

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-seventh and Eighty-eighth
Legislatures

OF THE

STATE OF MAINE

From April 7, 1935 to April 24, 1937

AND MISCELLANEOUS STATE PAPERS

Published by the Secretary of State, in conjunction
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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Eighty-Eighth Legislature

1937

Chapter 229

AN ACT to Create and Allocate a General Highway Fund for State Road, State Aid and Third Class Highway Construction.

Emergency preamble. Whereas the finances of the state are such as to require an immediate program of strictest economy in the management of all its affairs; and

Whereas, it is immediately necessary in accordance with the foregoing to determine the program for highway construction to be henceforth pursued so that available funds may be used to the greatest advantage and be most wisely and economically expended; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. P. L., 1931, c. 251, amended. Chapter 251 of the public laws of 1931 as amended by chapter 22 of the public laws of 1933 and by chapter 173 of the public laws of 1935 is hereby repealed and the following enacted in place thereof:

'Sec. 1. General highway fund defined. To provide funds for the construction of state, state aid and 3rd class highways, for the maintenance of state and state aid highways, and interstate, intrastate and international bridges, and for other items of expenditure hereinafter specified, there is hereby established a fund to be known as the general highway fund. This fund shall include all fees received from the registration of motor vehicles and licensing of operators thereof, the receipts from the tax on internal combustion engine fuels, all fines, forfeitures and costs accruing to the state under section 118 of chapter 29 of the revised statutes, as amended by chapter 189 of the public laws of 1931, and all sums received on account of the state highway commission for permits to open highways, or from other sources, the disposition of which is not otherwise designated by law.

After payment from said general highway fund of such sums for interest and retirement as are necessary to meet the provisions of bond issues for state highway and bridge construction, the remainder of said fund shall be segregated, apportioned and expended as follows:

(a) \$130,000 annually for payment of the expenses of registering motor vehicles and licensing the operators thereof.

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- (b) \$270,000 annually for the maintenance of the state highway police.
- (c) \$125,000 annually for the administration of the office and carrying out the duties of the state highway commission.
- (d) \$190,000 annually for the administration of the tax on internal combustion engine fuel, and for the payment of refunds on said tax, as provided by statute.
- (e) \$150,000 annually for expenditures authorized for the construction, maintenance and repair of roads and bridges in accordance with the terms of appropriate resolves of the legislature in favor of towns.
- (f) \$630,000 annually for the construction of state aid highways, to be known as the fund for state aid construction; provided, however, that if the aggregate applications by towns for state aid construction exceed the amount herein appropriated and available therefor, the state highway commission shall make a pro rata reduction as provided by section 24 of chapter 28 of the revised statutes.
- (g) \$670,000 annually for the construction of 3rd class highways as defined by section 5 of chapter 28 of the revised statutes, except that, upon petition of the selectmen of the town and approval of the highway commission, the 3rd class apportionment of any town may be expended on a state aid road, or toward the town's share of the cost of construction or reconstruction of bridges under the bridge act.
- (h) \$275,000 annually only in the case that it is necessary in the judgment of the state highway commission and the governor and council to match federal funds to aid in the construction or improvement of federal highways in this state.
- (i) \$75,000 annually to be used only in conjunction with federal funds for the elimination of railroad grade crossings and accompanying engineering and land damage.
- (j) \$250,000 annually only in the case that it is necessary in the judgment of the state highway commission and the governor and council to match federal funds for secondary roads to aid in the construction or improvement of secondary highways in the state.
- (k) \$400,000 for the fiscal year ending June 30, 1938, and \$500,000 for the fiscal year ending June 30, 1939, for the construction of bridges under the general bridge act.
- (l) \$3,400,000 for the fiscal year ending June 30, 1938, and \$3,600,000 for the fiscal year ending June 30, 1939, for the maintenance of state highways and state aid highways, and interstate, intrastate and international bridges, including that portion of the cost of clearing snow from highways which is borne by the state as provided by statute.
- (m) \$84,680 for the fiscal year ending June 30, 1938, and \$68,300 for the fiscal year ending June 30, 1939, for expenditures authorized for the

construction, maintenance and repair of roads and bridges in accordance with the terms of appropriate special resolves of the legislature in favor of towns to be taken from general highway funds.

