STATE OF NEW YORK

4990

2021-2022 Regular Sessions

IN SENATE

February 22, 2021

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the general city law and the railroad law, in relation to authorizing cities to request that railroad corporations perform railroad crossing, bridge and right of ways maintenance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general city law is amended by adding a new section 21-g to read as follows:

§ 21-g. Railroad bridge and right of ways maintenance. 1. Any city through which a railroad route, as described in section sixteen of the railroad law, passes, except a railroad route on which trains or subways are operated by a public authority, may make a written request of the railroad corporation that owns the tracks, bridges and/or right of ways along such route within such city to perform maintenance of any and all bridges and/or right of ways, including but not limited to, the painting, cleaning, repairing, or lighting of such bridges, and/or the cleaning, grading, resurfacing, cutting or removal of trees, brush or foliage, and/or other maintenance of such right of ways.

2. Any request made by a city in accordance with subdivision one of this section, must specify with particularity, the maintenance that the city is requesting to be performed, including the types of materials, processes, and equipment to be used, together with a description of the property at which the bridge or right of way is located.

3. If, after ninety days of a request made by a city in accordance with subdivision one of this section, the railroad corporation has not completely complied with the request, then the city that made the request, may notify the railroad corporation that if such railroad corporation does not completely perform the requested maintenance within thirty days, that such city will perform, or contract to perform, such

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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maintenance on behalf of, and at the expense of, such railroad corporation.

4. If, after thirty days of a notification made by a city in accordance with subdivision three of this section, the railroad corporation fails to completely comply with the request made by the city in accordance with subdivision one of this section, then the city making such request and providing such notice, may perform, or contract to perform the requested maintenance on behalf of, and at the expense of, such railroad corporation.

5. A railroad corporation, that has not complied with the request made in accordance with subdivision one of this section, and has not complied with a notice made in accordance with subdivision three of this section, shall be deemed to have authorized and granted permission to the city making such request and providing such notice, and/or to the contractors of the city making such request and providing such notice, to enter and remain upon the property of the railroad corporation for the purpose of providing such requested maintenance. During the performance of the requested maintenance by the city making such request, and/or their contractor, the railroad corporation shall provide all cooperation necessary, including the provision of the notification of train schedules, the necessary stoppage or reduction of speed of trains, the necessary access to any bridges and/or right of ways involved, and any other assistance or cooperation that is necessary to complete such maintenance.

6. Upon the completion of the maintenance in accordance with subdivision five of this section, the city that performed, or contracted for the performance of, such requested maintenance, shall send an invoice of all costs and expenses incurred by the city that performed, or contracted for the performance of, such requested maintenance. Such invoice shall describe with particularity all costs, payments and expenses made and/or incurred by the city in the performance of such requested maintenance, including the number of hours of labor performed, and materials, processes and equipment used to complete the task. Upon receipt of the invoice described in this subdivision, the railroad corporation shall remit full payment to the city that performed, or contracted for the performance of, such requested maintenance. If such railroad corporation fails to fully pay the invoice within sixty days of its receipt, the city may impose a lien for the amount of the invoice upon the real property of the railroad, residing within such city.

§ 2. The railroad law is amended by adding a new section 29 to read as follows:

§ 29. Railroad bridge and right of ways maintenance. 1. Any railroad corporation that has been provided a request, in accordance with subdivision one of section twenty-one-g of the general city law, for the performance of maintenance on a bridge or right of ways owned by such railroad corporation, shall make all reasonable efforts to comply and accommodate such request, including but not limited to performing, or contracting for the performance of such request.

2. Any city that does not receive reasonable compliance and accommodation from a railroad corporation, pursuant to this section or pursuant to section twenty-one-g of the general city law, may make an application to the supreme court for three times any damages such city has sustained, as the result of the railroad corporation's failure to so comply or accommodate.

3. Any railroad corporation that has been provided a request, in accordance with subdivision one of section twenty-one-g of the general

city law, for the performance of maintenance on a bridge or right of ways owned by such railroad corporation, may make an application to the supreme court, seeking a temporary or limited stay or modification of such request, in the interests of justice, and upon good cause demonstrating as to why such request cannot be complied with or accommodated by the railroad corporation.

§ 3. This act shall take effect immediately.