

5537.05 Construction of grade separations at intersections of turnpike projects.

(A) The Ohio turnpike commission may construct grade separations at intersections of any turnpike project with public roads and ~~railroads~~ railways, and change and adjust the lines and grades of those roads and ~~railroads~~ railways, and of public utility facilities, which change and adjustment of lines and grades of those roads shall be subject to the approval of the governmental agency having jurisdiction over the road, so as to accommodate them to the design of the grade separation. The cost of the grade separation and any damage incurred in changing and adjusting the lines and grades of roads, ~~railroads~~ railways, and public utility facilities shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(1) If the commission finds it necessary to change the location of any portion of any public road, ~~railroad~~ railway, or public utility facility, it shall cause the same to be reconstructed at the location the governmental agency having jurisdiction over such road, ~~railroad~~ railway, or public utility facility considers most favorable. The construction shall be of substantially the same type and in as good condition as the original road, ~~railroad~~ railway, or public utility facility. The cost of the reconstruction, relocation, or removal and any damage incurred in changing the location shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(2) The commission may petition the board of county commissioners of the county in which is situated any public road or railway or part thereof affected by the location therein of any turnpike project, for the vacation or relocation of the road or railway or any part thereof, in the same manner and with the same force and effect as is given to the director of transportation pursuant to sections 5553.04 to 5553.11 of the Revised Code.

(B) The commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations that are necessary or proper for the purposes of this chapter, and the entry shall not be deemed a trespass, nor shall an entry for those purposes be deemed an entry under any appropriation proceedings which may then be pending, provided that before

entering upon the premises of any ~~railroad~~ railway notice shall be given to the superintendent of the ~~railroad~~ railway involved at least five days in advance of entry, and provided that no survey, sounding, drilling, and examination shall be made between the rails or so close to a ~~railroad~~ railway track as would render the track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters, and premises, as a result of such activities. The state, subject to the approval of the governor, hereby consents to the use of all lands owned by it, including lands lying under water, that are necessary or proper for the construction, maintenance, or operation of any turnpike project, provided adequate consideration is provided for the use.

(C) The commission may make reasonable provisions or rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities in, on, along, over, or under any turnpike project. Whenever the commission determines that it is necessary that any public utility facilities located in, on, along, over, or under any turnpike project should be relocated in or removed from the turnpike project, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the commission. Except as otherwise provided in any license or other agreement with the commission, the cost and expenses of such relocation or removal, including the cost of installing the facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the commission as part of the cost of the turnpike project or from revenues of the Ohio turnpike system. In case of any such relocation or removal of facilities, the public utility owning or operating them and its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms, as it had the right to maintain and operate the facilities in their former location.

(D) The commission is subject to Chapters 1515., 6131., 6133., 6135., and 6137. of the Revised Code and shall pay any assessments levied under those chapters for an improvement or maintenance of an improvement on land under the control or ownership of the commission.

Effective Date: 06-30-1993