(n) \$200,000 annually to be used solely for the maintenance of unimproved roads; such maintenance work to consist of road machine work, drainage and gravelling.

The fund for unimproved roads shall be allotted annually to cities, towns and plantations, in proportion to the number of miles of unimproved roads located within their respective limits, as determined by the state highway commission. Unexpended balances shall be available for expenditure in the succeeding year.

The administration and expenditure of this fund shall be under the general supervision of the state highway commission. Location of roads for improvement under the provisions of this sub-section shall be recommended by municipal officers and subject to approval by said commission. After approval of location, towns may proceed to expend their allotments and shall be reimbursed upon receipt by said commission of sufficient evidence of expenditure.

Expenditure of the funds obtained under the provisions of this sub-section shall be limited to \$1500 on any 1 mile of any road during a period of 10 years.

(o) The remainder for the construction of bridges under the general bridge act, and for the maintenance of state highways and state aid highways as provided by statute to be apportioned at the discretion of the state highway commission.'

Sec. 2. Unexpended balances non-lapsing, non-transferable; exceptions. Such unexpended balances of the general highway fund as have been set up for general construction and maintenance of highways and bridges, shall be deemed non-lapsing carrying accounts. All other unexpended balances shall lapse into the general highway fund at the end of each fiscal period, but shall not lapse or be transferred to the general funds in the treasury.

Transfers from one account of the general highway fund to another account thereof, shall be made only with the approval of the governor and council, but in no case shall any permanent transfer be made except for purposes specifically provided in this act.

Sec. 3. R. S., c. 28, § 22, repealed. Section 22 of chapter 28 of the revised statutes as amended is hereby repealed and the following enacted in place thereof:

'Sec. 22. State aid highways, increase of state aid, when; limitation. If any town shall in any single year increase its appropriation for state

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aid roads to an amount not exceeding twice the maximum amount which it may annually appropriate under section 19, the commission may, from any balance of said fund for state aid construction, after the appropriations contemplated in section 21 and subject to the provisions of section 24 as to apportionment, appropriate a like increase of state aid; such appropriation shall not deprive the town of its right to the regular annual state aid in other years; the appropriations contemplated by this section shall be united with and become a part of the joint fund referred to in section 21. Towns may, upon petition of the selectmen of the town and approval of the state highway commission, use a portion or all of the state aid joint fund of the town toward the town's share of the cost of construction or reconstruction of bridges under the bridge act.'

Sec. 4. R. S., c. 28, § 44, repealed. Section 44 of chapter 28 of the revised statutes as amended, is hereby repealed and the following is enacted in place thereof:

'Sec. 44. Third class highways, administration, expenditures, supervision; removal of useless trees, bushes, and weeds, by towns. The expenditure of money appropriated for the construction of 3rd class roads shall be under the general supervision of the commission, and shall be apportioned among the various towns according to the number of miles of 3rd class roads maintained therein, as determined by the commission; provided, that such towns shall have prior to November 1st in the year next preceding, cut and removed all trees, shrubs, and useless fruit trees, bushes, and weeds, except shade trees, timber trees, cared-for fruit trees, and ornamental shrubs, growing between the road limit and the wrought part of any improved section of state highway, state aid highway, and 3rd class road locations.'

Sec. 5. R. S., c. 28, § 46, repealed. Section 46 of chapter 28 of the revised statutes as amended by chapter 151 of the public laws of 1931, and by chapter 22 of the public laws of 1933, and by chapter 173 of the public laws of 1935, is hereby repealed and the following is enacted in place thereof:

