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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2368 Session of  
2014

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INTRODUCED BY MICOZZIE, PICKETT, JAMES, BENNINGHOFF, WATSON,  
MURT, GRELL, GINGRICH, DeLUCA AND DENLINGER, JUNE 19, 2014

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REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 19, 2014

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AN ACT

1 Repealing the act of March 26, 1903 (P.L.71, No.71), entitled  
2 "An Act relating to the location, construction and  
3 maintenance of viaducts and bridges in cities and adjacent  
4 territory; empowering the several cities of this Commonwealth  
5 to construct, or have constructed, bridges or viaducts over  
6 rivers, creeks, streams, railroads and private lands, or over  
7 and across any of them, for public highways, and to procure  
8 locations therefor by purchase or condemnation proceedings,  
9 whether the same be wholly within, or partly within and  
10 partly without, the city limits; authorizing said cities to  
11 unite and enter into a contract or contracts with the county  
12 commissioners of the proper county, and with railroad, street  
13 railway, and other companies and parties interested, or with  
14 any of them, for the erection, construction and maintenance  
15 of said viaducts and bridges, and for the payment of the  
16 damages caused by their location and erection; and forbidding  
17 any railroad company to pass under any such viaduct or  
18 bridge, without contributing to the cost of maintenance  
19 thereof."

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 Section 1. The act of March 26, 1903 (P.L.71, No.71),  
23 entitled "An act relating to the location, construction and  
24 maintenance of viaducts and bridges in cities and adjacent  
25 territory; empowering the several cities of this Commonwealth to  
26 construct, or have constructed, bridges or viaducts over rivers,

1 creeks, streams, railroads and private lands, or over and across  
2 any of them, for public highways, and to procure locations  
3 therefor by purchase or condemnation proceedings, whether the  
4 same be wholly within, or partly within and partly without, the  
5 city limits; authorizing said cities to unite and enter into a  
6 contract or contracts with the county commissioners of the  
7 proper county, and with railroad, street railway, and other  
8 companies and parties interested, or with any of them, for the  
9 erection, construction and maintenance of said viaducts and  
10 bridges, and for the payment of the damages caused by their  
11 location and erection; and forbidding any railroad company to  
12 pass under any such viaduct or bridge, without contributing to  
13 the cost of maintenance thereof," repealed in part June 23, 1931  
14 (P.L.932, No.317), is repealed:

15 [AN ACT

16 Relating to the location, construction and maintenance of  
17 viaducts and bridges in cities and adjacent territory;  
18 empowering the several cities of this Commonwealth to  
19 construct, or have constructed, bridges or viaducts over  
20 rivers, creeks, streams, railroads and private lands, or over  
21 and across any of them, for public highways, and to procure  
22 locations therefor by purchase or condemnation proceedings,  
23 whether the same be wholly within, or partly within and  
24 partly without, the city limits; authorizing said cities to  
25 unite and enter into a contract or contracts with the county  
26 commissioners of the proper county, and with railroad, street  
27 railway, and other companies and parties interested, or with  
28 any of them, for the erection, construction and maintenance  
29 of said viaducts and bridges, and for the payment of the  
30 damages caused by their location and erection; and forbidding

1 any railroad company to pass under any such viaduct or  
2 bridge, without contributing to the cost of maintenance  
3 thereof.

4 Section 1. Be it enacted, &c., That the several cities of  
5 this Commonwealth are hereby authorized to locate and build  
6 viaducts or bridges, to be used as public highways, over rivers,  
7 creeks, streams, railroads and private property, or over and  
8 across any of them, whether the said viaducts or bridges be  
9 wholly within, or partly without and partly within, the city  
10 limits, for the purpose of uniting two or more different streets  
11 or highways, or separate parts of the same highway or extension  
12 thereof.

13 Section 2. The said cities shall have the right to enact  
14 ordinances, providing for the laying-out and opening of the  
15 routes or locations for said viaducts and bridges, which shall  
16 be public highways; and the proceedings for the said laying-out  
17 and fixing the locations, and for the opening thereof, shall be  
18 the same as is provided by law in the laying-out and opening of  
19 streets in said cities, except that no petition of property  
20 owners shall be required therefor.

21 Section 3. In case the said respective city has not agreed  
22 with the owner or owners for the damages done, or likely to be  
23 done, by the erection of said viaduct or bridge, it shall be  
24 lawful for the said city to take and appropriate the lands and  
25 property necessary, over and across which to erect said bridge  
26 or viaduct, and the damages and benefits caused by said taking  
27 and appropriation shall be assessed by three freeholders, as  
28 viewers, appointed by the court of common pleas, in the same  
29 manner and with like proceedings as is now, or shall hereafter  
30 be, provided by law in the opening of public streets.]

