

**175.490 Grade separations -- Relocation or vacation of existing highways -- Rights of access -- Regulations as to public utility facilities on or along turnpike projects.**

- (1) The authority shall have power to construct grade separations at intersections of any turnpike project or projects 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 highways shall be a part of the cost of such turnpike project.
- (2) If the authority shall find it necessary to change the location or grade of any portion of any public highway, it shall cause the same to be reconstructed at such location as the authority and 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 or grade of any such highway shall be 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 authority, with the approval of 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 a part of the cost of such project.
- (4) The authority and its authorized agents and employees may enter upon any lands, waters and premises in the Commonwealth for the purpose of making such surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purpose of this chapter, 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 authority shall make reimbursement to the owners for any actual damage resulting to such lands, waters and premises as a result of such activities on behalf of the authority, and the same shall be a part of the cost of such project.
- (5) The authority shall 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 authority 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 authority; provided, however, that the cost and expense 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 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 which has been constructed or is owned, maintained or operated by the authority, except upon the conditions and terms prescribed by the authority; however, a utility shall be permitted to connect its lines with service stations, garages, restaurants and other installations permitted by the authority to exist upon the right of way of the turnpike.

- (6) Costs and expenses incurred by the authority as permitted by subsections (1), (2), (3), (4) and (5) of this section may, as provided in the applicable agreement or lease, (a) be paid by the authority from the proceeds of revenue bonds issued by it for financing the turnpike project or projects, or (b) be paid by the department from available funds without reimbursement, or (c) be advanced by the department and reimbursed to it from the proceeds of bonds issued for the project or projects under this chapter.
- (7) The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the authority to be necessary for the construction or operation of any turnpike project.

**Effective:** March 25, 1960

**History:** Created 1960 Ky. Acts ch. 173, sec. 9, effective March 25, 1960.