**South Carolina General Assembly**

126th Session, 2025-2026

**H. 4057**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Brewer

Document Path: LC-0063PH25.docx

Introduced in the House on February 19, 2025

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Railroad crossing fees

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/19/2025 House Introduced and read first time (House Journal‑page 61)

 2/19/2025 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 61)

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**VERSIONS OF THIS BILL**

[02/19/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/4057_20250219.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 12 TO CHAPTER 17, TITLE 58 ENTITLED “UTILITY FACILITIES CROSSING OR PARALLELING RAILROADS” SO AS TO DEFINE TERMS; TO ESTABLISH APPLICABILITY OF THE ACT; TO REQUIRE A UTILITY TO SUBMIT AN APPLICATION; TO PROVIDE STANDARDIZED FEES; TO ALLOW FOR THE CONTINUATION OF EXISTING AGREEMENTS; AND TO PROVIDE A DISPUTE RESOLUTION MECHANISM THROUGH THE PUBLIC SERVICE COMMISSION.

Whereas, public utilities have a need to construct utility lines, pipes, and other infrastructure across or parallel to railroad tracks and other real property owned and/or operated by railroad companies in order to serve customers; and

Whereas, the simplest means for public utilities to legally cross or parallel railroad property is by entering into a railroad crossing or paralleling license agreement; and

Whereas, public utilities have reported a growing trend of railroad companies charging unreasonably high fees and reimbursement expenses in order to secure these license agreements through lengthy application processes; and

Whereas, some railroad companies have sold their rights with regard to these license agreements to private equity firms who then impose increased annual or otherwise recurring fees on public utilities to continue using these license agreements; and

Whereas, unreasonably high and recurring license fees pose a significant hinderance to the financial stability of public utilities and to their ability to provide reliable service at reasonable prices to customers; and

Whereas, placing a cap on the amount of fees public utilities are required to pay for license agreements will: (1) ensure that railroads are sufficiently compensated for the value of crossing their land, (2) protect public utilities from being forced to make unreasonably high, recurring license payments, and (3) protect utility customers from being charged unreasonably high service rates to support utilities that are paying excessive annual license fees that are subject to additional increases by railroad companies and private equity firms; and

Whereas, streamlining the application process is necessary to ensure timely deployment of utility services when crossing or paralleling property owned and/or operated by a railroad. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 17, Title 58 of the S.C. Code is amended by adding:

Article 12

Utility Facilities Crossing or Paralleling Railroads

 Section 58‑17‑1510. For the purposes of this article:

 (1) “Commission” means the South Carolina Public Service Commission.

 (2) “Communication” means telephone service including, without limitation, basic local exchange telephone service as defined in Section 58‑9‑10(9), voice over internet protocol, or similar voice or voice replacement service, data service, video service, or any information service as defined in Section 58‑9‑200(2).

 (3) “Crossing” means a utility facility constructed across a railroad right of way and which is either aerial, underground, or a combination of both aerial and underground.

 (4) “Facility” means any item of property that is owned by a utility placed across or parallel, whether that be aerially or underground or both, to a railroad right of way for use in connection with the storage or conveyance of water; stormwater; sewage; communications; internet fiber optics; cable television; electric energy; oil; gas; or other substances including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, vaults, or attachments.

 (5) “License agreement” means any contract agreement, easement agreement, license agreement, crossing agreement, paralleling agreement, or other legal agreement executed to allow a utility to cross or parallel a railroad right of way.

 (6) “Parallel” or “Paralleling” means a utility facility that runs adjacent to and alongside the track of a railroad.

 (7) “Public rights of way” means for crossings and paralleling facilities that involve railroad rights of way must:

 (a) be determined by the existing public rights of way boundaries established by the federal government, the State, the county, or the city governing the particular railroad installation area; and

 (b) begin from:

 (i) each side of the centerline of the roadway or highway center point extending outward; or

 (ii) at the edge of the pavement on each side of a roadway or highway and extend outward.

 (c) If the common boundary of the public rights of way in the railroad corridor is not delineated in the geographic information system or other mapping records, it must be deemed delineated in a manner consistent with the width of the adjacent public rights of way as delineated in such records.

 (8) “Railroad” means any person, association of persons, company, or corporation engaged in the transportation of individuals or property by rail or any owner of trackage facilities or owner of rail property, or any combination of the aforementioned, whether or not currently used for the transportation of individuals or property.

