

177.430 Grade separations -- Relocation or vacation of existing highway -- Rights of access -- Regulations as to public utility facilities on or along turnpike project.

- (1) The department shall have power to construct grade separations at intersections of any turnpike project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the department as a part of the cost of such turnpike project.
- (2) If the department shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such location as the department shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the department as a part of the cost of such turnpike project.
- (3) Any public highway affected by the construction of any turnpike project may be vacated or relocated by the department in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the department as a part of the cost of such project.
- (4) In addition to the foregoing powers the department and its authorized agents and employees may enter upon any lands, waters and premises in the Commonwealth for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of KRS 177.390 to 177.570, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The department shall make reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities.
- (5) The department shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under any turnpike project. Whenever the department shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under any turnpike project should be relocated in such turnpike project, or should be removed from such turnpike project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the department; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the department as a part of the cost of such turnpike project. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or

new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations. No utility shall have the privilege of establishing its lines or properties within the right-of-way of a turnpike, except upon the conditions and terms prescribed by the department; however, a utility shall be permitted to connect its lines with service stations, garages, restaurants and other installations permitted to exist upon the right-of-way of the turnpike.

- (6) Costs and expenses paid by the department as permitted by subsections (1), (2), (3), and (5) of this section may in the discretion of the department be reimbursed to it from the proceeds of bonds issued for the project or projects under KRS 177.390 to 177.570 if so provided in the proceedings or trust indenture pursuant to which such bonds are issued.
- (7) The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the department to be necessary for the construction or operation of any turnpike project.

Effective: March 25, 1960

History: Amended 1960 Ky. Acts ch. 174, sec. 4, effective March 25, 1960. -- Created 1950 Ky. Acts ch. 157, sec. 6.