

# MAINE STATE LEGISLATURE

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N I N E T I E T H                      L E G I S L A T U R E

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**Legislative Document**

**No. 71**

S. P. 82

In Senate, January 16, 1941.

Referred to Committee on Judiciary and 1,000 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Stilphen of Lincoln.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-ONE

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**AN ACT Amending the Law Relating to Purchases by the State Highway  
Commission and Limiting the Powers of the Council with relation to  
Highway Administration.**

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

**Sec. 1. R. S., c. 28, § 4, amended.** Section 4 of chapter 28 of the re-  
vised statutes is hereby amended to read as follows :

**'Sec. 4. Chief engineer; appointment; tenure; duties; assistants.** The  
commission shall select and, with the approval of the governor, ~~and council,~~  
appoint as chief engineer, a civil engineer, having experience in and knowl-  
edge of highway construction, upon terms to be fixed from time to time by  
the commission, subject to the approval of the governor. ~~and council.~~ Said  
engineer shall hold office during the pleasure of the commission. He shall  
under the direction and control of the commission have general charge of  
the office, the records, and all construction and maintenance work, and may  
with the approval of the commission employ necessary clerical assistance.  
He may, with the approval of the commission, employ such other engi-  
neers, supervisors, assistants, and help as he may deem necessary in the  
administration and execution **of the provisions** of this chapter. ~~All~~ **Salaries**  
for ~~persons~~ **bureau directors** employed by the engineer shall be approved

by the commission. All salaries and expenses contemplated by this section shall be paid from the fund for maintenance and administration.'

**Sec. 2. R. S., c. 28, § 7, amended.** The first two sentences of section 7 of chapter 28 of the revised statutes are hereby amended to read as follows:

'The commission may from time to time make and shall enforce rules and regulations relating to construction and maintenance of all state and state aid highways and relating to the manner of conducting all investigations and hearings and the administration of its office, powers, and duties, subject to the provisions of this chapter; and shall, ~~with the approval of the governor and council,~~ direct the expenditure of all moneys for construction and maintenance of all state and state aid highways. ~~The commission may from time to time purchase, lease, or hire all machinery, tools, implements, and property necessary for highway engineering and construction and for the administration and execution of its duties, and may contract for such labor, materials, and property as it may deem necessary for the examination, building, and construction of state and state aid highways. Except as otherwise provided in this chapter, the purchase of supplies, materials and equipment for highway maintenance and construction purposes shall be made through the state purchasing agent as by law provided.'~~

**Sec. 3. R. S., c. 28, § 9, as amended by P. L., 1935, c. 149, further amended.** The 3rd paragraph of section 9 of chapter 28 of the revised statutes as amended by chapter 149 of the public laws of 1935 is hereby amended to read as follows:

'To carry out the provisions of the preceding paragraph the commission is authorized to ~~purchase or~~ hire equipment, preferably town owned, arrange contracts, ~~purchase snow fence, and materials,~~ and erect or hire buildings for storage purposes. **Purchases of necessary equipment or materials shall be made as provided in section 7 of this chapter.'**

**Sec. 4. R. S., c. 28, § 87, amended.** Section 87 of chapter 28 of the revised statutes is hereby amended to read as follows:

'**Sec. 87. Expense borne by the state.** The expense of the erection and maintenance of each warning sign mentioned in sections 85 and 86 shall be borne by the state, ~~bills therefor to be approved by the governor and council,~~ and paid out of any funds not otherwise appropriated.'

**Sec. 5. R. S., c. 28, § 40, amended.** Section 40 of chapter 28 of the revised statutes is hereby amended to read as follows:

'**Sec. 40. State highway bonds and state highway and bridge bonds;**

**proceeds; how expended; appropriation.** The treasurer of state by direction of the governor and council shall negotiate the sale of all state highway bonds and state highway and bridge bonds; none of such bonds shall be sold for less than par value, nor shall any such bond be loaned, pledged, or hypothecated in behalf of the state. The proceeds of the sales of such bonds shall be held by the treasurer of state and paid by him upon **proper** warrants drawn by ~~the governor and council~~ for the purposes of this chapter. The commission ~~with the approval of the governor and council~~ shall **apportion** ~~divide the expenditure of~~ the money raised from the sale of state highway and state highway and bridge bonds in such manner as will carry into effect the provisions of the several acts authorizing such bond issues and conform to the constitution, **and the provisions of this chapter.**

