

27:5G-1 et seq

LEGISLATIVE HISTORY CHECKLIST

NJSA: 27:5G-1 et seq

("Railroad
Overhead Bridge
Act of 1988

LAWS OF: ~~1987~~ 1988

CHAPTER: 171

Bill No: S2044

Sponsor(s): Weiss and others

Date Introduced: February 18, 1988

Committee: **Assembly:** Transportation & Communications; Appropriations

Senate: Transportation & Communications

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: **Assembly:** September 29, 1988

Senate: March 3, 1988

Date of Approval: December 5, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: **Assembly:** Yes 3-28-88 & 9-22-88

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]
SENATE, No. 2044

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 18, 1988

By Senators WEISS, RAND, COWAN, McMANIMON,
GAGLIANO AND HURLEY

1 AN ACT concerning jurisdiction over railroad overhead bridges
and supplementing P.L. 1986, c. 104 (C. 27:5G-1 et seq.).

3

BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

1. This act shall be known and may be cited as the "Railroad
7 Overhead Bridge Act of 1988."

2. The Legislature finds and declares that:

9 a. Many of the hundreds of bridges carrying highways over
railroads in the State are in need of repair, rehabilitation, or
11 replacement.

b. The timely maintenance, rehabilitation, and replacement of
13 many of these bridges is hampered by the fact that no public or
private entity accepts responsibility for them.

15 c. The provisions of chapter 12 of Title 48 of the Revised
Statutes have proven inadequate to ensure that each highway
17 bridge crossing a railroad is under the jurisdiction of an agency
which is ready, willing, and able to assume responsibility for the
19 maintenance and, where necessary, the rehabilitation or
replacement of the bridge.

21 d. The State should, as funds become available, continue to
devote resources to the rehabilitation and replacement of these
23 bridges, including bridges carrying local roads.

e. The State should establish a mechanism by which each
25 bridge which is to be rehabilitated or replaced or which is
determined to be in a state of good repair can be assigned to the
27 jurisdiction of a public entity.

3. As used in this act:

29 "Commissioner" means the Commissioner of Transportation.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
1 Assembly ATC committee amendments adopted April 18, 1988.

1 "Good repair" means a state of structural soundness according
to accepted engineering standards as incorporated in a regulation
3 adopted by the commissioner.

"Jurisdiction" means control and responsibility for
5 maintenance, rehabilitation and replacement, except as may be
modified under the provisions of this act.

7 "Railroad overhead bridge" or "bridge" means any bridge
carrying a highway or private road over and across a railroad,
9 subway, or street, traction, or electric railway, or over and
across the right-of-way of such a railroad, subway, or railway.

11 4. a. The commissioner shall, within six months of the
effective date of this act, and following a public hearing, adopt
13 as a regulation under the "Administrative Procedure Act," P.L.
1968, c. 410 (C. 52:14B-1 et seq.), a procedure for the assignment
15 of jurisdiction over railroad overhead bridges to public entities.
Public entity includes but is not limited to any officers,
17 department, board, commission, division, agency, authority or
instrumentality of the State or of any county or municipality. The
19 regulation shall provide a procedure, in conformity with the
"Administrative Procedure Act," under which all parties affected
21 by the assignment may present evidence. The regulation shall
also provide that each assignment shall be made by written order
23 of the commissioner. The commissioner may, pursuant to the
"Administrative Procedure Act," adopt other rules and
25 regulations necessary to effectuate the purposes of this act.

b. In the case of all railroad overhead bridges other than
27 bridges carrying State highways, the commissioner shall not make
an order assigning jurisdiction unless:

29 (1) the bridge is the subject of an improvement project
financed in whole or in part by State funds, in which case the
31 commissioner may make the order contingent upon satisfactory
completion of work; or

33 (2) the order assigns jurisdiction to a party who has requested
jurisdiction over the bridge by written petition to the
35 commissioner; or

(3) the commissioner determines it to be in the public interest
37 to accept a written petition for assignment from an affected
party other than the party to whom jurisdiction would be
39 otherwise assigned pursuant to section 6 of this act and the
commissioner further determines that the bridge is in good repair.

1 5. The commissioner shall assign all bridges carrying State
highways to the jurisdiction of the Department of Transportation.

