

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-THIRD LEGISLATURE

HOUSE.

No. 119

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVEN.

AN ACT to provide for the ownership and maintenance of
highway bridges by the state in the several counties.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. The selectmen of the several towns of the dif-
2 ferent counties in the state shall make an inspection and list
3 of all the highway bridges that are forty feet or more in
4 length prior to the first day of June, A. D. 1907.

All bridges shall be measured exclusive of approaches, and
6 must be a part of some legally established road in the dif-
7 ferent towns of the different counties. The lists shall con-
8 tain a fairly accurate description of each bridge stating as

9 nearly as may be its location, its length, the number of piers
10 and abutments, material, or materials of which it is built
11 and the material of the foundations.

When the selectmen of different towns have completed
13 their lists as aforesaid they shall make duplicate copies
14 thereof and shall on or before the first day of July, 1907,
15 file one of the lists aforesaid with the county commissioners
16 of their respective counties and the other with the commis-
17 sioner of highways of the state of Maine. It shall be the
18 duty of the county commissioners of the several counties
19 to forward to the commissioner of highways of the state of
20 Maine any additional information that he may desire in
21 regard to the provisions aforesaid. All such bridges shall
22 after the first day of July, 1907, be the property of the state
23 of Maine, in consideration of said state maintaining and
24 repairing the same, and shall thereafterwards be known as
25 state bridges. The commissioner of highways of the state
26 of Maine shall designate by sign, number or otherwise each
27 and every bridge in the state and shall have supervision of
28 all maintenance, construction and repairs of all bridges over
29 forty feet in length in the different towns of the state.

Sect. 2. All repairs and renewals on the state bridges as
2 aforesaid shall be made by the commissioners of the different
3 counties of the state wherein such bridges are located at the
4 expense of the state. Such repairs or renewals shall be made
5 subject to the supervision and approval of the commissioner
6 of highways of the state of Maine. All expense in moneys

7 paid out for repairs and renewals under this act shall be
8 paid by the county treasurer in the county wherein the bridge
9 is located upon the presentment of a bill approved by the
10 board of county commissioners or a majority thereof.

The county commissioners in the different counties shall
12 on the first day of January and July of each year render
13 to the commissioner of highways of the state of Maine an
14 itemized statement of all money expended for the repairs
15 and renewals as provided by this act. Upon approval of the
16 commissioner of highways the governor and council shall
17 authorize the state treasurer to repay to each county the
18 entire amount so expended.

Such statements forwarded to the commissioner of high-
20 ways shall be sworn to by the county commissioners of the
21 respective counties. No item of expenditure shall be stricken
22 from the statement forwarded by the commissioners of the
23 several counties, unless said commissioners have an oppor-
24 tunity to appear before the governor and council or a com-
25 mittee thereof and be heard thereon.

Whenever a bridge taken by the state under the provisions
27 of this act is wholly or in part kept in repair, or any money
28 is contributed by any individual, firm or corporation for the
29 maintenance of said bridge under or by virtue of any exist-
30 ing contract, or judgment or decision of any tribunal, the
31 state shall succeed to all the rights of said town under said
32 contract, judgment or decision.

Sect. 3. The county commissioners shall have the same
2 right to take land or any private property for the purpose
3 of locating a new bridge as they now have in laying out,
4 altering or discontinuing highways in incorporated places.
5 The rights and remedies of all parties shall be the same as
6 now provided by law for land taken for laying out, altering
7 and discontinuing highways. The damages thereof shall be
8 paid by the state, but no damage shall be paid nor shall
9 any right thereto accrue to any claimant until the land or
10 other property so taken has been entered upon and possession
11 taken for the purposes of construction or use.

Sect. 4. Whenever a petition of ten or more inhabitants
2 of any town or towns is presented to the county commis-
3 sioners praying for the construction of any bridge therein
4 forty feet or more in length, exclusive of the necessary
5 approaches on any legally established road, said commis-
6 sioners shall notify the commissioner of highways of the
7 state of Maine, and also give notice as now required by law
8 for laying out, altering or discontinuing a highway, and if,
9 after a hearing of interested parties, said commissioners
10 decide that public necessity requires the construction of said
11 bridge, they shall notify the commissioner of highways of
12 the state of Maine to that effect, who will make an investi-
13 gation and report the result of his researches to said county
14 commissioners. If his decision is to the effect that public
15 necessity does not require said bridge, he will so notify
16 said commissioners, and if they are not satisfied with the

