

ASSEMBLY, No. 25

STATE OF NEW JERSEY

INTRODUCED APRIL 11, 1960

By Assemblymen CRABIEL and MARRYATT

Referred to Committee on Highways, Transportation and Public Utilities

AN ACT concerning railroads, and amending section 48:12-75 of the Revised Statutes.

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

1 1. Section 48:12-75 of the Revised Statutes is amended to read as  
2 follows:

3 48:12-75. Completed work under sections 48:12-68 to 48:12-78 of this  
4 Title shall be maintained, repaired and renewed as follows:

5 a. The municipality or public utility involved shall at its own expense,  
6 maintain, repair and renew its public utility rails, pipes and lines;

7 [b. Each railroad company shall own and maintain, repair and renew  
8 structures within its right of way carrying the railroad over the highway;]

9 [c.] b. The State shall own and maintain, repair and renew structures  
10 within the rights of way of railroad companies carrying highways over rail-  
11 roads, and the State shall bear the cost of maintenance, repair and renewal  
12 of structures within the rights of way of railroad companies carrying rail-  
13 roads over highways, but this shall not relieve any railroad company from  
14 liability for damage caused to the highway structure by the operation of its  
15 railroad. Such approaches, curbing, sidewalk paving, guard rails on ap-  
16 proaches and surface paving on roadways as shall be within the rights of way  
17 of a railroad company or companies shall be owned and maintained, re-  
18 paired and renewed by the State.

1 2. This act shall take effect immediately.

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

ASSEMBLY AMENDMENTS TO  
ASSEMBLY, No. 25

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STATE OF NEW JERSEY

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ADOPTED MAY 9, 1960

Amend page 1, section 1, line 12, after "structures", insert "hereafter erected".

Amend page 1, section 1, line 14, delete "highway".

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9 **[c.] b.** The State shall own and maintain, repair and renew structures  
10 within the rights of way of railroad companies carrying highways over rail-  
11 roads, *and the State shall bear the cost of maintenance, repair and renewal*  
12 *of structures hereafter erected within the rights of way of railroad companies*  
13 *carrying railroads over highways*, but this shall not relieve any railroad com-  
14 pany from liability for damage caused to the **[highway]** structure by the  
15 operation of its railroad. Such approaches, curbing, sidewalk paving, guard  
16 rails on approaches and surface paving on roadways as shall be within the  
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STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

September 12, 1960

ASSEMBLY BILL NO. 25

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I herewith return Assembly Bill No. 25, with my objections, for reconsideration.

R.S. 48:12-75 now imposes upon a railroad company the expense of upkeep of a structure carrying its railroad over a highway. This bill would amend the section to transfer that burden from the railroad company to the State in the case of a railroad overpass hereafter erected.

I concur in this bill insofar as it relates to a railroad overpass which is necessitated by the construction of a new State highway intersecting an existing railroad right of way. R.S. 48:12-75 places the burden of upkeep of the grade separation structure upon the State when a highway is constructed so as to pass over a railroad. There is no reason to burden a railroad company with the upkeep simply because the State chooses to put its highway under rather than over the tracks.

But this bill would go much farther. Not only would it shift the burden of upkeep to the State concerning any railroad overpass erected to eliminate an existing crossing at grade, regardless whether the railroad or the highway was there first, but it would also make the State responsible for upkeep of a railroad overpass erected where, theretofore, there had been no railroad at all. If a railroad company establishes a

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Assembly Bill No. 25

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new line so as to intersect an existing highway, it is clear in my mind that the company should be prepared to maintain the railroad overpass which is then or thereafter necessitated by the new crossing.

The bill is also deficient in form. It deletes paragraph "b" of the section, which now imposes the burden of upkeep on the railroad respecting present and future railroad overpasses. Yet, in its amendment of paragraph "c", it assigns this burden only for future railroad overpasses. It leaves no one with the responsibility for upkeep of existing railroad overpasses. I am informed that this was an inadvertent omission, and that it was intended to leave this responsibility with the railroad companies. In the recommendations which follow I include one which would effectuate this intent.

