

# HOUSE . . . . No. 1006

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By Mr. Birmingham of Boston, petition of Leo M. Birmingham and Martin Hays for legislation to provide for the elimination of the crossing at grade at Governor Square in the city of Boston. Metropolitan Affairs.

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## The Commonwealth of Massachusetts.

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In the Year One Thousand Nine Hundred and Thirty.

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An Act relative to the Elimination of the Crossing at Grade at Governor Square in the City of Boston.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter three hundred and forty-one  
2 of the acts of nineteen hundred and twenty-five, as  
3 amended by section one of chapter four hundred and  
4 three of the acts of nineteen hundred and twenty-  
5 eight, is hereby further amended by striking out sec-  
6 tion two of said chapter three hundred and forty-one  
7 and inserting in place thereof the following:—

8 *Section 2.* The transit department of the city of  
9 Boston shall make such alterations in and extensions  
10 to the Boylston street subway as it may deem neces-  
11 sary for the purpose of eliminating the crossing at  
12 grade of Governor square by cars using said subway,  
13 for the improvement of street car service on Common-

14 wealth avenue and Beacon street, for the purpose of  
15 providing means for a convenient interchange of  
16 passengers between cars or trains operated in said  
17 subway and those operated on surface lines connect-  
18 ing therewith and for improving the transportation  
19 facilities furnished in said subway, and to that end  
20 shall have the powers conferred upon the Boston  
21 transit commission by chapter seven hundred and  
22 forty-one of the acts of nineteen hundred and eleven  
23 and amendments thereof.

24 When the work provided for under this act is  
25 completed the supreme judicial court shall appoint  
26 three commissioners who shall, after due notice and  
27 hearing and in such manner as they shall deem just  
28 and equitable, determine the cost of the work pro-  
29 vided for herein and what political subdivisions,  
30 corporations and other parties received special benefit  
31 from such work and shall thereupon assess the cost  
32 upon said political subdivisions, corporations and  
33 other parties in the proportions in which they are  
34 especially benefited, and shall return their award into  
35 said court and when the said award shall have been  
36 accepted by said court the same shall be final and  
37 conclusive adjudication of all matters herein specified  
38 and shall be binding upon all parties. The amount  
39 due from each of said parties, upon certification of  
40 the same to the treasurer of the city of Boston, shall  
41 be paid into the treasury of the city of Boston at such  
42 times as the court shall designate.

43 No such work shall be done, however, unless and  
44 until a plan therefor shall be approved by the depart-  
45 ment of public utilities, and unless and until the  
46 Boston Elevated Railway Company shall execute a  
47 lease of such alterations and extensions for a term

48 ending with that of the contract for use of said sub-  
49 way or, in the event that the board of directors of  
50 said company do not consent to such lease, for a  
51 term ending upon the termination of public operation  
52 of said company under chapter one hundred and fifty-  
53 nine of the Special Acts of nineteen hundred and  
54 eighteen, as from time to time amended. Any plan  
55 so approved may be altered at any time by a new  
56 plan submitted and approved in like manner, except  
57 that after the execution of said lease no such alter-  
58 ations shall be made without the consent of said  
59 company thereto in writing. Such lease shall provide  
60 that the company shall pay to the city of Boston an  
61 annual rental at the rate of two and one fourth per  
62 cent per annum upon the net cost of such alterations  
63 and extensions. The lease shall be in the same gen-  
64 eral form as those authorized by said chapter seven  
65 hundred and forty-one, except in so far as any other  
66 provisions may be agreed upon by said transit de-  
67 partment and the company as specially applicable to  
68 the demised premises. The said net cost shall be  
69 determined in the manner provided in said chapter  
70 seven hundred and forty-one, and the rental shall be  
71 paid in instalments corresponding to the requirements  
72 for the payment of rental of said Boylston street  
73 subway.

74 The city shall have, hold and enjoy in its private or  
75 proprietary capacity, for its own property, the said  
76 alterations and extensions, and all rents, tolls, in-  
77 come and profits from all contracts entered into by  
78 it for the use of said alterations or extensions or any  
79 part thereof, and the same shall never be taken by  
80 the commonwealth except on payment of just com-  
81 pensation.

1 SECTION 2. Section three of chapter four hundred  
2 and three of the acts of nineteen hundred and twenty-  
3 eight is hereby further amended by striking out said  
4 section and inserting in place thereof the following:

5 *Section 3.* This act shall take effect if and when  
6 it is accepted by the mayor of the city of Boston by  
7 a writing filed on or before December thirty-first of  
8 the current year with the department of public  
9 utilities.