

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 14

STATE OF MAINE.

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

AN ACT to provide for the ownership and maintenance of
highway bridges by the State and the construction of such
bridges by the State, county and towns.

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

Section 1. The municipal officers of the several towns of
2 the different counties in the State shall make an inspection
3 and list of all the highway and railroad bridges that are fifty
4 feet or more in length and constructed prior to the first day
5 of January, A. D. 1909.

All bridges shall be measured exclusive of approaches, and
7 must be a part of some legally established road in the differ-
8 ent towns of the different counties. The lists shall contain
9 a fairly accurate description of each bridge stating as nearly

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

When the municipal officers of different towns have com-
14 pleted their lists as aforesaid they shall make duplicate copies
15 thereof and shall on or before the first day of July, 1909, file
16 one of the lists aforesaid with the county commissioners of
17 their respective counties and the other with the commissioner
18 of highways of the State of Maine. It shall be the duty of
19 the county commissioners of the several counties to forward
20 to the commissioner of highways of the State of Maine any
21 additional information that he may desire in regard to the
22 provisions aforesaid. All such bridges shall, after the first
23 day of July, 1909, be the property of the State of Maine, in
24 consideration of said State maintaining and repairing the
25 same, and shall thereafterwards be known as State bridges.
26 All bridges under construction on the first day of July, 1909,
27 shall when completed be the property of the State of Maine
28 in consideration of the State maintaining the same and shall
29 thereafterwards be known as State bridges as hereafter pro-
30 vided. The commissioner of highways of the State of Maine
31 shall designate by sign, number or otherwise each and every
32 bridge in the State and shall have supervision of all main-
33 tenance, construction and repairs of all bridges over fifty
34 feet in length in the different towns of the State.

Sect. 2. All repairs of the State bridges as aforesaid shall
2 be made by the commissioners of the different counties of the
3 State wherein such bridges are located at the expense of the

4 State. Such repairs or renewals shall be made subject to the
5 supervision and approval of the commissioner of highways of
6 the State of Maine. All expense in moneys paid out for
7 repairs and renewals under this act shall be paid by the
8 county treasurer in the county wherein the bridge is located
9 upon the presentment of a bill approved by the board of
10 county commissioners or a majority thereof and accompanied
11 by proper vouchers for such expense.

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

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

Whenever a bridge taken by the State under the provisions
28 of this act is wholly or in part kept in repair, or any money
29 is contributed by any individual, firm or corporation for the
30 maintenance of said bridge under or by virtue of any exist-
31 ing contract, or judgment or decision of any tribunal, the

32 State shall succeed to all the rights of said town under said
33 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 of
3 locating a new bridge as they now have in laying out, alter-
4 ing or discontinuing highways in incorporated places. The
5 rights and remedies of all parties shall be the same as now
6 provided by law for land taken for laying out, altering and
7 discontinuing highways. The damages thereof shall be paid
8 by the State, but no damage shall be paid nor shall any right
9 thereto accrue to any claimant until the land or other prop-
10 erty so taken has been entered upon and possession taken for
11 the purposes of construction or use.

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

16 if they are not satisfied with the decision of said commis-
17 sioner of highways, they may within fourteen days after
18 receiving said notice appeal from his decision to a committee
19 of three members of the executive council who shall be
20 appointed by the governor to hear and determine such
21 appeals. If said county commissioners decide that such a
22 bridge is not required for public necessity, they shall notify
23 the petitioners, or as many of them as they may deem proper.
24 who may appeal to the committee of the executive council as
25 aforesaid any time within fourteen days after notice has
26 been received by them of the decision of said county com-
27 missioners. In all cases said committee of the executive
28 council shall give reasonable notice to all parties in such man-
29 ner and form as they may determine, and after a public
30 hearing they shall decide as to the construction of the bridge
31 in question and their decision shall be final. If said com-
32 mittee of executive council shall decide that such public
33 necessity exists and that the bridge should be built, they
34 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. When the
38 construction of a bridge has been determined upon, either on
39 an appeal or otherwise, as provided in this section, the county
40 commissioners shall proceed to make contracts for the con-
41 struction of the same, subject to the approval of the com-
42 missioners of highways. The county commissioners shall
43 have power to borrow money for this purpose on the credit

44 of their county and to issue negotiable notes or bonds for
45 the same.