17 decision of said commissioner of highways, they may within
18 fourteen days after receiving said notice appeal from his
19 decision to a committee of three members of the executive
20 council who shall be appointed by the governor to hear and
21 determine such appeals. If said county commissioners decide
22 that such a bridge is not required for public necessity, they
23 shall notify the petitioners, or as many of them as they may
24 deem proper, who may appeal to the committee of the execu-
25 tive council as aforesaid any time within fourteen days after
26 notice has been received by them of the decision of said
27 county commissioners. In all cases said committee of the
28 executive council shall give reasonable notice to all parties
29 in such manner and form as they may determine, and after
30 a public hearing they shall decide as to the construction of
31 the bridge in question and their decision shall be final. If
32 said committee of executive council shall decide that such
33 public necessity exists and that the bridge should be built,
34 they shall show certificate in writing to the commissioner of
35 highways of the state of Maine, who will notify the county
36 commissioners of the county in which the bridge is located
37 and the municipal officers of the town or towns. The com-
38 missioner of highways will determine what kind and of what
39 material said bridge shall be constructed.

Upon the completion of the bridge as aforesaid the county
41 commissioners shall certify to the commissioner of highways
42 and to the municipal officers of the different towns in which
43 it is located and cost of same. The commissioner of high-

44 ways shall notify the governor and council who will autho-
45 rize the state treasurer to reimburse the county in which
46 said bridge was located the cost so certified. All bills for-
47 warded to the commissioner of highways shall be sworn to
48 as provided in a preceding section.

Sect. 5. When a petition is presented to the commissioners
2 of any county praying for the construction of a bridge fort-
3 feet or more in length, exclusive of necessary approaches
4 on any legally established road to be located in two or more
5 counties, the commissioners receiving said petition shall call
6 a meeting of the commissioners of all said counties to be
7 held at a time and place named by causing an attested copy
8 of such petition and their order thereof to be served on the
9 chairman of all interested counties and they shall also notify
10 by letter, or otherwise, the commissioner of highways of the
11 state of Maine the time and place of said meeting. They
12 shall also cause notice of same to be printed in at least one
13 paper in each of said counties and if there is no paper in any
14 of the interested counties, then notice shall be published in
15 an adjoining county, and by posting a notice of such meeting
16 in two places in each town in which said bridge is to be
17 located, and also shall cause to be served a notice of said
18 meeting upon the clerk of the respective towns; these notices
19 shall be posted, published and served at least fourteen days
20 prior to the time of said meeting. The majority of the
21 county commissioners of the different counties present may
22 render a decision. The duty of carrying this decision into

23 effect shall be performed by such member or members of
24 the board of commissioners as they shall designate. Com-
25 missioners may adjourn from time to time as they may deem
26 advisable.

Appeals from the decisions of the commissioners may be
28 had as in Section four. If the committee of the executive
29 council decide upon appeal that the necessity exists and
30 that the bridge is to be built, they shall so certify in writing
31 to the commissioner of highways, the chairman of the board
32 of the commissioners of the interested counties and one or
33 more selectmen of the different towns in which the bridge is
34 to be located. Upon the completion of said bridge the county
35 commissioners of the different counties shall certify to the
36 commissioner of highways as in Section four the cost of
37 said bridge, who in turn will notify the governor and coun-
38 cil of the same. Upon receipt of the proper certificate the
39 governor and council shall authorize and direct the state
40 treasurer to reimburse the counties the cost so certified.

Sect. 6. Whenever a toll bridge of a legally established
2 highway is the property of an individual, firm or corporation
3 the county commissioners of the different counties shall give
4 notice to the owners of the intention of the state of Maine
5 to purchase the same. Said county commissioners upon due
6 notice to the interested parties, will order a hearing and shall
7 after the same, decide in their judgment how much shall
8 be paid by the state to the individual, firm or corporation
9 owning the same. If the owners of the bridge are not sat-

10 isfied with the amount awarded by the county commission-
11 ers, they shall appeal to the supreme judicial court of the
12 county in which the bridge is located. If the bridge is
13 between two or more counties, they may appeal to the court
14 in either of the counties. The chief justice of the court or
15 any justice thereof shall appoint three disinterested men to
16 determine the value of the bridge in controversy, who will
17 listen to such evidence of the same as they may think nec-
18 cessary and shall order notice given upon such a hearing.

After the hearing as aforesaid, said committee shall report
20 their findings to the clerk of the supreme judicial court in
21 the county where the original petition was filed. This may
22 be done either in term time or vacation and the chief jus-
23 tice or any justice of the supreme judicial court may con-
24 firm the same or recommit it for correction of errors, if in
25 their judgment justice so requires.

