

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Scott

A Bill

SENATE BILL 550

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 23-12-1005(a) AND 23-12-1008(a) TO PROVIDE MORE REALISTIC TIME-FRAMES FOR INVESTIGATIONS AND OTHER PROCEDURES REGARDING THE MAINTENANCE OR OBSTRUCTION OF RAILROAD CROSSINGS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

"TO PROVIDE MORE REALISTIC TIME-FRAMES FOR INVESTIGATIONS AND OTHER PROCEDURES REGARDING MAINTENANCE OR OBSTRUCTION OF RAILROAD CROSSINGS."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 23-12-1005(a) is amended to read as follows:

"(a)(1)(A) Prior to any request by a state, municipal, or county official for sanctions against any railroad company for violation of any regulation promulgated pursuant to this subchapter, the state, municipal, or county official shall state the claim or complaint in writing by certified mail to the registered agent of the railroad company in question.

(B) Within forty-five (45) days after the receipt of the written claim or complaint by the railroad company, the railroad company shall respond to the claim or complaint, stating with specificity the corrective action taken, any corrective or remedial action planned and the time for its completion, or the reason for any refusal on the part of the railroad to correct the situation.

(C) This response shall be in writing to the complaining official by certified mail.

1 (2) (A) In the event the issue is not then resolved to the
2 satisfaction of the complaining official, the official shall notify the State
3 Highway Commission in writing.

4 (B)(i) The commission shall, within sixty (60) days after
5 receipt of the complaint, hold a hearing on the complaint.

6 (ii) Notice of such hearing shall be given the railroad and
7 the complainant at least twenty (20) days before the hearing.

8 (C) The commission or its designated representative shall, after
9 appropriate notice and hearing on the complaint, and within twenty (20) days
10 after such hearing, determine the adequacy of the railroad's action or the
11 reasonableness of its refusal under the circumstances.

12 (3) (A) If the State Highway Commission makes a finding of
13 inadequate action or unreasonable refusal on the part of the railroad based
14 on information presented at a hearing before the commission or before a
15 designated representative of the commission, the railroad company charged
16 with such violation shall be subject to a penalty of not less than two
17 hundred dollars (\$200) nor more than ten thousand dollars (\$10,000) per
18 occurrence, said penalty to be assessed by the State Highway Commission.

19 (B)(i) The decision of the commission may be appealed to the
20 circuit court of the county in which the violation occurred at any time
21 within thirty (30) days after the decision is rendered.

22 (ii) Provided, the decision of the commission shall be final
23 unless appealed as authorized herein."

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25 SECTION 2. Arkansas Code 23-12-1008(a) is amended to read as follows:

26 "(a)(1)(A) Prior to any request by a state, municipal, or county
27 official for sanctions against a railroad company for violation of §§
28 23-12-1006 - 23-12-1008, the state, municipal, or county official shall state
29 the claim or complaint in writing, by certified mail, to the registered agent
30 of the railroad company in question.

31 (B)(i) Within forty-five (45) days after the receipt of the
32 written claim or complaint by the railroad company, the railroad company
33 shall respond to the claim or complaint stating with specificity the reasons
34 for obstructing a crossing for an unlawful period of time.

35 (ii) This response shall be in writing to the complaining

1 official by certified mail.

2 (2)(A) In the event the issue is not then resolved to the
3 satisfaction of the complaining official, the official shall notify the State
4 Highway Commission in writing and shall enclose a copy of the complaint and
5 response.

6 (B)(i) The commission shall, within sixty (60) days after
7 receipt of the notice, hold a hearing on the complaint.

8 (ii) Notice of such hearing shall be given the railroad and
9 the complainant at least twenty (20) days before the hearing.

10 (C) The commission or its designated representative, after an
11 appropriate notice and hearing on the complaint, shall determine whether the
12 obstruction was for an unlawful period of time under the circumstances.

13 (3)(A) If the State Highway Commission makes such a finding of
14 unlawful delay based on information presented at a hearing before the
15 commission or before its designated representative, the railroad company
16 charged with such violation shall be subject to a penalty to be imposed by
17 the State Highway Commission of not less than two hundred dollars (\$200) nor
18 more than five hundred dollars (\$500) per occurrence.

19 (B)(i) The decision of the commission may be appealed to the
20 circuit court of the county in which the violation occurred at any time
21 within thirty (30) days after the decision is rendered.

22 (ii) Provided, the decision of the commission shall be final
23 unless appealed as authorized herein."
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25 SECTION 3. All provisions of this act of a general and permanent
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
27 Code Revision Commission shall incorporate the same in the Code.

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29 SECTION 4. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 act are declared to be severable.
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35 SECTION 5. All laws and parts of laws in conflict with this act are

1 hereby repealed.

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3 SECTION 6. EMERGENCY. It is hereby found and determined by the
4 General Assembly that the time-frames for investigations and procedures
5 regarding the maintenance or obstruction of railroad crossings, which cross
6 any public road, highway or street in this State, as such time-frames
7 currently exist in Arkansas Code Annotated Sections 23-12-1005(a) and 23-12-
8 1008(a), are unrealistic from a practical standpoint and have imposed an
9 undue burden both on the State and the railroad companies in meeting such
10 time-frames when a complaint is filed with the State Highway Commission
11 against a railroad company, that the amendments contained in this act will
12 provide more realistic time-frames and will relieve such undue burdens; that
13 only by the immediate effectiveness of this act may the aforementioned
14 problems be solved; and that the provisions of this act are essential to the
15 continued operation of state government. Therefore an emergency is hereby
16 declared to exist and this act being necessary for the preservation of the
17 public peace, health and safety shall be in full force and effect from and
18 after its passage and approval.

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