

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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HOUSE

NO. 5

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*House of Representatives, Jan. 9, 1913.*

*Tabled pending reference to a Committee, by Mr. Butler of  
Farmington, and ordered printed.*

*W. R. ROIX, Clerk.*

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STATE OF MAINE

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

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AN ACT to establish a State Highway Commission and to  
provide for an issue of State Highway Bonds.

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

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Section 1. The objects of this act are to establish a state  
2 highway commission; to provide for an interlocking system  
3 of state highways; to furnish state aid for important county  
4 and town highways; to provide for the continuous main-  
5 tenance of all highways to the improvement of which the  
6 state has contributed or shall hereafter contribute; to pro-  
7 vide for a bond issue, and for the equitable distribution of  
8 the proceeds of the same among the several counties.

Sect. 2. The rules of construction in section six of chapter

2 one of the revised statutes shall apply to this act. The word  
3 “maintenance” shall include the restoring of reconstructed  
4 and improved highways to their condition when improved  
5 and shall be applicable only to highways to the improvement  
6 of which the state has contributed or shall hereafter contri-  
7 bute, except as elsewhere herein provided. The word “com-  
8 mission” shall mean the state highway commission. The  
9 word “town” shall include cities, towns, organized planta-  
10 tions and unincorporated townships, except as herein other-  
11 wise indicated. The words “municipal officers” shall also  
12 include county commissioners having jurisdiction over high-  
13 ways in unincorporated townships. The word “valuation”  
14 shall mean the valuation last made by the state board of  
15 assessors.

Sect. 3. Within thirty days after this act takes effect the  
2 governor with the advice and consent of the council shall  
3 appoint a state highway commission consisting of three mem-  
4 bers, one to serve three years, one to serve two years, and  
5 one to serve one year. Each member of the commission  
6 shall be paid a salary of five hundred dollars per annum,  
7 payable in equal quarterly payments, and shall be paid also  
8 his actual necessary travelling expenses incurred when en-  
9 gaged on official business. As vacancies occur by expiration  
10 they shall be filled by appointment as above described and  
11 such appointment shall be for three years. Whenever a  
12 vacancy occurs by reason of death, incapacity, or resigna-  
13 tion, appointment shall be made as above described for the

14 unexpired portion of such term. The first member appoint-  
15 ed for three years shall be the chairman of the commission,  
16 and shall continue in such capacity for his full term. Suc-  
17 ceeding chairmen shall be chosen annually by the commis-  
18 sion from its own members. The attorney general of the  
19 state shall be attorney for the commission and shall give the  
20 commission such counsel, advice and service as it may from  
21 time to time require. The commission shall be furnished  
22 with suitable offices at the seat of government.

Sect. 4. The state highway commission when appointed  
2 and qualified under this act shall take over all the affairs of  
3 the present state highway commissioner and his office, includ-  
4 ing all office records and accounts, and all existing contracts  
5 to which the state is a party and all powers and duties of  
6 said commission relating thereto. The office of the present  
7 state highway commissioner is hereby abolished as of the  
8 date on which the state highway commission provided by  
9 this act is appointed and qualified. The commission shall  
10 succeed to all rights and duties of said state highway com-  
11 missioner under all contracts made by him and it shall have  
12 full power to enforce the same at law or in equity.

Sect. 5. The commission shall appoint as state highway  
2 engineer a civil engineer having experience and knowledge  
3 of highway construction, who shall hold office during the  
4 pleasure of the commission. He shall under the direction  
5 and control of the commission have general charge of the  
6 office, the records, and all construction and maintenance

7 work. The commission shall have power to fix from time  
8 to time his salary.

Sect. 6. The commission shall have full power and authority  
2 to designate and employ such other engineers and assistants  
3 as it may deem necessary in the administration and execu-  
4 tion of its work; and to cause charts and maps to be made  
5 showing the location and mileage of all highways in the  
6 state; the commission shall classify the highways of the  
7 state into three general classes, and may from time to time  
8 amend such classification, namely:—First, state highways,  
9 which shall mean a system of connected main highways  
10 throughout the state so arranged that the several counties  
11 shall share equitably in the expenditure therefor. Second,  
12 class A highways, which shall mean such highways not in-  
13 cluded in the system of state highways as shall be thorough-  
14 fares between principal settlements, or between settlements  
15 and their market or shipping point and in so far as practi-  
16 cable feeders to the state highways. Third, class B high-  
17 ways, which shall mean all other highways not included in  
18 the two classes above mentioned.