One thing remains to be said. If the State is to be responsible for upkeep of new railroad overpasses at intersections where the railroad line antedates the highway, it follows that the State ought to be responsible also for that portion of upkeep which is attributable to the lengthening of an existing railroad overpass necessitated by future improvements to a State highway. Accordingly, I recommend that the bill be expanded by the addition of provisions covering this contingency.

For these reasons, I herewith return Assembly Bill No. 25 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, following line 6, insert "b. Each railroad company shall own and maintain, repair and renew structures within its right of way carrying the railroad over the highway, except as otherwise provided herein;"

On page 1, section 1, line 9, delete "b." and insert in lieu thereof "c. (1)".

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Assembly Bill No. 25

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On page 1, section 1, lines 11, 12, 13 and 14, delete "the State shall bear the cost of maintenance, repair and renewal of structures hereafter erected within the rights of way of railroad companies carrying railroads over highways, but this shall not relieve any railroad company from liability for damage caused to the" and insert in lieu thereof "(2) the State shall bear the cost of maintenance, repair and renewal of structures constructed after the effective date of this act within the rights of way of railroad companies carrying railroads over highways constructed after the effective date of this act and after the acquisition by the railroad of such right of way, and (3) where the State is not liable for cost under (2), above, and the railroad structure is enlarged or replaced by reason of improvements made in a highway after the effective date of this act, the State shall bear the cost of maintenance, repair and renewal of the new or enlarged structure other than such proportion of that cost as the length of the span of the pre-existing railroad structure bears to the length of the span of the enlarged or new railroad structure. For the purpose of the foregoing provisions of this subsection, a structure shall be deemed constructed on the date the contract therefor is awarded by the Commissioner, and a highway shall be deemed constructed or improved on the date the contract is awarded by the Commissioner for the construction of the section of the highway or improvement, as the case may be, passing under the railroad structure in question. None of the foregoing provisions of this subsection shall relieve any railroad company from responsibility for damage caused to any highway or railroad".

Respectfully,

ROBERT B. MEYNER

GOVERNOR

[SEAL]

Attest:

Edwin C. Landis, Jr.

Acting Secretary to the Governor

ASSEMBLY AMENDMENTS TO

**ASSEMBLY, No. 25**

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**STATE OF NEW JERSEY**

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ADOPTED SEPTEMBER 12, 1960

Amend page 1, section 1, following line 6, insert "b. Each railroad company shall own and maintain, repair and renew structures within its right of way carrying the railroad over the highway, except as otherwise provided herein;".

Amend page 1, section 1, line 9, delete "b." and insert in lieu thereof "c. (1)".

Amend page 1, section 1, lines 11, 12, 13 and 14 delete "the State shall bear the cost of maintenance, repair and renewal of structures hereafter erected within the rights of way of railroad companies carrying railroads over highways, but this shall not relieve any railroad company from liability for damage caused to the" and insert in lieu thereof "(2) the State shall bear the cost of maintenance, repair and renewal of structures constructed after the effective date of this act within the rights of way of railroad companies carrying railroads over highways constructed after the effective date of this act and after the acquisition by the railroad of such right of way, and (3) where the State is not liable for cost under (2), above, and the railroad structure is enlarged or replaced by reason of improvements made in a highway after the effective date of this act, the State shall bear the cost of maintenance, repair and renewal of the new or enlarged structure other than such proportion of that cost as the length of the span of the pre-existing railroad structure bears to the length of the span of the enlarged or new railroad structure. For the purpose of the foregoing provisions of this subsection, a structure shall be deemed constructed on the date the contract therefor is awarded by the commissioner, and a highway shall be deemed constructed or improved on the date the contract is awarded by the commissioner for the construction of the section of the highway or improvement, as the case may be, passing under the railroad structure in question. None of the foregoing provisions of this subsection shall relieve any railroad company from responsibility for damage caused to any highway or railroad".

