

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 337

In Senate, Feb. 18, 1913.

*Reported by Senator Colby from Committee on Ways and
Bridges and ordered printed.*

W. E. LAWRY, Secretary.

STATE OF MAINE

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

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.

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
5 January, 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
9 description of each bridge stating as nearly as may be its

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

When the municipal officers of different towns have com-
14 pleted their lists as aforesaid they shall make duplicate
15 copies thereof and shall on or before the first day of July,
16 1912, file one of the lists aforesaid with the county com-
17 missioners of their respective counties and the other with
18 the commissioner of highways of the State of Maine. It
19 shall be the duty of the county commissioners of the several
20 counties to forward to the commissioner of highways of the
21 State of Maine any additional information that he may
22 desire in regard to the provisions aforesaid. **All such**
23 bridges shall, after the first day of July, 1912, be the prop-
24 erty of the State of Maine, in consideration of said State
25 maintaining and repairing the same, and shall thereafter-
26 wards be known as State bridges. All bridges under con-
27 struction on the first day of July, 1912, shall when com-
28 pleted be the property of the State of Maine thereafter-
29 wards be known as State bridges as hereafter provided.
30 The commissioner of highways of the State of Maine shall
31 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
4 of 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 treasurer
9 in the county wherein the bridge is located upon the pre-
10 sentment of a bill approved by the board of county commis-
11 sioners 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
17 the vouchers therefor for the repairs and renewals provided
18 by this act. Upon approval of the commissioner of high-
19 ways the governor and council shall authorize the State
20 treasurer to repay to each county one-third of the amount
21 so expended; and the town or towns in which the bridge
22 is located shall also reimburse the county one-third of the
23 cost so the cost of maintenance shall be borne one-third by
24 the State, one-third by the county and one-third by the
25 town or 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
29 stricken from the statement forwarded by the commission-

30 ers of the several counties, unless said commissioners have
31 an opportunity to appear before the governor and council
32 or a 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
37 existing contract, or judgment or decision of any tribunal,
38 the State shall succeed to all the rights of said town under
39 said 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 until the land or other property so
10 taken has been entered upon and possession taken for the
11 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
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 in-
13 vestigation and report the result of his researches to said
14 county commissioners. If his decision is to the effect that
15 public necessity does not require said bridge, he will so
16 notify said commissioners, and if they are not satisfied with
17 the decision of said commissioner of highways, they may
18 within fourteen days after receiving said notice appeal
19 from his decision to a committee of three members of the
20 executive council who shall be appointed by the governor
21 to hear and determine such appeals. If said county com-
22 missioners decide that such a bridge is not required for
23 public necessity, they shall notify the petitioners, or as many
24 of them as they may deem proper, who may appeal to the
25 committee of the executive council as aforesaid any time
26 within fourteen days after notice has been received by
27 them of the decision of said county commissioners. In all
28 cases said committee of the executive council shall give
29 reasonable notice to all parties in such manner and form as
30 they may determine, and after a public hearing they shall
31 decide as to the construction of the bridge in question and
32 their decision shall be final. If said committee of executive
33 council shall decide that such public necessity exists and that

34 the bridge should be built, they shall so certify in writing
35 to the commissioner of highways of the State of Maine,
36 who shall notify the county commissioners of the county
37 in which the bridge is located and the municipal officers
38 of the town or towns. When the construction of a bridge
39 has been determined upon, either on an appeal or other-
40 wise, as provided in this section, the county commissioners
41 shall proceed to make contracts for the construction of the
42 same, subject to the approval of the commissioner of high-
43 ways. The county commissioners shall have power to
44 borrow money for this purpose on the credit of their
45 county and to issue negotiable notes or bonds for the 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
49 in which it is located and cost of same. The commissioner
50 of 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 the cost so certified
55 so that the cost of new bridges constructed by authority of
56 this section shall be borne one-third by the State, one-third
57 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 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 chairmen 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 notice 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 had as in section four. If the committee of the executive council decide upon appeal that the necessity exists and that the bridge is to be built, they shall so certify in writing to the commissioner of highways, the chairman of the board of the commissioners of the interested counties, and one or more selectmen of the different towns in which the bridge is to be located. Upon the completion of said bridge the county commissioners of the different counties shall certify to the commissioner of highways as in section four the cost of said bridge, who in turn will notify the governor and council of the same. Upon receipt of the proper certificate the governor and council shall authorize and direct the State treasurer to reimburse the counties the cost so certified. In the construction of bridges in two or more counties each county shall bear an equal part of one-third of the expense in proportion to their valuation.