 (9) “Utility” means any provider, whether privately owned or owned by an incorporated municipality, county, special purpose district, commissioner of public works, or other unit of government, of water, stormwater, sewerage, communications, internet, cable television, electricity, oil, gas, or hazardous substance disposal services to the public.

 Section 58‑17‑1520. This article applies to any crossing or paralleling license agreement executed between a railroad and a utility on or after the effective date of this act. This article does not affect any crossing or paralleling license agreement executed prior to the effective date of this act until the expiration, termination, or modification of that agreement. If the aggregate amount of one thousand five hundred dollars has been paid to the railroad during the existence of any crossing or paralleling facility, no additional fee pursuant to Section 58‑17‑1540 is required for a new, renewed, or modified agreement concerning that crossing or paralleling facility.

 Section 58‑17‑1530. (A) Except as otherwise provided under this subsection, to place, construct, or modify a utility facility or equipment that involves crossing or paralleling a railroad right of way, a utility must submit an application to the railroad company, including:

 (1) the amount of compensation to be paid pursuant to Section 58‑17‑1540;

 (2) engineering design plans, construction plans, bore plans, fraction mitigation plans, dewatering plans, rigging and lifting plans, and any other pertinent plans determined to be reasonably necessary by the applicant and prepared by a registered professional engineer;

 (3) the location of the placement, construction, or modification;

 (4) the proposed date of commencement of the work;

 (5) the anticipated duration of the work;

 (6) the areas in which the project personnel will work; and

 (7) the contact information of the utility.

 (B) No later than thirty‑five days after receipt of the application submitted pursuant to subsection (A), the railroad company must:

 (1) approve the application; or

 (2) petition the commission for relief pursuant to Section 58‑17‑1560 and notify the utility of the filing of the petition.

 (C) Following approval of an application under subsection (B), the utility must schedule a date in consultation with the railroad for the placement, construction, or modification of the facility or equipment which placement, construction, or modification must commence no later than thirty days after the approval or such date as indicated in the application or mutually agreed upon by the utility and the railroad.

 Section 58‑17‑1540. (A) Unless otherwise agreed by the parties, a utility that installs a crossing or paralleling facility within a railroad right of way, other than a crossing or paralleling within the public right of way, must pay the railroad a one‑time standard fee of one thousand five hundred dollars for each crossing or paralleling. The standard fee is in lieu of any license, permit, application, processing fee, or any other fees or charges to reimburse the railroad for the direct expenses incurred by the railroad because of the crossing or paralleling. No other fee may be assessed by the railroad or by any railroad agent, contractor, representative, or assignee to the utility or to any agent, representative, or contractor of the utility. The utility also must reimburse the railroad for any reasonable and necessary flagging and supervision expenses associated with the crossing or paralleling, not to exceed the total amount of two thousand dollars, based on the railroad traffic at the crossing or paralleling, in addition to the standard fee as described above.

 (B) A utility may not be required to pay to the railroad the standard fee or to reimburse the railroad for any expenses associated with the crossing or paralleling if the crossing or paralleling is located within a public right of way.

 Section 58‑17‑1550. Nothing in this article prevents a railroad and a utility from continuing under an existing agreement or from otherwise negotiating the terms and conditions applicable to a crossing or paralleling. Nothing in this article impairs the authority of a utility to secure crossing or paralleling rights by easement pursuant to the exercise of the power of eminent domain.

 Section 58‑17‑1560. (A) If a railroad or a utility has a dispute regarding any issue arising from this act and the parties are unable to resolve the dispute, either party may petition the commission for resolution.

 (B) Notice of the dispute or objection must be provided in writing, must include the specific basis for the objection, and must be delivered by certified mail, with return receipt requested, to the other party. Before filing a petition, the parties must make good faith efforts to resolve the dispute. The petition must be filed within sixty days of receipt of the notice of the dispute.

 (C) If a petition is filed within sixty days of receipt of the notice of dispute, the commission must appoint a hearing examiner to serve as a presiding officer in an adjudicative proceeding before the commission.

 (D) If a petition is filed, the commission must issue an order within ninety days of filing of the petition.

 (E) In the case of a petition from a railroad that asserts only that the compensation amount is inadequate, the commission may, no later than seven days after the filing of the petition, issue an interim order permitting the work to proceed and, no later than seven days after completion of the work, issue a final order regarding the petition.

 (F) The commission is authorized to set a compensation amount greater than the standard fee of one thousand five hundred dollars pursuant to Section 58‑17‑1540 only upon a showing by the railroad that the standard fee fails to adequately cover its costs associated with the crossing.

SECTION 2. This act takes effect upon approval by the Governor.

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