The expenses and pay of said appraisers shall be paid in
27 equal parts by the state of Maine and by the individual, firm
28 or corporation owning the bridge. Until the owners of
29 such toll bridge shall have received the amount agreed
30 upon or determined as aforesaid their right to take tolls as
31 existed in the beginning of the proceedings specified in this
32 act shall be continued, subject, however, at all times to leg-
33 islative regulation. The provisions of the act shall not be
34 construed as in any way affecting the right of owners of toll
35 bridges to surrender such bridges to the state or to any
36 county as now provided by law. Whenever the amount is

37 decided upon the county commissioners shall certify upon
38 oath the amount as awarded, to the commissioner of high-
39 ways of the state, who in turn will approve the same and
40 forward it to the governor and council for payment. The
41 governor and council shall thereupon authorize and direct
42 the state treasurer to pay the individual, firm or corporation
43 the amount so certified as provided by law.

In the event of the destruction of any state bridge by fire,
45 flood or other casualty, the commissioner of highways of
46 the state of Maine shall investigate the same and authorize
47 the county commissioners to rebuild the same as in Section
48 four.

Sect. 8. The municipal officers of any town where a state
2 bridge is located shall act as agents to the county commis-
3 sioners in repairing any sudden defect which renders public
4 travel dangerous. After repairing such defect they shall
5 immediately notify the county commissioners and shall file
6 their sworn statement of the actual money expended for the
7 same, which shall be paid by the state upon the approval of
8 the county commissioners and commissioner of highways as
9 provided in preceding sections.

If, after twenty-four hours actual notice the municipal offi-
11 cers neglect to repair any sudden defect in a state bridge, the
12 town or towns where such bridge is located shall be liable
13 for all damages and injuries to persons and property caused
14 thereby.

Sect. 9. Whoever receives any bodily injury or suffers
2 damage to his property through any defect or want of repair
3 or sufficient railing in any state bridge, they may recover of
4 the town for the same in an action on the case to be com-
5 menced within one year from the date of such injury or suf-
6 fered damage, provided that the municipal officers of the
7 town or towns in which the bridge is located or the county
8 commissioners of the county or counties in which the bridge
9 is located or the commissioner of highways of the state of
10 Maine had twenty-four hours actual notice of the defect or
11 want of repair and if the aggrieved parties had notice of the
12 condition of said bridge previous to the time of injury, he
13 cannot recover of the town, unless he has previously notified
14 one of the municipal officers of the town or towns wherein
15 the bridge is located, of the defective condition of said
16 bridge, and any person who sustains such injury or damage,
17 as aforesaid, or some person in his behalf, shall, within four-
18 teen days thereafter notify one of the municipal officers of
19 said town in which the bridge is located by a sworn state-
20 ment setting forth the claim for damages and specifying in
21 writing the nature of his injuries, and the nature and loca-
22 tion of the defect which caused the injury.

If the life of any person is lost through such defect his
24 executor or administrator may recover of the town in which
25 the bridge is located in an action on the case brought for
26 the benefit of the estate of the deceased, such sum as the
27 jury may deem a just and fair compensation, not exceeding

28 five thousand dollars, with reference to the pecuniary injury
29 resulting from such death to the person for whose benefit
30 such action is brought. In the trial of any such case the
31 court may, upon motion of either party, order a view of
32 the premises where the defect or want of repair is alleged.

Any action for damages under the provisions of this section
34 may be brought in any county or counties where such bridge
35 is located or in an adjoining county at the election of the
36 plaintiff.

Sect. 10. Whenever suit is brought against any town in
2 the state as provided in the preceding section, the municipal
3 officers of said town shall immediately notify the commis-
4 sioner of highways who shall make an investigation and
5 employ counsel to defend said case or to adjust it as he may
6 deem right and proper. All bills for services for the defense
7 or settlement of such actions shall be approved by the com-
8 missioner of highways before payment, and the town or
9 counties in which the bridge is located shall pay the same
10 upon the approval of said commissioner of highways. The
11 state of Maine shall reimburse any town for all moneys
12 expended in the defense or settlement of such actions, and
13 shall reimburse said town or counties for any amount paid
14 on a judgment recovered against the same in an action as
15 provided in the preceding section, and also pay the same
16 for counsel fees as aforesaid. The municipal officers of the
17 different towns and cities shall certify under oath the amount
18 so paid, including counsel fees, to the governor and council

19 of the state of Maine, who will authorize the treasurer to
20 reimburse said town for said amount so paid.

Sect. 11. The commissioner of highways is hereby autho-
2 rized and empowered to employ such additional aid as he
3 may deem necessary to effectively carry out the work as pre-
4 scribed by this act, and the payment of the same shall be
5 from the fund appropriated by the legislature for the main-
6 tenance, building and repair of bridges.

Sect. 12. The word "town" in this act shall be construed
2 as including cities, towns and organized plantations.

Sect. 13. All acts and parts of acts inconsistent with this
2 act are hereby repealed.

Sect. 14. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES.

Augusta, February 6, 1907.

Reported by Mr. DONIGAN from Committee on Ways and Bridges,
and ordered printed under joint rules.

E. M. THOMPSON, *Clerk*.