

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 55

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 bridges that are forty feet or
4 more in length and constructed prior to the first day of Jan-
5 uary, 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 counties. The lists shall contain a fairly accurate de-
9 scription of each bridge stating as nearly as may be its loca-

10 tion, its length, the number of piers and abutments, material,
11 or materials of which it is built and the material of the
12 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 forty
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

3 the State wherein such bridges are located at the expense of
4 the State, county and towns same as new bridges. Such
5 repairs or renewals shall be made subject to the supervision
6 and approval of the commissioner of highways of the State
7 of Maine. All expense in moneys paid out for repairs and
8 renewals under this act shall be paid by the county treas-
9 urer in the county wherein the bridge is located upon the
10 presentment of a bill approved by the board of county com-
11 missioners or a majority thereof and accompanied by proper
12 vouchers for such expense.

The county commissioners in the different counties shall on
14 the first day of January and July of each year render to the
15 commissioner of highways of the State of Maine an item-
16 ized statement of all moneys expended together with the
17 vouchers therefor for the repairs and renewals provided by
18 this act. Upon approval of the commissioner of highways
19 the governor and council shall authorize the State treasurer
20 to repay to each county one-third of the amount so expended;
21 and the town or towns in which the bridge is located shall
22 also reimburse the county one-third of the cost so the cost of
23 maintenance shall be borne one-third by the State, one-third
24 by the county and one-third by the town or towns.

Such statements forwarded to the commissioner of high-
26 ways shall be sworn to by the county commissioners of the
27 respective counties. No items of expenditure shall be strick-
28 en from the statement forwarded by the commissioners of the
29 several counties, unless said commissioners have an oppor-

30 tunity to appear before the governor and council or a com-
31 mittee thereof and be heard thereon.

Whenever a bridge taken by the State under the provisions
33 of this act is wholly or in part kept in repair, or any money is
34 contributed by any individual, firm or corporation for the
35 maintenance of said bridge under or by virtue of any exist-
36 ing contract, or judgment or decision of any tribunal, the
37 State shall succeed to all the rights of said town under said
38 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 any
9 right thereto accrue to any claimant until the land or other
10 property so taken has been entered upon and possession taken
11 for the purpose 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 ap-
5 proaches on any legally established road, said commission-
6 ers shall notify the commissioner of highways of the State
7 of Maine, and also give notice as now required by law for
8 laying out, altering or discontinuing a highway, and if, after

9 a hearing of interested parties, said commissioners decide
10 that public necessity requires the construction of said bridge,
11 they shall notify the commissioner of highways of the State
12 of Maine to that effect, who will make an investigation and
13 report the result of his researches to said county commis-
14 sioners. If his decision is to the effect that public necessity
15 does not require said bridge, he will so notify said commis-
16 sioners, and if they are not satisfied with the decision of said
17 commissioner of highways, they may within fourteen days
18 after receiving said notice appeal from his decision to a com-
19 mittee of three members of the executive council who shall
20 be 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
29 manner 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 shall
34 show certificate in writing to the commissioner of highways
35 of the State of Maine, who will notify the county commis-

36 sioners of the county in which the bridge is located and the
37 municipal officers of the town or towns. When the construc-
38 tion of a bridge has been determined upon, either on an
39 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 the
45 same.

Upon the completion of the bridge as aforesaid the county
47 commissioners shall certify to the commissioners of high-
48 ways and to the municipal officers of the different towns in
49 which it is located and cost of same. The commissioner of
50 highways shall notify the governor and council who will
51 authorize the State treasurer to reimburse the county in
52 which said bridge was located one-third the cost so certified,
53 and the town or towns in which said bridge is located shall
54 also reimburse the county for one-third of the cost so cer-
55 tified so that the cost of new bridges constructed by author-
56 ity of this section shall be borne one-third by the State, one-
57 third by the county, one-third by the town or towns in which
58 said bridge is located, in proportion to the valuation of said
59 towns. All bills forwarded to the commissioner of high-
60 ways shall be 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 forty
3 feet or more in length, exclusive of necessary approaches on