3 6. When, pursuant to regulations adopted under this act, the
5 commissioner determines, following a review of available
7 statutes, regulations, local ordinances, maintenance agreements,
9 records concerning improvement projects and maintenance
11 activities, and any other applicable evidence, and based upon a
preponderance of all the evidence reviewed, that a county,
municipality or public entity other than the department or the
New Jersey Transit Corporation has assumed effective control or
responsibility over a bridge, the commissioner shall assign the
bridge to the jurisdiction of that entity.

13 7. The commissioner shall assign each railroad overhead bridge
15 carrying a highway, other than a State highway, over and across a
right-of-way owned by the New Jersey Transit Corporation to
the jurisdiction of that corporation, unless the commissioner
17 determines, subject to the provisions of section 6 of this act, that
the bridge should be assigned to the jurisdiction of another public
19 entity.

21 8. If a railroad overhead bridge carries a private road, the
commissioner shall assign the bridge to the jurisdiction of the
person owning the road.

23 9. When the commissioner determines that a bridge cannot be
25 assigned to the department under section 5 of this act, to a public
entity under section 6 of this act, to the New Jersey Transit
Corporation under section 7 of this act, or to a person under
27 section 8 of this act, the commissioner shall assign the bridge to
the jurisdiction of the department and shall be treated in all
29 respects as if it were a State highway bridge assigned to the
department under section 5 of this act.

31 10. Any county or municipality having jurisdiction over a
33 highway carried by a railroad overhead bridge assigned to the
jurisdiction of the New Jersey Transit Corporation under section
7 of this act or to the jurisdiction of the department under
35 section 9 of this act shall have responsibility for routine
maintenance of the surface roadway carried by the bridge,
37 including but not limited to snow removal, sidewalk and guiderail
repair, lighting, striping, signing, patching, and resurfacing.
39 These routine maintenance responsibilities shall be accomplished

1 under the regulations which may be adopted by the commissioner
or the Board of the New Jersey Transit Corporation or
3 agreements entered into by the department or the corporation, as
appropriate. Routine maintenance responsibilities of a county or
5 municipality shall not extend to the structural support
components of any railroad overhead bridge under the jurisdiction
7 of the department or the New Jersey Transit Corporation.

11 11. a. With respect to the inspection, maintenance,
rehabilitation, replacement or removal of railroad overhead
9 bridges assigned under this act, each person or railroad company
owning or controlling a railroad right-of-way shall provide at its
own expense and in a timely fashion the following services to the
13 party with jurisdiction for the bridge over the right-of-way:

15 (1) necessary and sufficient access to railroad property and
right-of-way;

(2) necessary track safety personnel and services;

17 (3) review of plans and specifications; and

19 (4) Any other incidental railroad services required to enable the
party with jurisdiction over the railroad overhead bridge to
undertake its applicable responsibilities.

21 b. When the commissioner determines, following a public
hearing held pursuant to the "Administrative Procedure Act,"
23 P.L. 1968, c. 410 (C. 52:14B-1 et seq.), that a person or railroad
company has failed to provide the services required under
25 subsection a. of this section with respect to a specific project for
the repair, rehabilitation, or replacement of a bridge, and further
27 determines that the project is in the public interest, the
commissioner shall, by written order, compel the person or
29 railroad company to provide those services the commissioner
believes to be necessary, at whatever times and in whatever
31 manner the commissioner so determines.

33 12. The commissioner may enter into contracts for the
maintenance of any railroad overhead bridge assigned to the
jurisdiction of the department under section 9 of this act with
35 any railroad company or any other contractor or party found by
the commissioner to be qualified for such works.

37 13. Any railroad overhead bridge which has been assigned to a
jurisdiction by written order of the commissioner under this act
39 shall not be considered a bridge or passage under R.S. 48:12-49,
and the provisions of chapter 12 of Title 48 shall not apply to it.

1 provisions of this act shall not relieve any party of any tort or
contractual liability existing prior to the issuance of that order.

3 15. Jurisdiction over a railroad overhead bridge assigned under
this act may be transferred to another party by voluntary
5 agreement between the parties, provided that the commissioner
approves the agreement by written order.

