

House Study Bill 694 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON KAUFMANN)

A BILL FOR

1 An Act relating to the standard crossing fee a public utility
2 owes to a railroad under certain circumstances.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.27, subsection 2, paragraph b, Code
2 2022, is amended to read as follows:

3 b. (1) (a) Unless otherwise agreed by the parties and
4 subject to subsection 4, a public utility that locates its
5 facilities within the railroad right-of-way for a crossing,
6 other than a crossing along the public roads of the state
7 pursuant to chapter 477, shall pay the railroad a one-time
8 standard crossing fee of seven hundred fifty dollars for each
9 crossing.

10 (b) Notwithstanding subparagraph division (a), if the
11 railroad right-of-way is owned, operated, occupied, or managed
12 by a railroad corporation's successor in interest, the standard
13 crossing fee is one thousand five hundred dollars.

14 (2) The standard crossing fee shall be in lieu of any
15 license or any other fees or charges to reimburse the railroad
16 for the direct expenses incurred by the railroad as a result of
17 the crossing.

18 (3) The public utility shall pay the standard crossing fee
19 to the railroad within sixty days after one of the following,
20 whichever is later:

21 (a) The crossing.

22 (b) The final decision in a proceeding to determine whether
23 the public utility owes the standard crossing fee to the
24 railroad, if it is determined the public utility owes the
25 standard crossing fee to the railroad.

26 (4) If a public utility fails to pay the standard crossing
27 fee within sixty days as required under subparagraph (3), to a
28 railroad corporation's successor in interest, as described in
29 subparagraph (1), subparagraph division (b), the public utility
30 shall pay to the railroad corporation's successor in interest
31 four thousand five hundred dollars, which is in addition to
32 the standard crossing fee, plus reasonable attorney fees and
33 court costs incurred by the railroad corporation's successor in
34 interest to obtain the standard crossing fee.

35 (5) The public utility shall also reimburse the railroad

1 for any actual flagging expenses associated with a crossing in
2 addition to the standard crossing fee.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 Under current law, a public utility that locates its
7 facilities within the railroad right-of-way for a crossing
8 is required to pay the railroad a one-time standard crossing
9 fee of \$750 for each crossing. A "crossing" means the
10 construction, operation, repair, or maintenance of a facility
11 over, under, or across a railroad right-of-way by a public
12 utility. The standard crossing fee is not required under
13 certain circumstances, including as agreed by the parties,
14 pursuant to a determination by the Iowa utilities board
15 (IUB) for special circumstances, or where the crossing is
16 along the public roads of the state pursuant to Code chapter
17 477 (telegraph and telephones — cable systems). Under
18 IUB administrative rules, the standard crossing fee is not
19 required for the relocation of public utility facilities if the
20 relocation is required by the railroad. "Railroad" is defined
21 to include a railroad corporation's successor in interest.

22 This bill increases the standard crossing fee to \$1,500 if
23 the railroad right-of-way is owned, operated, occupied, or
24 managed by a railroad corporation's successor in interest. The
25 bill requires the public utility to pay the fee to a railroad
26 no later than 60 days after the crossing or a final decision
27 in a proceeding relating to the fee, whichever is later. The
28 bill provides that if the public utility fails to pay the
29 standard crossing fee to a railroad corporation's successor
30 in interest as required under the bill, the public utility
31 is required to pay the railroad corporation's successor in
32 interest \$4,500, which is in addition to the standard crossing
33 fee, plus reasonable attorney fees and court costs incurred by
34 the railroad corporation's successor in interest to obtain the
35 standard crossing fee.