Sect. 7. The commission shall have full power from time  
2 to time to make and shall enforce rules and regulations re-  
3 lating to construction and maintenance of all state and class  
4 A highways and relating to the administration of its office  
5 and duties, subject to the provisions of this act, and shall  
6 direct the expenditure of all monies for construction and  
7 maintenance of all state and class A highways.

Sect. 8. The commission may purchase, take over, and  
2 hold for the state as for public use such materials and land  
3 as may be necessary to provide a change of location or  
4 alignment of any state or class A highway as herein desig-  
5 nated, or to secure materials including clay, gravel, sand and  
6 rock for the improvement, construction and maintenance of  
7 highways under the provisions of this act. Whenever the  
8 commission determines that public exigency requires the  
9 taking of land as aforesaid, it shall cause same to be sur-  
10 veyed and described and a plan thereof to be recorded in  
11 the registry of deeds for the county where the same is lo-  
12 cated. If the commission is unable to purchase such ma-  
13 terial or land with necessary ways and access thereto at what  
14 it deems a reasonable valuation the county commissioners of  
15 the county wherein such material or land is located shall,  
16 on petition of the commission, ascertain and determine the  
17 damages in the same manner as provided by statute for land  
18 taken for highway purposes, and all parties aggrieved by the  
19 estimate of damages shall have like remedies as provided by  
20 statute for appraisal of damages for land taken by towns  
21 for highway purposes, and such damages shall be paid by  
22 the state treasurer. The commission may vacate any land  
23 or part thereof or rights in land which have been taken or  
24 acquired for highway purposes under the provisions of this  
25 act, by executing and recording a deed thereof, and said  
26 vacation shall revert the title to the lands or rights so vacated  
27 in the persons, their heirs and assigns, in whom it vested at

28 the time of the taking, and may be pleaded in mitigation of  
29 damages in any suit therefor on account of such taking.  
30 The governor and council on recommendation of the com-  
31 mission are authorized to make conveyance on behalf of the  
32 state of the interests of the state in property acquired by  
33 purchase under this section, and deemed no longer necessary  
34 for the purposes of this act.

Sect. 9. The commission shall lay out, construct and main-  
2 tain a system of state highways substantially as herein de-  
3 scribed, and the expense of constructing and maintaining  
4 such state highways shall be borne wholly by the state. The  
5 commission shall be sole arbiter of the designation of state  
6 highways, but shall after reasonable notice by publication  
7 give all parties interested an opportunity to be heard there-  
8 on before commencing such construction. The construction  
9 of state highways shall be paid for wholly from the proceeds  
10 of the state bond issue herein provided for, and such pro-  
11 ceeds of the aggregate of such bonds shall be expended equi-  
12 tably among the various counties.

Sect. 10. State highways shall be maintained entirely at  
2 the expense of the state under the direction and control of  
3 the commission which shall have full power over the ex-  
4 penditure of funds for this purpose. The provisions of this  
5 section shall apply only to those state highways constructed  
6 and improved by the state under this act, and to such other  
7 portions of designated state highways to the improvement of  
8 which the state has heretofore contributed and as the com-

9 mission may hereafter indicate as taken over by it, and the  
10 commission shall as rapidly as it deems advisable so take  
11 over such highways for the purpose of maintenance.

Sect. 11. After notice by publication to all parties inter-  
2 ested, and after consultation with the respective county com-  
3 missioners, the commission shall designate a system of class  
4 A highways as herein provided. Such designation may be  
5 changed or extended from time to time by the commission  
6 upon its own initiative or upon the petition of twenty inhab-  
7 itants of the town or upon the petition of the municipal offi-  
8 cers, but before any such change or extension is made notice  
9 thereof by publication to all parties interested shall be given  
10 by the commission. At any hearing contemplated by this  
11 section a single member of the commission may have the  
12 powers of the commission to make such designation, change  
13 or extension. The commission is hereby empowered in its  
14 discretion to exclude from designated class A highways any  
15 highways in the thickly settled portion of any town whose  
16 population exceeds twenty-five hundred inhabitants.