7 16. This act shall take effect immediately but shall remain
inoperative until the approval by the voters of
9 P.L., c. (now pending before the Legislature as
Senate Bill No. 347 of 1988).

11

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STATEMENT

15 The matter of the maintenance, rehabilitation or replacement
of railroad overhead bridges has become a significant problem for
17 the State. Because of the bankruptcy of various railroad
companies over the years or missing records, the ownership of
19 these "orphan" bridges cannot be determined. This bill provides
for a comprehensive treatment of this issue by authorizing the
21 Commissioner of Transportation to assign jurisdiction over
railroad overhead bridges to public entities within the State. The
23 commissioner shall assign all railroad overhead bridges carrying
State highways to the Department of Transportation, and all
25 railroad overhead bridges carrying a highway, other than a State
highway, over a right-of-way owned by New Jersey Transit to the
27 jurisdiction of New Jersey Transit, with certain exceptions.
Except as previously noted, the commissioner, after a review of
29 available evidence and based upon a preponderance of the
evidence, may assign a railroad overhead bridge to the
31 jurisdiction of another public entity, such as a county or
municipality. If no such assignments can be made, the
33 commissioner shall assign the bridge to the Department of
Transportation.

35 Any county or municipality having jurisdiction over a highway
carried by a railroad overhead bridge assigned to DOT or New
37 Jersey Transit shall have responsibility for the routine
maintenance of the surface roadway.

39 Railroad companies or other persons owning or controlling the
railroad right-of-way under the bridge shall have certain

1 responsibilities, such as providing necessary and sufficient access
2 to railroad property and right-of-way, track safety personnel and
3 services, etc., to the party with jurisdiction over the bridge.

4 The bill would become operative only upon the approval by the
5 voters of S-347 which provides for a \$200 million bond issue to
6 rehabilitate and improve bridges in the State, including railroad
7 overhead bridges.

9

TRANSPORTATION

11

Rail and Bus Transportation

12 Provides for procedure by which Commissioner of Transportation
13 may assign jurisdiction over railroad overhead bridges.

ASSEMBLY TRANSPORTATION AND
COMMUNICATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2044

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 28, 1988

The Assembly Transportation and Communications Committee reports favorably Senate Bill No. 2044 with committee amendments.

The matter of the maintenance, rehabilitation or replacement of railroad overhead bridges has become a significant problem for the State. Because of the bankruptcy of various railroad companies over the years or missing records, the ownership of these "orphan" bridges cannot be determined. This bill provides for a comprehensive treatment of this issue by authorizing the Commissioner of Transportation to assign jurisdiction over railroad overhead bridges to public entities within the State. The commissioner shall assign all railroad overhead bridges carrying State highways to the Department of Transportation, and all railroad overhead bridges carrying a highway, other than a State highway, over a right-of-way owned by New Jersey Transit to the jurisdiction of New Jersey Transit, with certain exceptions. Except as previously noted, the commissioner, after a review of available evidence and based upon a preponderance of the evidence, may assign a railroad overhead bridge to the jurisdiction of another public entity, such as a county or municipality. If no such assignments can be made, the commissioner shall assign the bridge to the Department of Transportation.

Any county or municipality having jurisdiction over a highway carried by a railroad overhead bridge assigned to the Department of Transportation or New Jersey Transit shall have responsibility for the routine maintenance of the surface roadway.

Railroad companies or other persons owning or controlling the railroad right-of-way under the bridge shall have certain responsibilities, such as providing necessary and sufficient access to railroad property and right-of-way, track safety personnel and services, etc., to the party with jurisdiction over the bridge.

The bill would become operative only upon the approval by the voters of S-347 or A-2425 which provide for a \$200 million bond issue to rehabilitate and improve bridges in the State, including railroad overhead bridges.

It is the committee's view that enactment of this legislation should not preclude the Department of Transportation from seeking a determination as to what entities have been responsible for these railroad bridges and from pursuing any action necessary to recover justifiable costs.

The committee adopted an amendment to identify the Assembly bill that provides for the \$200 million bond issue as A-2425.

As amended by the committee, this bill is identical to Assembly Bill No. 2450 (1R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2044

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1988

The Assembly Appropriations Committee favorably reports Senate Bill No. 2044 (1R).

