

Assembly

TRANSPORTATION COMMITTEE HEARING HELD MARCH 28TH, 1969

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Members present: Hafen, Wood, Glaser, Tyson, Howard and Kean

Members absent: Ashworth

Others present: Reese Taylor, Public Service Commission
Mr. Granada, Public Service Commission
Noel Clark, Public Service Commission
Carl Soderbaum, Railroad Industries
Clark Guild, Jr., Attorney - Reno
William R. Denton, Attorney, Southern Pacific
Nevada Highway Department, William R. Reinken
Louis K. Koontz, Nevada State Highway Department
Marshall Vordink, Attorney General for the Union Pacific
Grant Davis, Bill Drafter

Chairman Hafen called the meeting to order at 8:00 A.M. for the purpose of hearing discussions on AB 734, AB 735 and SB 420.

Mr. Reese Taylor of the Public Service Commission spoke first in behalf of the Commission's introduction of AA 735 which apportions costs of eliminating, altering and maintaining railroad crossings.

He said that they would like to help expedite the hearings on these bills by explaining what they were all about. He explained something of the nature of the existing statute on railroad grading crossings and why it was inadequate to meet the needs of the railroads, Commission or State Highway Department. He said that it fell to the Commission to decide whether or not some grade protection is wanted and to make some determination as to what kind. He explained that under the old statute it had been hard to determine who should bear the costs and that for example in Las Vegas the Owens Avenue had a grade separation and a grade crossing protection job on a four lane grade separation. The Commission and the railroad had both struggled with the cost problem and as a result of not being able to come to an agreement it ended up in the courts to decide construction costs and benefits. That the existing statute states costs equal to the benefits shall be born and it is an intangible. He said that the Federal Government had similar problems and had found the best way to solve the cost problem was on a percentage basis and that is what they have done here in their bill in lines 23 and 24 of page 2 of AB 735. Mr. Taylor said that they were not espousing any percentages really and that it was a legislative function to go over all of these proposals and make the determination. He said that it would simplify things to assign in percentages in each interest. He mentioned that in the railroad bill AB 734 the government is mentioned and under AB 735 and under that arrangement the government pays 90% and the railroad 10%. In AB 734, you will note, the state, county, town or municipality 82½% and the railroad or railroads 17½%. In AB 735, he said, federal funding is not mentioned or taken into consideration although something similar to that in AB 734 might be included. He mentioned that in these two bills there were two different approaches. He stated that SB 420 does not take into consideration the grade separation distinction and also those situations where federal monies are involved.

Assemblyman Wood: "We have the Public Service Commission, railroads and Department of Highways involved. I do not understand how the Commission gets into the picture for the approval of safety rules versus the State Department of Highways."

Reese Taylor: "They can't always agree and that is why we are brought into it."

Chairman Hafen: "We must move on."

Mr. Bill Denton, Attorney for the Southern Pacific spoke next in behalf of AB 734. He said that 704.300 sets forth basic principles but it is not specific enough. He said that AB 734 leaves no gaps. AB 734 would place the entire burden on the railroad. Both 734 and 735 leave the jurisdiction of this whole subject with the Commission. The State Highway Department can come before the Commission and give their views. 734 also specifically covers federal funds.

Mr. Clark Guild introduced Mr. Marshall Vordink, of the Union Pacific to speak further on behalf of AB 734. He said that they attempted to fit the language to every conceivable situation. He further stated that if they would ask Mr. Taylor and Commission what they think of AB 734, he thought that they might not agree with the percentages but that they would not argue with the approach.

Mr. Louis Koontz of the State Highway Department spoke next. "I would like to reiterate what Mr. Reese has said and that should be predicated." He further stated that whatever was done was going to affect the cities and counties. Our Senate Bill 420 merely says the highway department will construct and the railroad will maintain. That is exactly what the situation is today. Under our bill we will be using state funds and no federal funds. We are not paying out any maintenance today and we don't want to. He stated that they would like to see this bill actuated into law as it is. "It will then give us the tool to do our job. We believe if we are forced to pay maintenance we are subsidizing the railroads."

Chairman Hafen asked if there were any questions from the Committee.

Mr. Howard stated that these bills don't stipulate when this is to become effective.

Mr. Davis answered that July 1st is the effective date unless otherwise stipulated in the bill.

Mr. Reinken of the State Highway Department asked what happens when there is a conflict between the law and federal regulations. He said he would like to have these clearly defined so that we do not have to go through a lot of litigation before we can get all of the Federal money.

Chairman asked if there were any other questions from the Committee? He said if there were no further questions they would excuse the guests so that they could further discuss these bills.

After the departure of the guests AB 128 was brought up for discussion briefly.

Chairman asked Mr. Wood if he said he had something on this. Mr. Wood said that we do have an amendment on this bill.

No action was taken and meeting adjourned to go into the Assembly at 10:00 A.M.