WEST VIRGINIA CODE: §17-4-9

§17-4-9. Separation, elimination or avoidance of railway-highway grade crossings -- When commissioner may require.

Whenever in his judgment it is necessary for the safety of the traveling public or to comply with the safety, design or construction standards for a federal-aid highway project, the state road commissioner may require any railroad company, owning, controlling or operating a railroad in this state, to eliminate railway-highway crossings at grade on existing highways and to avoid railway-highway crossings at grade on new highways, relocated highways and extensions of existing highways by separating the grades or by relocating an existing highway. The commissioner may determine the location, design and grade for any project or structure for the elimination or avoidance of railway-highway crossings at grade, and may determine whether a new, relocated or extended highway shall pass over or under the railroad right of way or tracks. The railroad company shall not be required to bear any part of the cost of construction or maintenance of such grade separation, except where the separation structure eliminates an existing grade crossing.

WV Legislature