Senate Bill No. 2044 (1R) authorizes the Commissioner of Transportation to assign jurisdiction over railroad overhead bridges to public entities within the State, for purposes of maintenance and rehabilitation.

The commissioner shall assign all railroad overhead bridges carrying State highways to the Department of Transportation, and all railroad overhead bridges carrying a highway, other than a State highway, over a right-of-way owned by New Jersey Transit to the jurisdiction of New Jersey Transit, with certain exceptions. The commissioner may assign a railroad overhead bridge to the jurisdiction of another public entity, such as a county or municipality. If no such assignments can be made, the commissioner shall assign the bridge to the Department of Transportation.

Any county or municipality having jurisdiction over a highway carried by a railroad overhead bridge assigned to the Department of Transportation or New Jersey Transit shall have responsibility for the routine maintenance of the surface roadway.

Railroad companies or other persons owning or controlling the railroad right-of-way under the bridge shall have certain responsibilities, such as providing necessary and sufficient access to railroad property and right-of-way, track safety personnel and services, etc., to the party with jurisdiction over the bridge.

The bill would become operative only upon the approval by the voters of Senate Bill No. 347 or Assembly Bill No. 2425, which provide for a \$200 million bond issue to rehabilitate and improve bridges in the State, including railroad overhead bridges.

Senate Bill No. 2044 (1R) is identical to Assembly Bill No. 2450 (1R).

FISCAL IMPACT

This bill makes no appropriation. To the extent the bill results in bridges being assigned to the jurisdiction of the State, it may increase State costs.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2044

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Senate Transportation and Communications Committee favorably reports Senate Bill No. 2044 with Senate committee amendments.

The matter of the maintenance, rehabilitation or replacement of railroad overhead bridges has become a significant problem for the State. Because of the bankruptcy of various railroad companies over the years or missing records, the ownership of these "orphan" bridges cannot be determined. This bill provides for a comprehensive treatment of this issue by authorizing the Commissioner of Transportation to assign jurisdiction over railroad overhead bridges to public entities within the State. The commissioner shall assign all railroad overhead bridges carrying State highways to the Department of Transportation, and all railroad overhead bridges carrying a highway, other than a State highway, over a right-of-way owned by New Jersey Transit to the jurisdiction of New Jersey Transit, with certain exceptions. Except as previously noted, the commissioner, after a review of available evidence and based upon a preponderance of the evidence, may assign a railroad overhead bridge to the jurisdiction of another public entity, such as a county or municipality. If no such assignments can be made, the commissioner shall assign the bridge to the Department of Transportation.

Any county or municipality having jurisdiction over a highway carried by a railroad overhead bridge assigned to DOT or New Jersey Transit shall have responsibility for the routine maintenance of the surface roadway.

Railroad companies or other persons owning or controlling the railroad right-of-way under the bridge shall have certain responsibilities, such as providing necessary and sufficient access to railroad property and right-of-way, track safety personnel and services, etc., to the party with jurisdiction over the bridge.

The bill would become operative only upon the approval by the voters of S-347 which provides for a \$200 million bond issue to rehabilitate and improve bridges in the State, including railroad overhead bridges.



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MON., 12/5/88

Governor Thomas H. Kean today signed the following legislation:

S-2044/A-2450, sponsored by Senator Laurence Weiss, D-Middlesex, Assemblyman Garabed Haytaian, R-Warren and Assemblyman Robert Littell, R-Sussex, provides a procedure for the Commissioner of Transportation to assign jurisdiction for railroad overhead bridges.

"While I support this legislation overseeing the so-called orphan bridge, this signing today does not indicate my support for the \$200 million bond issue proposed to pay for the repair of those bridges. There are a number of worthy bond issues being proposed for 1989 and we will have to carefully weigh each one.

The legislation is effective immediately.

A-262, sponsored by Assemblyman Nicholas Felice, R-Bergen, reduces the size of the Board of Public Welfare from 15 to 13 members by removing two of the three members from the Commission for the Blind and Visually Impaired.

The legislation is effective immediately.

A-2358, sponsored by Assemblyman Robert Singer, R-Ocean and Senate President John Russo, D-Ocean, appropriates \$75,000 to the Strand Theater in Lakewood.

The legislation is effective immediately.

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