Upon the completion of the bridge as aforesaid the county
47 commissioners shall certify to the commissioner of highways
48 and to the municipal officers of the different towns in which
49 it is located and cost of same. The commissioner of high-
50 ways shall notify the governor and council who will authorize
51 the State treasurer to reimburse the county in which said
52 bridge was located one-third the cost so certified, and the
53 town or towns in which said bridge is located shall also
54 reimburse the county for one-third of the cost so certified so
55 that the cost of new bridges constructed by authority of this
56 section shall be borne one-third by the State, one-third by the
57 county, one-third by the town or towns in which said bridge
58 is located, in proportion to the valuation of said towns. All
59 bills forwarded to the commissioner of highways shall be
60 sworn to 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 fifty
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 held
7 at a time and place named by causing an attested copy of
8 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 the
24 board of commissioners as they shall designate. Commis-
25 sioners may adjourn from time to time as they may deem
26 advisable.

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

40 to reimburse the counties the cost so certified. In the con-
41 struction of bridges in two or more counties each county shall
42 bear an equal part of one-third of the expense thereof.

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 be
8 paid by the State to the individual, firm or corporation own-
9 ing the same. If the owners of the bridge are not satisfied with
10 the amount awarded by the county commissioners, they shall
11 appeal to the supreme judicial court of the county in which
12 the bridge is located. If the bridge is between two or more
13 counties, they may appeal to the court in either of the
14 counties. The chief justice of the court or any justice
15 thereof shall appoint three disinterested men to determine the
16 value of the bridge in controversy, who will listen to such
17 evidence of the same as they may think necessary and shall
18 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 be
22 done either in term time or vacation and the chief justice or
23 any justice of the supreme judicial court may confirm the
24 same or recommit it for correction of errors, if in their judg-
25 ment justice so requires.

Sect. 7. The expenses and pay of said appraisers shall be
2 paid in equal parts by the State of Maine and by the
3 individual, firm or corporation owning the bridge. Until
4 the owners of such toll bridge shall have received the
5 amount agreed upon or determined as aforesaid their right
6 to take tolls as existed in the beginning of the proceedings
7 specified in this act shall be continued, subject, however, at
8 all times to legislative regulation. The provisions of the act
9 shall not be construed as in any way affecting the right of
10 owners of toll bridges to surrender such bridges to the State
11 or to any county as now provided by law. Whenever the
12 amount is decided upon the county commissioners shall
13 certify upon oath the amount as awarded, to the commission-
14 er of highways of the State, who in turn will approve the
15 same and forward it to the governor and council for pay-
16 ment. The governor and council shall thereupon authorize
17 and direct the State treasurer to pay the individual, firm or
18 corporation the amount so certified as provided by law.

In the event of the destruction of any State bridge by fire,
20 flood or other casualty, the commissioner of highways of the
21 State of Maine shall investigate the same and authorize the
22 county commissioners to rebuild the same as in section four.

Sect. 8. The municipal officers of any town where a State
2 bridge is located shall act as agent to the county commission-
3 ers 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 with original vouchers of the
7 actual money expended for the same, which shall be paid
8 by the State upon the approval of the county commissioners
9 and commissioner of highways as provided in preceding sec-
10 tions.

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

Sect. 9. Whoever received 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 bridge,
16 and any person who sustains such injury or damage, as

17 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 claims for damages and specifying in
21 writing the nature of his injuries, and the nature and location
22 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 the
26 benefit of the estate of the deceased, such sum as the jury
27 may deem a just and fair compensation, not exceeding five
28 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 court
31 may, upon motion of either party, order a view of the prem-
32 ises 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 defence
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 defence or settlement of such actions, and
13 shall reimburse said town or counties for any amount paid on
14 a judgment recovered against the same in an action as pro-
15 vided in the preceding section, and also pay the same for
16 counsel fees as aforesaid. The municipal officers of the dif-
17 ferent 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 author-
2 ized and empowered to employ such additional aid as he may
3 deem necessary to effectually 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, organized plantations (and bridge
3 district). The word "bridges" as used in this Act shall be
4 construed as including bridges and causeways across tide
5 waters.

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

Sect. 14. A tax of one-half mill on a dollar shall annually
2 be assessed upon all property in the State, according to the
3 valuation thereof, and shall be known as the mill tax for the
4 construction and repairs of bridges as heretofore provided,
5 and the governor and council are hereby authorized to expend
6 the money derived from such tax for the purpose heretofore
7 mentioned.

STATE OF MAINE.

IN SENATE,

January 14, 1909.

Presented by Mr. DONIGAN of Somerset and on motion by same Senator, laid on table to be printed pending reference to a committee and 1000 copies ordered printed.

F. G. FARRINGTON, *Secretary*.