[SECOND OFFICIAL COPY REPRINT]

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8 *structures within its right of way carrying the railroad over the highway,*  
9 *except as otherwise provided herein;*

10 [b. Each railroad company shall own and maintain, repair and renew  
11 structures within its right of way carrying the railroad over the highway;]

12 [c.] [b.] c. (1) The State shall own and maintain, repair and renew  
13 structures within the rights of way of railroad companies carrying highways  
14 over railroads, and [the State shall bear the cost of maintenance, repair and  
15 renewal of structures hereafter erected within the rights of way of railroad  
16 companies carrying railroads over highways, but this shall not relieve any

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

17 railroad company from liability for damage caused to the] (2) the State  
18 shall bear the cost of maintenance, repair and renewal of structures con-  
19 structed after the effective date of this act within the rights of way of railroad  
20 companies carrying railroads over highways constructed after the effective  
21 date of this act and after the acquisition by the railroad of such right of way,  
22 and (3) where the State is not liable for cost under (2), above, and the rail-  
23 road structure is enlarged or replaced by reason of improvements made in  
24 a highway after the effective date of this act, the State shall bear the cost of  
25 maintenance, repair and renewal of the new or enlarged structure other than  
26 such proportion of that cost as the length of the span of the pre-existing rail-  
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33 be, passing under the railroad structure in question. None of the foregoing  
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35 sibility for damage caused to any highway or railroad [highway] structure  
36 by the operation of its railroad. Such approaches, curbing, sidewalk paving,  
37 guard rails on approaches and surface paving on roadways as shall be within  
38 the rights of way of a railroad company or companies shall be owned and  
39 maintained, repaired and renewed by the State.

1       2. This act shall take effect immediately.

## ACTIONS

A 13 D'Aloia, Williams, Laufer Apr. 11—Amends the law permitting the expunging of criminal records to allow same within 2, instead of 10, years where sentence was suspended, or probation was allowed, or the fine was less than \$1,000, and within 5 years where a sentence has been served and no subsequent conviction has been entered.

Apr. 11—Judiciary Com.  
May 16—Reported, 2nd reading.  
June 6—Lost in Assembly.  
June 6—Laid over.  
Dec. 19—Recommitted.

A 14 Bowkley Apr. 11—Provides that where the board of freeholders, a county park commission, county boulevard commission or a municipality has provided by resolution or ordinance for the accrual of unused vacation and sick leaves of absence granted to members of its police or fire department, the member, or his estate, upon retirement, shall be entitled to be paid for the number of days accrued.

Apr. 11—State, Co. & Mun. Gov't Com.

A 15 Matthews, Maraziti, Crabiel Jan. 25—Designated the "New Jersey Boating Act, 1960" provides for the registering and numbering of certain power vessels operating on the waters of the State and the licensing of dealers; establishes fees and licensing procedure; provides for the regulation and development of certain marine activities; and the administration and enforcement thereof; effective March 1, 1960.

(Senate com. sub.)  
(Authorizes the Department of Conservation and Economic Development to register and number power vessels on waters of the State in conformance with the provisions and requirements of the Federal Boating Act of 1959, known as the "Bonner Act"; establishes a \$3.00 registration fee for 3 years.)

Feb. 8—Passed in Assembly.  
Feb. 15—Received in Senate.  
Feb. 15—Agric, Cons & Econ Dev Com.  
Mar. 21—Reported by com. sub.  
Mar. 21—2nd reading.  
Mar. 23—Recommitted.

A 16 Beadleston, Davis, Minotty Apr. 11—Exempts from the payment of motor vehicle registration fees, those owned by chartered local councils in the State of the Boy Scouts or the Girl Scouts, or of any duly recognized auxiliary or reserve police organization.

May 16—Passed in Assembly.  
May 23—Passed Senate under emergency resolution.

July 11—Approved, Chapter 96.

A 17 Beadleston, Salsburg Apr. 11—Amends the law determining the rights of persons to share in amounts recovered in wrongful death actions under NJSA 2A:31-4 where the deceased left no dependents so as to make distribution according to the law governing the distribution of an intestate's personal property; prescribes the method for distribution among dependents based on total support which might have been received from the decedent.

May 9—Passed in Assembly, amended.  
Dec. 19—Passed in Senate.  
Feb. 15—Approved, Chapter 194.

A 18 Beadleston Apr. 11—Exempts from taxation all property owned and used by any non-profit corporation in connection with its curriculum, work, care, treatment and study of feeble minded, mentally retarded, or idiotic men, women or children, providing the corporation conducts and maintains research or professional training facilities for the care and training of these people.

May 2—Passed in Assembly.  
May 16—Passed in Senate.  
Sep. 7—Approved, Chapter 119.