4 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 an
15 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
28 had as in section four. If the committee of the executive
29 council decide upon appeal that the necessity exists and that
30 the 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 gover-
39 nor and council shall authorize and direct the State treas-
40 urer to reimburse the counties the cost so certified. In the
41 construction of bridges in two or more counties each county
42 shall 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
10 with the amount awarded by the county commissioners, they
11 shall appeal to the supreme judicial court of the county in
12 which the bridge is located. If the bridge is between two
13 or more counties, they may appeal to the court in either of
14 the counties. The chief justice of the court or any justice
15 thereof shall appoint three disinterested men to determine

16 the value of the bridge in controversy, who will listen to
17 such evidence of the same as they may think necessary and
18 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 justice
23 or 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 individ-
3 ual, firm or corporation owning the bridge. Until the own-
4 ers of such toll bridge shall have received the amount agreed
5 upon or determined as aforesaid their right to take tolls as
6 existed in the beginning of the proceedings specified in this
7 act shall be continued, subject, however, at all times to leg-
8 islative regulation. The provisions of the act shall not be
9 construed as in any way affecting the right of owners of toll
10 bridges to surrender such bridges to the State or to any
11 county as now provided by law. Whenever the amount is
12 decided upon the county commissioners shall certify upon
13 oath the amount as awarded, to the commissioner of high-
14 ways of the State, who in turn will approve the same and
15 forward it to the governor and council for payment. The
16 governor and council shall thereupon authorize and direct
17 the State treasurer to pay the individual, firm or corporation
18 the amount so certified as provided by law.

In the event of the destruction of any State bridge by fire, 20 floor 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 commis- 3 sioners in repairing any sudden defect which renders pub- 4 lic 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 actual 7 money expended for the same, which shall be paid one-third 8 each by the State, county and town or towns upon the 9 approval of the county commissioners and commissioner of 10 highways as provided in preceding sections.

If, after twenty-four hours actual notice, the municipal offi- 12 cers 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 4 of 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 6 suffered 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
11 or want of repair and if the aggrieved parties had notice of
12 the condition of said bridge previous to the time of injury,
13 he cannot recover of the town, unless he has previously noti-
14 fied one of the municipal officers of the town or towns where-
15 in 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
18 fourteen days thereafter notify one of the municipal officers
19 of said towns in which the bridge is located by a sworn
20 statement setting forth the claims for damages and specify-
21 ing in writing the nature of his injuries, and the nature and
22 location 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
31 court may, upon motion of either party, order a view of the
32 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 notify the attorney general, who shall defend said case or to
6 adjust it as he may deem right and proper. All bills for
7 services for the defence or settlement of such actions shall
8 be approved by the commissioner of highways before pay-
9 ment, and the town or counties in which the bridge is located
10 shall pay the same upon the approval of said commissioner
11 of highways. The State of Maine shall reimburse any town
12 for all moneys expended in the defence or settlement of such
13 action, and shall reimburse said town or counties for any
14 amount paid on a judgment recovered against the same in
15 an action as provided in the preceding section, and also pay
16 the same for counsel fees as aforesaid. The municipal offi-
17 cers of the different towns and cities shall certify under oath
18 the amount so paid, including counsel fees, to the governor
19 and council of the State of Maine, who will authorize the
20 treasurer to reimburse said town for said amount so paid.
21 In all cases where an electric railroad passes over a State
22 highway bridge the compensation for that privilege shall be

23 determined by the commissioners of said county where such
24 road passes, subject to appeal to the supreme court.

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
4 the construction and repairs of bridges as heretofore pro-
5 vided, and the governor and council are hereby authorized to
6 expend the money derived from such tax for the purpose
7 heretofore mentioned.

STATE OF MAINE.

IN SENATE,

Augusta, January 22, 1909.

Presented by Mr. DONIGAN of Somerset and on his motion tabled
for printing, and 500 extra copies ordered printed.

F. G. FARRINGTON, *Secretary*.