

Regular Session, 2012

HOUSE BILL NO. 623

BY REPRESENTATIVE ST. GERMAIN

RAILROADS: Requires DOTD to provide notification to landowners about crossing closures

1 AN ACT

2 To amend and reenact R.S. 48:390(B) and 390.1(A)(2) and to enact R.S. 32:390(I) and
3 390.1(D), relative to closure of railroad crossings; to require the Department of
4 Transportation and Development to notify affected landowners prior to the closing
5 of any railroad crossings; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 48:390(B) and 390.1(A)(2) are hereby amended and reenacted and
8 R.S. 32:390(I) and 390.1(D) are hereby enacted to read as follows:

9 §390. Railroad grade crossing improvement and elimination; notification

10 * * *

11 B.(1) The department, when it determines that it is necessary for the safety
12 of the public, may improve, change the location of or abolish any existing public
13 grade crossing on any state-maintained highway; however, prior to taking such
14 action, the department shall take the following actions:

15 (a) Notify any and all affected persons owning land which is within a two-
16 mile radius of the public grade crossing proposed to be improved, changed, or
17 closed.

18 (b) Post a notice at the grade crossing proposed to be improved, changed, or
19 closed.

20 (2) No provisions of this Section shall impose any liabilities of any nature
21 upon the state of Louisiana or any agency thereof, nor shall any action or omission

1 of the department be discoverable or admissible in any state court in Louisiana, and
2 no record or document of the department compiled or prepared in connection with
3 actions taken by the department pursuant to this Section, R.S. 48:390.1 or ~~23 USC~~
4 U.S.C. 130 shall be discoverable or admissible in any state court in Louisiana.

5 * * *

6 I. The department shall, no later than December 31, 2012, promulgate rules
7 and regulations pursuant to the Administrative Procedure Act and subject to
8 oversight of the House and Senate committees on transportation, highways, and
9 public works, to implement the provisions of Subsections A, B, F, and G of this
10 Section, including but not limited to notice, whom to notify, methods of notice, and
11 posting requirements.

12 §390.1. Railroad grade crossing elimination; parish and municipal roads

13 A.

14 * * *

15 (2) If the evaluation suggests that closure of a public grade crossing on a
16 non-state maintained highway is necessary for safety and in the best interest of the
17 public, the department shall encourage public participation in accordance with the
18 following procedure:

19 (a) Provide written notice to the local governing authority with jurisdiction
20 over the non-state maintained highway, the railroad company whose railroad tracks
21 are crossed at grade by the highway, any and all affected persons owning land which
22 is within a two-mile radius of the public grade crossing proposed to be closed, and
23 any other party deemed by the department to be interested in the necessity to close
24 a public grade crossing.

25 (b) The notice shall establish a set time period of not less than thirty days for
26 the local governing authority, railroad, any and all affected persons owning land
27 which is within a two-mile radius of the public grade crossing proposed to be closed,
28 or other interested party to respond to the department.

1 (c) The department shall attempt to address concerns of the local governing
 2 authority, the railroad, any and all affected persons owning land which is within a
 3 two-mile radius of the public grade crossing proposed to be closed, or other
 4 interested party timely communicated to the department in writing or received at any
 5 public hearing held by the local governing authority relative to closure.

6 * * *

7 D. The department shall, no later than December 31, 2012, promulgate rules
 8 and regulations pursuant to the Administrative Procedure Act and subject to
 9 oversight of the House and Senate committees on transportation, highways, and
 10 public works, to implement the provisions of Subsection A of this Section, including
 11 but not limited to notice, whom to notify, methods of notice, and posting
 12 requirements.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

St. Germain

HB No. 623

Abstract: Requires DOTD to notify any and all affected persons owning land which is within a two-mile radius of a public grade crossing proposed to be improved, changed, or closed and post a notice at the grade crossing proposed to be improved, changed, or closed.

Present law provides that DOTD, when it has determined that it is necessary for the safety of the public, may improve, change the location of, or abolish any existing public grade crossing on any state-maintained highway.

Proposed law requires DOTD to notify any and all affected persons owning land which is within a two-mile radius of the public grade crossing proposed to be improved, changed, or closed and post a notice at the grade crossing proposed to be improved, changed, or closed.

Present law provides that if an evaluation of a need to close a public railroad crossing suggests the closure of a public grade crossing on a non-state maintained highway is necessary for safety and in the best interest of the public, the department shall encourage public participation in accordance with the following procedure:

- (1) Provide written notice to the local governing authority with jurisdiction over the non-state maintained highway, the railroad company whose railroad tracks are crossed at grade by the highway, and any other party deemed by the department to be interested in the necessity to close a public grade crossing.
- (2) The notice shall establish a set time period of not less than 30 days for the local governing authority, railroad, or other interested party to respond to the department.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

- (3) The department shall attempt to address concerns of the local governing authority, the railroad, or other interested party timely communicated to the department in writing or received at any public hearing held by the local governing authority relative to closure.

Proposed law requires DOTD to notify any and all affected persons owning land which is within a two-mile radius of the public grade crossing proposed to be closed and post a notice at the grade crossing proposed to be closed.

Proposed law requires DOTD, no later than Dec. 31, 2012, to promulgate rules and regulations pursuant to the Administrative Procedure Act and subject to oversight of the House and Senate committees on transportation, highways, and public works, to implement the provisions of proposed law.

(Amends R.S. 48:390(B) and 390.1(A)(2); Adds R.S. 32:390(I) and 390.1(D))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Required DOTD to notify any and all affected persons owning land which is within a two-mile radius of the public grade crossing proposed to be improved, changed, or closed and post a notice at the grade crossing proposed to be improved, changed, or closed rather than notifying any and all affected landowners.
2. Required DOTD, no later than Dec. 31, 2012, to promulgate rules and regulations pursuant to the Administrative Procedure Act and subject to oversight of the House and Senate committees on transportation, highways, and public works, to implement the provisions of proposed law.