A 19 Crabiel, Wilson, Koenig, Maraziti, Kurtz, Martin, Bateman, Franklin, Minotty, Williams, Stamler Apr. 11—Provides for a State referendum at the November, 1960, General Election to determine which of the following purposes the turnpike surplus revenues should be used, construction and maintenance of public highways, State aid for construction of schools, or construction of additional State institutions.

Apr. 11—No reference, 2nd reading.  
Apr. 25—Lost in Assembly.  
Apr. 25—Motion to reconsider laid over.

## NOTATIONS

A 20 Crabiel, Wilson, Koenig, Maraziti, Kurtz, Martin, Bateman, Franklin, Minotty, Williams, Stamler Apr. 11—Provides for the State guaranty of Turnpike Authority bonds in an amount not to exceed \$430,000,000; authorizes the Legislature to provide for the use of Turnpike surplus funds to be made available for one of the following purposes: construction and maintenance of public highways, State aid for the construction of public schools, or construction of additional State institutions, choice to be made at a State referendum at the November, 1960, General Election.

Apr. 11—No reference, 2nd reading.

A 21 Evans, Deamer Apr. 11—Amends the law requiring a lis pendens to be filed in actions involving liens upon real estate, other than mechanics' liens, to give notice and establish lien priority, in the U.S. District Court for N. J.

May 23—Passed in Assembly.  
May 23—Passed Senate under emergency resolution.

Dec. 28—Approved, Chapter 159.

A 22 Flynn Apr. 11—Excludes ophthalmic technicians from application of provisions regulating ophthalmic dispensers and technicians.

Apr. 11—Inst, Pub Health & Welf Com.

A 23 Minotty Apr. 11—Provides that no person whose name was not printed on a primary ballot as a candidate for member of the county committee of any political party shall be elected at the primary election for the general election as a member of such county committee unless he receives the same or more votes than the required number of petition signatures needed to place his name on the ballot.

May 23—Passed in Assembly.  
May 23—Received in Senate.  
May 23—State, Co. & Mun. Gov't Com.

A 24 Doren Apr. 11—Prohibits the attaching of any billboards, panels, or other unnecessary material or objects to any railroad or highway structure over any highway or pedestrian underpass; excepts cables, conduits, information relative to the clearance and traffic control, safety devices, the names of railroads, highways or municipalities, and memorial plaques; effective January 1, 1961.

Apr. 11—Hwys, Trans & Pub Util Com.

A 25 Crabiel, Marryatt Apr. 11—Requires the State to bear the cost of maintenance, repair and renewal of structures constructed within the rights of way of railroad companies carrying railroads over highways.

May 16—Passed in Assembly, amended.  
May 23—Passed in Senate.

Sep. 12—Returned by Governor with recommended amendment.

Sep. 12—Amended as recommended, re-enacted under emerg res. in the Assembly.

Nov. 28—Amended as recommended, re-enacted under emergency resolution in Senate.

Dec. 27—Approved, Chapter 155.

A 26 Davis Apr. 11—Prohibits illegally imported cattle to remain in the State, even if tested at the owner's expense.

June 6—Passed in Assembly.  
Sep. 12—Received in Senate.  
Sep. 12—Agric, Cons & Econ Dev Com.

A 27 Davis Apr. 11—Requires all industries desiring to locate on any watershed in this State to obtain a permit from the Department of Health before constructing their plants.

May 23—Passed in Assembly.  
May 23—Received in Senate.  
May 23—Inst, Pub Health & Welf Com.

A 28 Davis Apr. 11—Increases from 2 years to 30 months the age of any bovine animal that may be imported into the State without a certificate of vaccination.

Apr. 11—Appropriations Com.

A 29 Franklin, Hughes, Maraziti, Higgins Apr. 11—Provides that when a mother of a child born out of wedlock marries a person who is not the father of child, the surname of the child may be changed to the surname of the husband of the mother by submitting proof of such marriage to the Registrar of Vital Statistics, or to any local registrar with a declaration that they desire the surname of the child to be changed to that of the husband.

May 16—Passed in Assembly.  
Sep. 12—Passed in Senate.  
Sept. 24—Approved, Chapter 142.

Hearings  
974.90  
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