

# MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

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SENATE

NO. 52

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*In Senate, Feb. 1, 1911.*

*Introduced in Senate Jan. 24, 1911, and referred to committee on Ways and Bridges by Mr. Donigan of Somerset.*

*W. C. HANSON, Secretary.*

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STATE OF MAINE

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

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

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*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. 1912.

All bridges shall be measured exclusive of approaches, and  
7 must be a part of some legally established road in the dif-  
8 ferent counties. The lists shall contain a fairly accurate de-  
9 scription of each bridge stating as nearly as may be its

10 location, its length, the number of piers and abutments, ma-  
11 terial, or materials of which it is built and the material of  
12 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,  
16 file one of the lists aforesaid with the county commissioners  
17 of their respective counties and the other with the commis-  
18 sioner of highways of the State of Maine. It shall be the  
19 duty of the county commissioners of the several counties to  
20 forward to the commissioner of highways of the State of  
21 Maine any additional information that he may desire in re-  
22 gard to the provisions aforesaid. All such bridges shall,  
23 after the first day of July, 1909, be the property of the State  
24 of Maine, in consideration of said State maintaining and re-  
25 pairing the same, and shall thereafterwards be known as  
26 State bridges. All bridges under construction on the first  
27 day of July, 1909, shall, when completed, be the property of  
28 the State of Maine, thereafterwards be known as State  
29 bridge as hereafter provided. The commissioner of high-  
30 ways of the State of Maine shall designate by sign, number  
31 or otherwise each and every bridge in the State and shall  
32 have supervision of all maintenance, construction and re-  
33 pairs of all bridges over forty feet in length in the different  
34 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  
14 on the first day of January and July of each year render  
15 to the commissioner of highways of the State of Maine an  
16 itemized 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 treas-  
20 urer to repay to each county one-third of the amount so  
21 expended; and the town or towns in which the bridge is  
22 located shall also reimburse the county one-third of the cost  
23 so the cost of maintenance shall be borne one-third by the  
24 State, one-third by the county and one-third by the town or  
25 towns.

Such statements forwarded to the commissioner of high-  
27 ways shall be sworn to by the county commissioners of the  
28 respective counties. No items of expenditure shall be strick-  
29 en from the statement forwarded by the commissioners of

30 the several counties, unless said commissioners have an op-  
31 portunity to appear before the Governor and Council or a  
32 committee thereof and be heard thereon.

Whenever a bridge taken by the State under the provisions  
34 of this act is wholly or in part kept in repair, or any money  
35 is contributed by any individual, firm or corporation for the  
36 maintenance of said bridge under or by virtue of any exist-  
37 ing contract, or judgment or decision of any tribunal, the  
38 State shall succeed to all the rights of said town under said  
39 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 until the land or other property so taken has  
10 been entered upon and possession taken for the purpose of  
11 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 forty 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, al-  
8 tering or discontinuing a highway, and if, after a hearing  
9 of 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 his  
14 decision is to the effect that public necessity does not require  
15 said bridge, he will so notify said commissioners, and if they  
16 are not satisfied with the decision of said commissioner of  
17 highways, they may within fourteen days after receiving  
18 said notice appeal from his decision to a committee of three  
19 members of the executive council who shall be appointed by  
20 the Governor to hear and determine such appeals. If said  
21 county commissioners decide that such a bridge is not re-  
22 quired for public necessity, they shall notify the petitioners,  
23 or as many of them as they may deem proper, who may  
24 appeal to the committee of the executive council as afore-  
25 said any time within fourteen days after notice has been  
26 received by them of the decision of said county commission-  
27 ers. In all cases said committee of the executive council  
28 shall give reasonable notice to all parties in such manner  
29 and form as they may determine, and after a public hearing  
30 they shall decide as to the construction of the bridge in ques-  
31 tion and their decision shall be final. If said committee of  
32 executive council shall decide that such public necessity exists  
33 and that the bridge should be built, they shall

34 in writing to the commissioner of highways of the State of  
35 Maine, who shall notify the county commissioners of the  
36 county in which the bridge is located and the municipal offi-  
37 cers of the town or towns. When the construction of a  
38 bridge has been determined upon, either on an appeal or  
39 otherwise, as provided in this section, the county commis-  
40 sioners shall proceed to make contracts for the construction  
41 of the same, subject to the approval of the commissioner of  
42 highways. The county commissioners shall have power to  
43 borrow money for this purpose on the credit of their county  
44 and to issue negotiable notes or bonds for the same.

Upon the completion of the bridge as aforesaid the county  
46 commissioners shall certify to the commissioners of high-  
47 ways and to the municipal officers in which it is located  
48 and cost of same. The commissioner of high-  
49 ways shall notify the Governor and Council who will author-  
50 ize the State treasurer to reimburse the county in which said  
51 bridge was located one-third the cost so certified, and the  
52 town or towns in which said bridge is located shall also re-  
53 imburse the county for one-third the cost so certified so that  
54 the cost of new bridges constructed by authority of this sec-  
55 tion shall be borne one-third by the State, one-third by the  
56 county, one-third by the town or towns in which said bridge  
57 is located, in proportion to the valuation of said towns. All  
58 bills forwarded to the commissioners of highways shall be  
59 sworn to as provided in a preceding section.