Sect. 12. The commission may alter, widen or change the  
2 grade of any state or class A highway whenever in its judg-  
3 ment the interests of the state require, or it may lay out,  
4 establish and open a new highway as a state or class A high-  
5 way. It may also discontinue any highway either as a state  
6 or class A highway and the same shall be thereafter main-  
7 tained by the town wherein it is located except as herein  
8 otherwise provided. The commission and the county com-



9 missioners of the county wherein such highway is located  
10 shall jointly fix a time and place for hearing on any such  
11 alteration, widening, change of grade or laying out, giving  
12 notice of the time and place of hearing in the same manner  
13 as provided by statute in respect to laying out highways. If  
14 after a view of the highway the commission shall judge it  
15 to be of common convenience and necessity and that the  
16 interests of the state require that such highway be altered,  
17 widened, changed or graded, or that a new highway be laid  
18 out, established and opened as a state or class A highway,  
19 it shall proceed to perform the duties required, and make a  
20 correct return of its doings accompanied by an accurate plan  
21 of such highway as laid out or altered; and the county com-  
22 missioners shall proceed to estimate and award such dam-  
23 ages in the same manner as provided by statute in respect  
24 to highways. The return of the commission and of the  
25 county commissioners and all rights of appeal by parties ag-  
26 grieved by their proceedings shall be the same as provided  
27 by statute in respect to highways. Damages found as above  
28 provided may be apportioned between the state and the town  
29 as law and justice may require.

Sect. 13. Any town desiring state aid as contemplated by  
2 this act for the construction of class A highways may raise  
3 and appropriate, in addition to the amounts regularly raised  
4 and appropriated for the care of highways and bridges, the  
5 following amounts, on account of which the state shall con-  
6 tribute as hereinafter set forth: Towns having a valuation

7 of two hundred thousand dollars or less may appropriate an  
8 amount not exceeding two hundred dollars; towns having a  
9 valuation of over two hundred thousand dollars and not over  
10 eight hundred thousand dollars may appropriate an amount  
11 not exceeding four hundred dollars; towns having a valu-  
12 ation of over eight hundred thousand dollars and not over  
13 one million dollars may appropriate an amount not exceed-  
14 ing four hundred and fifty dollars; towns having a valuation  
15 of over one million dollars and not over three million dollars  
16 may appropriate in addition to the sum of four hundred and  
17 fifty dollars an additional sum of fifty dollars for each ad-  
18 ditional two hundred thousand dollars or fraction thereof  
19 of valuation in excess of one million dollars; towns having  
20 a valuation of over three million dollars and not exceeding  
21 four million dollars may appropriate an amount not exceed-  
22 ing one thousand dollars; and towns having a valuation of  
23 over four million dollars may appropriate in addition to the  
24 sum of one thousand dollars an additional sum of one hun-  
25 dred dollars for each additional one million dollars or frac-  
26 tion thereof of additional valuation.

Sect. 14. The county commissioners of any county in  
2 which are located unincorporated townships, if they desire  
3 state aid for the construction of class A highways in any of  
4 said townships, shall raise and appropriate in addition to the  
5 amounts regularly raised and appropriated for the care of  
6 highways and bridges in such township, an amount not ex-  
7 ceeding fifty cents for each one thousand dollars of valua-

8 tion of such township.

Sect. 15. It shall be the duty of the municipal officers of  
2 each town to insert in the warrant for each annual town  
3 meeting an article calling upon the voters to vote "yes" or  
4 "no" on the adoption of the provisions of this act relating  
5 to the appropriation of money necessary to entitle the town  
6 to state aid for class A highways for the year in which such  
7 meeting is held; but any city government in order to secure  
8 state aid may make its appropriation at any meeting of such  
9 city government held between the date of its inauguration  
10 and the fifteenth day of April next thereafter.