Sect. 6. Whenever a toll bridge of a legally established highway is the property of an individual, firm or corporation the county commissioners of the different counties shall give notice to the owners of the intention of the State of Maine to purchase the same. Said county commissioners upon due notice to the interested parties, will order a hearing and shall after the same, decide in their judgment how much shall be paid by the State to the individual, firm or corporation owning the same. If the owners of the bridge are not satisfied with the amount awarded by the

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

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

Sect. 7. The expenses and pay of said appraisers shall
2 be 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
11 state or to any county as now provided by law. Whenever
12 the amount is decided upon the county commissioners shall

13 certify upon oath the amount as awarded, to the commis-
14 sioner of highways of the state, who in turn will approve
15 the same and forward it to the governor and council for
16 payment. The governor and council shall thereupon au-
17 thorize and direct the state treasurer to pay the individual,
18 firm or corporation the amount so certified as provided by
19 law.

In the event of the destruction of any state bridge by fire,
21 flood or other casualty, the commissioner of highways of
22 the state of Maine shall investigate the same and authorize
23 the county commissioners to rebuild the same as in section
24 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
14 liable 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 re-
3 pair or sufficient railing in any state bridge, they may re-
4 cover of the town for the same in an action on the case to
5 be commenced within one year from the date of such injury
6 or suffered damage, provided that the municipal officers of
7 the town or towns in which the bridge is located or the
8 county commissioners of the county or counties in which the
9 bridge is located or the commissioner of highways of the
10 state of Maine had twenty-four hours actual notice of the
11 defect or want of repair and if the aggrieved parties had
12 notice of the condition of said bridge previous to the time
13 of injury, he cannot recover of the town, unless he had
14 previously notified one of the municipal officers of the town
15 or towns wherein the bridge is located, of the defective
16 condition of said bridge, and any person who sustains such
17 injury or damage, as aforesaid, or some person in his be-
18 half, shall, within fourteen days thereafter, notify one of
19 the municipal officers of said towns in which the bridge is
20 located by a sworn statement setting forth the claims for
21 damages and specifying in writing the nature of the in-
22 juries, and the nature and location of the defect which
23 caused the injury.

If the life of any person is lost through such defect his
25 executor or administrator may recover of the town in which
26 the bridge is located in an action on the case brought for
27 the benefit of the estate of the deceased, such sum as the

28 jury may deem a just and fair compensation, not exceeding
29 five thousand dollars, with reference to the pecuniary in-
30 jury resulting from such death to the person for whose
31 benefit such action is brought. In the trial of any such
32 case the court may, upon motion of either party, order a
33 view of the premises where the defect or want of repair
34 is alleged.

Any action for damages under the provisions of this sec-
36 tion may be brought in any county or counties where such
37 bridge is located or in any adjoining county at the election
38 of 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
5 notify the attorney-general, who shall defend said case or
6 adjust it as he may deem right and proper. All bills for
7 services and 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 lo-
10 cated shall pay the same upon the approval of said com-
11 missioner of highways. The state of Maine shall reimburse
12 any town for all moneys expended in the defence or settle-
13 ment of such action, and shall reimburse said town or coun-
14 ties for any amount paid on a judgment recovered against
15 the same in an action as provided in the preceding section,
16 and also pay the same for counsel fees as aforesaid. The
17 municipal officers of the different towns and cities shall

18 certify under oath the amount so paid, including counsel
19 fees, to the governor and council of the state of Maine,
20 who will authorize the treasurer to reimburse said town
21 for said amount so paid. In all cases where an electric
22 railroad passes over a state highway bridge the compen-
23 sation for that privilege shall be determined by the com-
24 missioners of said county where such road passes, subject
25 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
3 may deem necessary to effectually carry out the work as
4 prescribed by this act, and the payment of the same shall
5 be from the fund appropriated by the legislature for the
6 maintenance, 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 valu-
3 ation 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
7 heretofore mentioned.