
25 Such costs shall be a lien against the railroad property,
26 and are collectible in the same manner as other taxes under
27 the provisions of section four hundred forty-five point six
28 (445.6) of the Code. The railroad company shall be liable
29 for damages sustained by persons or property due to the
30 erection, construction, maintenance and operation of said
31 signals. The city may deposit its share of the cost, if any,
32 of the signals in escrow prior to the completion of the work.

33 Sec. 4. Chapter three hundred eighty-nine (389), Code
34 1973, is amended by adding the following new section:

35 NEW SECTION. As an alternative method, cities and towns

1 may require railroad companies to keep all grade railroad
2 crossings over streets and alleys in good repair, and may
3 require and specify such repairs by resolution, which may
4 include repairs up to eighteen inches outside of the rail
5 on each side of the crossing. The railroad company shall
6 make the repairs within thirty days of notification. The
7 railroad company may appeal within fifteen days after such
8 notification to the Iowa state commerce commission, and the
9 commission shall then hold a hearing within fifteen days after
10 the appeal is filed and render its decision not later than
11 fifteen days from the date of the hearing. The railroad
12 company shall then be required to complete repairs as
13 determined by the commission within thirty days after such
14 decision.

15 If the railroad company has not made the repairs within
16 thirty days from the date of the notification and has not
17 filed an appeal, or if an appeal is filed, has not completed
18 repairs within thirty days after the commission decision,
19 the city or town may make the repairs and assess the costs
20 against any railroad company property located within the city
21 or town. If there is more than one railroad company involved,
22 an equitable portion of the costs may be assessed against
23 each railroad company. Assessments shall be a lien against
24 the property of the railroad company and shall be collected
25 with six percent interest with real estate taxes for the next
26 year, or, it may be collected as a debt in an ordinary action
27 at law.

28 The railroad company shall be liable for all damages to
29 persons or property due to work performed on the crossing.

30 Sec. 5. Section three hundred ninety-one point seventy-
31 nine (391.79), Code 1973, is amended by striking the section
32 and inserting in lieu thereof the following:

33 391.79 IMPROVEMENTS BY RAILROADS. A city may, by ordi-
34 nance or resolution, require a railway company to keep the
35 streets over which it runs properly drained, light the same

1 whenever necessary, construct and keep in repair any viaduct
2 and crossing used by it, construct and maintain any drain
3 and culvert where crossed by any line of a railway on all
4 streets over which it runs, direct and control the laying
5 and construction of railway tracks, turnouts, and switches,
6 regulate the grade of the tracks, turnouts, and switches to
7 conform to the grade of the streets established by the city,
8 and require any railway company to pay the cost of grading,
9 paving, repaving, draining and repairing of streets used by
10 the railway company. The portion of the street used by the
11 railway company shall be the space between the tracks and
12 eighteen inches on the outside of each of the rails, and all
13 the space between two or more tracks, turnouts and switches.
14 The city may, by resolution or ordinance, require the rail-
15 way company to improve other portions of the street. Any
16 railway company occupying any street already occupied by an-
17 other railway company shall pay one-half the cost of paving
18 or repaving between the tracks of the two railways.

19 Sec. 6. Section three hundred ninety-one point eighty-
20 one (391.81), Code 1973, is amended to read as follows:

21 391.81 CONSTRUCTION AND ASSESSMENT BY CITY. If the owner
22 of said railway shall fail or refuse to comply with the order
23 of the council to construct or repair an improvement, such
24 work may be done by the city or under contract by a third
25 party, and the expense thereof shall be assessed upon the
26 real estate and personal property of said railway company
27 within said city, and against such railway company, in the
28 manner hereinbefore provided for the assessment of such cost
29 against private property and the owners thereof. The city
30 shall incur no legal liability to the railway or the public
31 as a result of the work performed under this section, and
32 the railway shall be liable for damages sustained by persons
33 or property due to the work performed.

34 Sec. 7. Section four hundred seventy-eight point twenty-
35 two (478.22), Code 1973, is amended to read as follows:

1 478.22 DISAGREEMENT--APPLICATION--NOTICE. ~~If the rail-~~
2 ~~way company and said highway authorities cannot agree upon~~
3 ~~the changes to be made, either~~ Either party may make written
4 application to the Iowa state commerce commission, setting
5 forth the changes and alterations desired, and, not later
6 than thirty days after the date the application is filed,
7 said commission shall fix a date for hearing and give the
8 other party ten days' written notice by mail of such date.
9 The Iowa state commerce commission shall render its decision
10 no later than thirty days after the hearing.

11 Sec. 8. Section four hundred seventy-eight point twenty-
12 three (478.23), Code 1973, is amended by adding the following
13 new paragraph:

14 NEW PARAGRAPH. When a change or alteration in the crossing
15 is ordered, the commission shall specify in its order a date
16 for completion of the changes or alterations. If the changes
17 or alterations are not completed by the date specified in
18 the order, the highway authority may proceed with the changes
19 or alterations and assess the costs against the property of
20 such railroad company. Such costs shall be a lien against
21 the railroad property, and are collectible in the same manner
22 as other taxes under the provisions of section four hundred
23 forty-five point six (445.6) of the Code. The railroad com-
24 pany shall be liable for damages sustained by persons or
25 property due to the work performed. The city may deposit
26 its share of the cost, if any, of the alteration or change
27 in escrow prior to the completion of the alteration or change.

28 Sec. 9. Section three hundred eighty-seven point fourteen
29 (387.14), Code 1973, is repealed.

30 EXPLANATION

31 This bill provides that cities and towns may require rail-
32 roads to make repairs or improvements by resolution or ordi-
33 nance. If the railway company fails to make the necessary
34 improvements, the city or town may undertake to make the
35 improvements and assess the costs against railway property.