Sect. 16. Application for such state aid in any year, and  
2 notice of the raising and appropriation of such additional  
3 amount called for in the preceding sections by any town en-  
4 titled to state aid, shall on or before April first of such year  
5 be made and given to the commission by the clerks of such  
6 towns or of such county commissioners; except that in the  
7 case of cities the time may be extended by the commission  
8 to May first.

Sect. 17. The commission shall from the amount appro-  
2 priated for the construction of class A highways apportion  
3 to each town which has so applied for state aid and has ap-  
4 propriated the additional amounts provided for in section  
5 thirteen, fourteen and fifteen of this act for each dollar so  
6 appropriated, the following amounts: To towns having a  
7 valuation of two hundred thousand dollars or less, two dol-  
8 lars for each dollar appropriated by said town; to towns

9 having a valuation of over two hundred thousand dollars  
10 and not over one million dollars, one dollar for each dollar  
11 appropriated by said town; to towns having a valuation of  
12 over one million dollars and not over one million two hun-  
13 dred thousand dollars, ninety-two cents for each dollar ap-  
14 propriated by said town; to towns having a valuation of over  
15 one million two hundred thousand dollars and not over one  
16 million four hundred thousand dollars, eighty-five cents for  
17 each dollar appropriated by said town; to towns having a  
18 valuation of over one million four hundred thousand dollars  
19 and not over one million six hundred thousand dollars, eighty  
20 cents for each dollar appropriated by said town; and to towns  
21 having a valuation of over one million six hundred thousand  
22 dollars, seventy-five cents for each dollar appropriated by  
23 said town; and to unincorporated townships for which the  
24 county commissioners have so applied, one dollar for each  
25 dollar so appropriated.

Sect. 18. The amount of money so appropriated by each  
2 town for state aid with the amount so apportioned by the  
3 commission shall constitute a joint fund for the construction  
4 of class A highways in such towns. And on or before the  
5 first day of May of such year the municipal officers of such  
6 towns shall file with the commission a proposal recommend-  
7 ing for construction certain portions of class A highways  
8 designated under section eleven of this act and the character  
9 of the construction thereof; but in the case of cities such  
10 proposal may be filed not later than the first day of June in

11 such year. After such proposal shall have been approved  
12 by the commission, the work contemplated thereunder shall  
13 be done under the direction and control of the commission,  
14 and the contracts for such construction shall be made by  
15 the commission in the manner of letting contracts herein-  
16 after provided, and upon specifications and plans provided  
17 by the commission.

Sect. 19. If any town desires that the joint fund specified  
2 in the preceding section shall be applied to the construction  
3 of a designated state highway within its boundaries, such  
4 joint fund may be so applied at the discretion of the com-  
5 mission; but such portion of the state highway constructed  
6 in such manner shall be thereafter a state highway, and sub-  
7 ject to all the provisions of this act relating to state high-  
8 ways.

Sect. 20. Payments by such town of its share of the joint  
2 fund referred to in sections eighteen and nineteen of this act  
3 shall be made forthwith to the state treasurer on requisition  
4 by the commission as the work progresses.

Sect. 21. Class A highways are to be continually main-  
2 tained under the direction and control of the commission at  
3 the joint expense of the state and town in which the same  
4 are located, but the charge against any town for maintenance  
5 of its class A highways shall not exceed fifty per centum of  
6 the cost of such maintenance nor an average of forty dollars  
7 per mile per annum. The provisions of this section shall  
8 apply only to those class A highways constructed and in-

9 proved by the state under this act, and to such other por-  
10 tions of designated class A highways, to the improvement  
11 of which the state has heretofore contributed, and as the  
12 commission may hereafter indicate as taken over by it, and  
13 the commission shall as rapidly as it deems advisable so  
14 take over such highways for the purpose of maintenance.

Sect. 22. If any town fails to pay its share of the cost of  
2 such maintenance of class A highways within such reason-  
3 able time as the commission may determine, the state assess-  
4 ors shall add to the tax next assessed against such town by  
5 the state the amount of such share together with interest  
6 thereon at the rate of six per centum per annum.

