



Ohio Revised Code

Section 5561.04 Public hearing as to expediency of constructing improvement.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

The board of county commissioners, desiring to proceed under sections 4957.06 and 5561.01 to 5561.15 of the Revised Code, shall, after receipt of the certificate of necessity and expediency from the director of transportation, as provided in section 5561.03 of the Revised Code, hold a public hearing as to the expediency of constructing such improvement, notice of which shall be given by publication in a newspaper of general circulation in the county, for two weeks prior to the date set for such hearing or as provided in section 7.16 of the Revised Code, and shall be served upon the railroad or interurban railway companies in the manner for the service of summons in civil actions, not less than twenty days prior to the date of such hearing.

The board, after such hearing and for the purpose of making or causing such an improvement to be made, may, by resolution adopted by unanimous vote, require the railroad company, in co-operation with the county engineer or any engineer designated by the board, to prepare and submit to the board within six months, unless longer time is mutually agreed upon in writing, plans and specifications for such improvements, specifying the number, character, and location of all piers and supports which are to be permanently placed in any road or highway, specifying the grades to be established for the roads and the height, character, and estimated cost of any viaduct or way above or below any railroad track, and the change of grade required to be made of such tracks including side tracks and switches. But in changing the grade of any railroad, no grade shall be required in excess of that adopted by the railroad company for its construction work on that division or part of the railroad on which the improvement is to be made, without the consent of the railroad company, nor shall the railroad company's tracks be required to be placed below high-water mark.

Such resolution shall be published in the same manner as resolutions of the legislative authority of a municipal corporation declaring the necessity of a contemplated public improvement, and shall be served by the sheriff upon the railroad or interurban railway companies in the manner provided for the service of summons in civil actions. If the proposed public improvement is to be made within a municipal corporation, notice of the passage of the same shall be served upon the municipal corporation by delivering to the clerk of the village or legislative authority of a city a true copy



thereof.

If, at the expiration of six months from the passage of such resolution, the railroad company has refused or failed to co-operate in the preparation of such plans and specifications, or if the county engineer or engineer designated by the board and the railroad company fail to agree upon the plans and specification of such improvement, then either the railroad company or the county may submit the matter of determining the method by which the improvement shall be made to the court of common pleas of such county. Either the county or company, after the expiration of six months from the passage of the resolution, may apply to such court by petition, accompanied by the necessary plans prepared by the county or railroad company, covering the grade crossing proposed to be abolished. Such plans must show the grades to be established for such roads or highways, the changes to be made in the location of roads or highways, the height, character, and estimated cost of any viaduct or way above or below the railroad tracks, the number, character, and location of piers, abutments, or supports to be permanently located in the roads or highways, and the change of grade to be made in any railroad tracks, including sidetracks and switches.