'Sec. 46. Maintenance of 3rd class highways; towns shall raise not less than 3%. Roads constructed on 3rd class highways under the provisions of sections 44 to 47 shall be suitably maintained by the several towns under penalty of forfeiture of the right of the town to receive the benefit of future apportionments under said sections. In order for a town to be entitled to 3rd class apportionment, the town shall annually raise for maintaining the improved sections on 3rd class highways designated to receive 3rd class apportionments in such town, a sum not less than 3% of the total expenditures for constructing these highways made during and after

the year 1927. In case the town maintenance appropriation should be more than sufficient to satisfactorily maintain said improved sections, the balance of the fund may be used in connection with the state apportionment for 3rd class construction work. Expenditures of the town maintenance appropriation shall be under the direction and supervision of the state highway commission. In case a town fails to provide funds for maintenance as herein stated, a sum not to exceed 50% of any year's apportionment to a town may be expended by the state highway commission for maintenance of improved sections of 3rd class highway therein, and the balance of the apportionment shall be reapportioned in the year following to the various towns entitled to 3rd class aid. Where 3rd class apportionments have been expended on state or state aid roads, such roads shall be maintained in accordance with the provisions of sections 9, 18, 27 and 28.'

Sec. 6. R. S., c. 28, § 49, repealed. Section 49 of chapter 28 of the revised statutes, as amended by chapter 154 of the public laws of 1931, and by chapter 173 of the public laws of 1935, is hereby repealed and the following is enacted in place thereof:

'Sec. 49. Maintenance of 3rd class highways built from special appropriations; town shall raise not less than 3%. In all cases where towns receive special legislative appropriations to be expended on designated 3rd class highways, said highways shall be constructed in accordance with specifications for 3rd class roads and shall be maintained by the several towns by an annual expenditure of a sum equal to not less than 3% of the amount of said appropriation, under penalty of forfeiture of the right of the town to receive the benefit of future apportionments from funds for 3rd class highways.'

Sec. 7. R. S., c. 28, § 50, repealed. Section 50 of chapter 28 of the revised statutes, as amended by chapter 173 of the public laws of 1935, is hereby repealed and the following is enacted in place thereof:

'Sec. 50. Maintenance of town ways constructed from special appropriations; towns shall raise not less than 3%. In all cases where towns receive special legislative appropriations to be expended on town ways not designated as state, state aid, or 3rd class highways, said ways shall be suitably maintained by the several towns under penalty of forfeiture of the right of the town to receive future legislative appropriations. Towns shall annually raise for the purpose of maintaining the improvements made from legislative appropriations on 3rd class roads, a sum of not less than 3% of the total amount of said appropriations used on said roads.'

Sec. 8. Construction and maintenance of Secondary Federal highways. The state highway commission is authorized to accept Federal funds apportioned to the state under the provisions of section 7 of the Federal Act

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approved June 16, 1936, (Public No. 686—74th Congress) and all acts amendatory thereof and supplementary thereto, for the improvement of secondary or feeder roads, and to expend the same, together with state funds required by the above act, for the improvement of highways within and outside the compact sections of towns.

All highways improved with funds provided under the provisions of section 7 of the above act, except improved secondary Federal projects located on the state highway system as defined in section 5 of chapter 28 of the revised statutes shall be maintained by the state highway commission under the same provisions and conditions made for the maintenance of state aid highways as contained in section 18 of chapter 28 of the revised statutes.

Secondary Federal projects constructed on the state highway system shall be maintained by the state highway commission under the same provisions and conditions made for the maintenance of improved state highways as contained in section 9 of chapter 149 of the public laws of 1935, except that these provisions for maintenance of improved state highways shall also apply to Secondary Federal projects constructed within the compact sections of towns.

Sec. 9. R. S., c. 28, certain sections repealed. Sections 26, 27, 28, 29, 30, 31, 32, 42 and 43 of chapter 28 of the revised statutes, as amended, are hereby repealed.

Sec. 10. Constitutionality of act. If any section, subsection, sentence, clause, or phrase of this act is, for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining portions of this act.

Sec. 11. Repealing clause. All acts and parts of acts inconsistent with this act are hereby repealed.

Emergency clause. In view of the emergency recited in the preamble this act shall take effect when approved.

Approved April 24, 1937.

Chapter 230

AN ACT Relating to Shipping Clams Beyond the Borders of the State.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Shipping of clams regulated; close season. No person, firm, or corporation shall between the 15th day of May and the 1st day of October