Sect. 23. The commission shall have full power in the  
2 letting of all contracts for the construction of all state and  
3 class A highways except as elsewhere herein otherwise pro-  
4 vided. The commission shall make all surveys, plans, esti-  
5 mates, specifications and contracts for all proposed work,  
5 and shall advertise for bids for the same in two or more  
7 public newspapers printed wholly or in part in the state and  
8 in one public newspaper printed wholly or in part in the  
9 county where the proposed work is to be done. Such ad-  
10 vertisement shall state the place where bidders may ex-  
11 amine the plans and specifications, and the time and place  
12 where the bids for such work will be received by the com-  
13 mission. Each bidder must accompany his bid with a cer-  
14 tified check, payable to the state treasurer, for ten per centum  
15 of the amount of his bid as a guarantee that if the work is

16 awarded to him he will contract with the commission for its  
17 due execution. Such checks shall be returned to the re-  
18 spective unsuccessful bidders. The check of the successful  
19 bidder shall be returned to him upon the execution and de-  
20 livery to the commission of his bond with sufficient sureties  
21 in terms satisfactory to the commission for the due execu-  
22 tion of such work. All bids so submitted shall be publicly  
23 opened, read and posted at the time and place stated in such  
24 advertisement. The commission shall have the right to re-  
25 ject any or all bids if in its opinion good cause exists there-  
26 for, but otherwise it shall award the contract to the lowest  
27 responsible bidder. Any town may submit bids for state  
28 or class A highway construction within its limits, and shall  
29 be subject to all requirements prescribed for other contract-  
30 ors, except that no bond need be required of it. The com-  
31 mission shall have full power in all matters relating to the  
32 furnishing of bonds by the successful bidders for the com-  
33 pletion of their work and fulfilling of their contracts, and  
34 for the protection of the state and town from all liability  
35 arising from damage or injury to persons or property.

Sect. 24. The commission shall have full power in the  
2 direction and control of all work in the maintenance of state  
3 and class A highways, and shall whenever practicable give  
4 preference in employment to the inhabitants of the town in  
5 which such highways are located.

Sect. 25. The state shall be liable to towns and counties  
2 for any judgment recovered in any action against such town

3 or county under the provisions of sections seventy-six, sev-  
4 enty-seven, seventy-eight, seventy-nine and eighty of chapter  
5 twenty-three of the revised statutes, but only when pertain-  
6 ing to those state and class A highways to the improvement  
7 of which the state has contributed; or to which sections ten  
8 or twenty-one of this act may apply; provided however that  
9 within twenty-four hours after any of the various officials  
10 mentioned in said section seventy-six first has notice of such  
11 defect or want of repair or sufficient railing such officials  
12 shall give written notice thereof to some member of the  
13 commission; provided also that within ten days after any of  
14 the various officials mentioned in said section seventy-six  
15 first has notice of any injury to any person such official shall  
16 give written notice thereof to some member of the commis-  
17 sion; provided also that the state shall not be liable for any  
18 injury sustained upon the sidewalk of any such state or class  
19 A highway or sustained during the construction of such state  
20 or class A highway; provided also that the state shall not  
21 be liable for any injury under this section in an amount ex-  
22 ceeding four thousand dollars, nor for an amount exceeding  
23 one-fifth of one per centum of the valuation of the town in  
24 which such highway is located; provided also that any sums  
25 recoverable under section eighty-one of said chapter twenty-  
26 three shall be deducted from the judgment against such town  
27 or county in determining the liability of the state under this  
28 section. The commission may appear and take upon itself  
29 the defense of any action affecting the liability of the state



30 under this section.

Sect. 26. The town in which a state or class A highway  
2 lies shall at its own expense keep such highways sufficiently  
3 clear of snow and ice to be reasonably safe for travel, any-  
4 thing to the contrary elsewhere in this act notwithstanding.