Sect. 5. When a petition is presented to the commissioners of any county praying for the construction of a bridge forty feet or more in length, exclusive of necessary approaches on any legally established road to be located in two or more counties, the commissioners receiving said petition shall call a meeting of the commissioners of all said counties to be held at a time and place named by causing an attested copy of such petition and their order thereon to be served on the chairman of all interested counties and they shall also notify by letter, or otherwise, the commissioner of highways of the State of Maine the time and place of said meeting. They shall also cause notice of same to be printed in at least one paper in each of said counties and if there is no paper in any of the interested counties, then notices shall be published in an adjoining county, and by posting a notice of such meeting in two places in each town in which said bridge is to be located, and also shall cause a notice of such meeting to be served upon the clerk of the respective towns; these notices shall be posted, published and served at least fourteen days prior to the time of said meeting. The majority of the county commissioners of the different counties present may render a decision. The duty of carrying this decision into effect shall be performed by such member or members of the board of commissioners as they shall designate. Commissioners may adjourn from time to time as they may deem 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  
31 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 coun-  
35 ty commissioners of the different counties shall certify to  
36 the 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. In  
41 the construction of bridges in two or more counties each  
42 county shall bear an equal part of one-third of the expense  
43 thereof.

Sect. 6. Whenever a toll bridge if 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  
6 due notice to the interested parties, will order a hearing and  
7 shall after the same, decide in their judgment how much  
8 shall be paid by the State to the individual, firm or corpo-  
9 ration owning the same. If the owners of the bridge are  
10 not satisfied with the amount awarded by the county com-

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

After the hearing as aforesaid, said committee shall report  
21 their findings to the clerk of the supreme judicial court in  
22 the county where the original petition was filed. This may  
23 be done either in term time or vacation and the chief justice  
24 or any justice of the supreme judicial court may confirm  
25 the same or recommit it for correction of errors, if in their  
26 judgment 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 indi-  
3 vidual, firm or corporation owning the bridge. Until the  
4 owners of such toll bridge shall have received the amount  
5 agreed upon or determined as aforesaid their right to take  
6 tolls as existed in the beginnings of the proceedings speci-  
7 fied in this act shall be continued, subject, however, at all  
8 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 cer-  
13 tify upon oath the amount as awarded, to the commissioner  
14 of highways of the State, who in turn will approve the same  
15 and forward it to the Governor and Council for payment.  
16 The Governor and Council shall thereupon authorize and  
17 direct the State treasurer to pay the individual, firm or cor-  
18 poration 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 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 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 ap-  
9 proval of the county commissioners and commissioner of  
10 highways as provided in the preceding sections.

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 lia-  
14 ble for all damages and injuries to persons and property  
15 caused 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 had previously noti-  
14 fied one of the municipal officers of the town or towns  
15 wherein the bridge is located, of the defective condition of  
16 said bridge, and any person who sustains such injury or  
17 damage, as aforesaid, or some person in his behalf, shall,  
18 within fourteen days thereafter notify one of the municipal  
19 officers of said towns in which the bridge is located by a  
20 sworn statement setting forth the claims for damages and  
21 specifying in writing the nature of the injuries, and the na-  
22 ture and 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  
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 sec-  
34 tion may be brought in any county or counties where such  
35 bridge is located or in any adjoining county at the election of  
36 the 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 no-  
5 tify the attorney-general, who shall defend said case or ad-  
6 just it as he may deem right and proper. All bills for ser-  
7 vices and the defence or settlement of such actions shall be  
8 approved by the commissioner of highways before payment,  
9 and the town or counties in which the bridge is located shall  
10 pay the same upon the approval of said commissioner of  
11 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 an  
15 action as provided in the preceding section, and also pay the  
16 same for counsel fees as aforesaid. The municipal officer  
17 of the different towns and cities shall certify under oath the  
18 amount so paid, including counsel fees, to the Governor and

19 Council of the State of Maine, who will authorize the treas-  
20 urer to reimburse said town for said amount so paid. In  
21 all cases where an electric railroad passes over a State high-  
22 way bridge the compensation for that privilege shall be de-  
23 termined 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 au-  
2 thorized and empowered to employ such additional aid as he  
3 may 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 be as-  
2 sessed upon all property in the State, according to the val-  
3 uation thereof, and shall be known as the mill tax for the  
4 construction and repair of bridges as heretofore provided,  
5 and the Governor and Council are hereby authorized to ex-  
6 pend the money derived from such tax for the purpose here-  
7 tofore mentioned.



STATE OF MAINE.

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The Committee on Ways and Bridges to which was referred the Bill, entitled "An Act for the ownership and maintenance of highway bridges by the State and the construction of such bridges by the State, county and towns, have had the same under consideration, and ask leave to Report that the same be printed and recommitted.

Per Order DONIGAN.