1 Section 4. The said city shall also have the power to enter  
2 into and unite in a contract or in contracts with the county  
3 commissioners of the proper county, where said viaduct or bridge  
4 will cross a river, creek or stream, or other place, over which  
5 the county is authorized by law to build bridges; and also with  
6 railroad, street railway, and other companies and parties  
7 interested, or with any or all of them, for the building,  
8 constructing and maintenance of said viaduct or bridge, or for  
9 certain parts or portions thereof, and for the payment of any  
10 damages caused by the location and the said erection.

11 Section 5. The said county commissioners may contract,  
12 subject to the approval of the court of quarter sessions of the  
13 proper county, for that part or portion of the viaduct or bridge  
14 which crosses any river, creek, stream, or other place, over  
15 which the county is by law authorized to build bridges,  
16 including the abutments and piers thereof, and such part shall  
17 thereafter be maintained as a county bridge; or they may  
18 contract for such part or portion of the whole structure as is  
19 equal to the part or portion of the viaduct or bridge over the  
20 respective river, creek, stream, or other place, as aforesaid:  
21 Provided, however, That the said county commissioners may  
22 contract to pay an amount of money greater than that which is  
23 hereinabove provided for, toward the construction of said work,  
24 but the amount of the said additional moneys, over and above the  
25 amount necessary to build the viaduct across the respective  
26 river, stream, creek, or other place, shall be first approved by  
27 the court aforesaid.

28 Section 6. The contracts herein provided for may stipulate  
29 that the respective city, county, railroad company, street  
30 railway or other company, or parties interested, or any of them,

1 shall pay a certain part or portion of the whole contract price  
2 or cost of the work, including damages; or may stipulate that  
3 each shall construct, or pay for the construction of, a certain  
4 part or portion of the work, and may otherwise provide for the  
5 payment of the damages. When any railroad company, street  
6 railway or other company, or other parties interested, agree to  
7 pay a certain part or portion of the cost of the entire work,  
8 they shall pay such part or portion into the proper city  
9 treasury; and upon said payment, the city treasurer shall be  
10 liable therefor, and he shall pay the same over to the  
11 contractor, as may be provided by the said contract; but the  
12 amount to be paid by the respective county shall be paid  
13 directly to the contractor, as may be provided by the said  
14 contract. The said agreements may also provide for the  
15 maintenance of the said viaducts and bridges, after their  
16 erection. All contracts provided for by this act shall be  
17 binding upon the parties thereto, their lessees, successors,  
18 heirs and assigns.

19 Section 7. Before any railroad, which has not contributed to  
20 the payment of the cost of construction of said viaduct or  
21 bridge, shall be permitted to run its line or lines of tracks  
22 under said bridge or viaduct, it shall enter into a contract  
23 with the said city to thereafter pay a reasonable amount, part  
24 or portion toward the keeping-up and maintaining of the said  
25 structure, which amount shall be at the same rate, on the same  
26 basis, as is paid by the other railroad companies.]

27 Section 8. Whenever the city, county commissioners, and the  
28 said railroad, street railway and other companies, and others  
29 interested, or any of them, have entered into a contract or  
30 contracts for the construction of said bridge or viaduct, as is

1 hereinbefore provided, it shall be lawful for the said city and  
2 the said county commissioners to have prepared plans or  
3 specifications of the entire work, and thereafter to advertise  
4 for bids, and to award the contract to the lowest responsible  
5 bidder. The contract for the said work shall provide that the  
6 county shall pay for its certain part of said bridge or viaduct,  
7 and the city shall contract for the other part of the said work;  
8 but the said contract, as to the city's part thereof, shall be  
9 based upon the appropriation made by the city for the part of  
10 the work for which it had agreed to pay, and the remaining part  
11 of the contract price shall be based upon the amounts the other  
12 parties have agreed to pay; and the contractor shall have a  
13 right of action against each party uniting in said contract, for  
14 the part thereof agreed to be paid by each party, respectively,  
15 as set forth in the contract or contracts in which all the  
16 parties unite, as aforesaid.

17 Section 9. In case the county commissioners do not unite in  
18 any such contract as is hereinbefore provided for, or in case  
19 said viaduct does not cross any river, creek, stream, or place,  
20 over which the county is authorized to build bridges, it shall  
21 be lawful for the said city to contract for the construction of  
22 the viaduct, as aforesaid, and to pay for the entire work; or to  
23 contract with all, or any other, of the aforesaid parties, in  
24 manner aforesaid, in which case the plans and specifications for  
25 the said work shall be prepared by the city, and advertisement  
26 shall be made for bids, and the contract let, in the manner  
27 hereinbefore provided. The contract for the work shall be based  
28 upon the city's appropriation, and upon the amounts agreed to be  
29 paid by the other parties, as provided in the preceding section.

30 Section 10. Any of the contracts hereinabove provided for

1 may be recorded in the recorder's office of the proper county,  
2 in which the respective city is situate, and such record shall  
3 be notice to all persons who might be affected thereby.]

4 Section 2. This act shall take effect in 60 days.