Sect. 27. The state treasurer is hereby authorized under  
2 the direction of the governor and council to issue from time  
3 to time coupon bonds in the name and behalf of the state  
4 not exceeding two million dollars in amount outstanding at  
5 any one time, payable at the state treasury within forty-one  
6 years, at a rate of interest not exceeding four per centum  
7 per annum, interest payable semi-annually and signed by the  
8 state treasurer, countersigned by the governor and attested  
9 by the secretary of state, with the seal of the state affixed.  
10 The coupons attached to said bonds shall bear the facsimile  
11 of the signature of the state treasurer instead of his original  
12 signature; and such bonds and coupons shall be of such form  
13 and upon such terms and conditions not inconsistent here-  
14 with as the governor and council shall direct. Said bonds  
15 shall be called state highway bonds and shall be deemed a  
16 pledge of the faith and credit of the state.

Sect. 28. The secretary of state shall keep an account of  
2 such bonds, showing the number and amount of each, the  
3 date of countersigning, the date when payable, and the date  
4 of delivery thereof to the state treasurer. The state treas-  
5 urer shall keep an account of each bond, showing the num-  
6 ber thereof, the name of the person to whom sold, the amount

7 received for the same, the date of sale, and the date when  
8 payable.

Sect. 29. The state treasurer may negotiate the sale of  
2 such bonds by direction of the governor and council, but the  
3 amount of such bonds originally issued in any one year shall  
4 not exceed the sum of five hundred thousand dollars, and  
5 none of such bonds shall sold for less than its par value, nor  
6 shall any such bond be loaned, pledged or hypothecated in  
7 behalf of the state. The proceeds of the sales of such bonds  
8 shall be held by the state treasurer and paid by him upon  
9 warrants drawn by the governor and council for the pur-  
10 poses of this act. The commission with the approval of the  
11 governor and council shall divide the expenditure of the  
12 money raised from the sales of such bonds in such manner  
13 as will carry into effect the provisions of this act and con-  
14 form to the constitution of the state, provided that no part  
15 of the proceeds of any bond issued under this act shall be  
16 expended on other than state highways.

Sect. 30. All fees received by the secretary of state under  
2 section twenty-one of chapter sixty-three of the public laws  
3 of nineteen hundred and eleven shall be delivered to the  
4 state treasurer each calendar month and shall be appropriated  
5 and used in the following order, namely: First, to pay in-  
6 terest due on all bonds issued under this act; second, to cre-  
7 ate such sinking fund as the governor and council may deem  
8 necessary; third, to apply the balance to the fund for main-  
9 tenance and administration as hereinafter provided.

Sect. 31. To provide funds for the construction of class  
2 A highways there shall be appropriated out of any funds in  
3 the state treasury not otherwise appropriated the sum of  
4 two hundred and fifty thousand dollars annually, which shall  
5 be used exclusively for the construction of class A high-  
6 ways as herein provided, except as provided in section nine-  
7 teen of this act and except that on the thirty-first day of  
8 December in each year any balance of this appropriation  
9 unexpended or not required by virtue of any contract under  
10 this act shall be added to said fund for maintenance and  
11 administration.

Sect. 32. To provide funds for the administration of the  
2 office of the commission and for all expenditures, salaries  
3 and expenses incident thereto as provided in this act, and  
4 for the maintenance of all state and class A highways as  
5 herein provided, there shall be appropriated out of any funds  
6 in the state treasury not otherwise appropriated the sum of  
7 fifty thousand dollars annually. This fund shall be known  
8 as the maintenance and administration fund and to it shall  
9 be added from time to time the amounts provided for under  
10 sections thirty and thirty-one of this act.

Sect. 33. The commission shall make an annual report to  
2 the governor and council of its doings and the expenditures  
3 of its office, with such statement relative to the construction  
4 and maintenance of public highways and such recommenda-  
5 tions as to the general policy of the state relative thereto  
6 as it considers appropriate; and an estimate of the amount

7 necessary to carry out the provisions of this act for the year  
8 next following. The report shall be transmitted to the sec-  
9 retary of state on or before the thirty-first day of December  
10 in each year.

Sect. 34. All acts and parts of acts inconsistent herewith  
2 are hereby repealed.