**Sec. 6. R. S., c. 28, amended, new section.** Chapter 28 of the revised statutes is hereby amended by adding thereto a new section to be numbered 40-A and to read as follows:

**'Sec. 40-A. Appeal to governor and council.** If at any time the commission can not unanimously agree upon the proper exercise of its power to direct the expenditure of all moneys for construction and maintenance of all state and state aid highways as provided in section 7 of this chapter or upon the proper apportionment of money raised from the sale of state highway and state highway and bridge bonds in accordance with the provisions of section 40 of this chapter, any member of the commission should he deem the matter of sufficient importance may appeal to the governor and council who shall then make the final decision relative to the particular expenditure or apportionment concerning which the commission can not agree.'

**Sec. 7. P. L., 1931, c. 216, Art. II, § 20; relating to open market and other purchases, amended.** Section 20 of article II of chapter 216 of the public laws of 1931 is hereby amended to read as follows:

**'Sec. 20. Open market and other purchases.** The state purchasing agent may authorize, in writing, an officer of the state or any department or agency thereof to purchase in the open market and without requisition or estimate, specific supplies, materials, and equipment for immediate delivery to meet exigencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work.

~~The purchase of supplies, materials, and equipment for highway maintenance and construction purposes may be exempted by the state pur-~~

~~chasing agent from his immediate jurisdiction and control and may be purchased, with the approval of the commissioner of finance, by and under the supervision of the department of highways.'~~

**Sec. 8. R. S., c. 28, § 57, amended.** Section 57 of chapter 28 of the revised statutes is hereby amended to read as follows:

**'Sec. 57. Roads in towns failing to appropriate money therefor may be kept open by state, and expense of same be deducted from any moneys due town from state.** When any town upon any of the winter routes so designated and so supervised by the commission shall, in the judgment of the commission, unreasonably fail to either raise, appropriate, or pay its proportional part of the cost of snow removal through or in said town, or shall without cause fail to assist in keeping open any highway or town way as designated in section 52 in said town, the commission shall cause said highway or town way through or in said town to be kept open at the expense of the state; and the commission may in case of emergency in such towns which fail to provide equipment on a road designated by the commission in accordance with section 52 ~~purchase or hire~~ **provide** such equipment to remove the snow for the season; and ~~the governor, by and with the advice and consent of the council, may order~~ the treasurer of state ~~to may~~ withhold a sufficient amount from any funds due or to become due said town, to cover the payment in whole or in part of said proportional expense of said snow removal through or in said town and to apply the sums so withheld to the cost of such snow removal. ~~but no such order shall issue to the treasurer that will in the opinion of the governor and council impose an undue financial burden on any town.'~~

**Sec. 9. R. S., c. 28, sections 77, 78, 79 and 80 amended.** Sections 77, 78, 79 and 80 of chapter 28 of the revised statutes are hereby amended to read as follows:

**'Sec. 77. State highway commission to permit affixing of wire lines, cable lines, and pipe lines to international and interstate bridges; restrictions.** The ~~governor and council~~ **state highway commission** shall have the power, upon such terms and conditions as ~~said governor and council~~ it shall determine, to authorize and permit persons, firms, or corporations to construct on, or to affix to, that part of any international or interstate bridge lying within the boundaries of the state of Maine and which is under the supervision of the state highway commission, such pole and wire lines, cable lines or pipe lines, as ~~the said governor and council~~ it shall determine will not interfere with public safety or with the convenient use of such bridge by the public. Provided, however, that wire or cable lines

so constructed or affixed shall not be used for transmitting electricity without the borders of the state for the purposes of furnishing light, heat, or power.'

**'Sec. 78. Application, plans, and descriptions to be filed with highway commission; highway commission to investigate and report.** Whenever any person, firm, or corporation shall desire to construct on, or to affix to, any such bridge any such pole and wire line, cable line, or pipe line, application shall be filed with the ~~governor and council~~ **state highway commission** setting forth in detail, and accompanied by plans on an appropriate scale, a description of, and the specifications for, the proposed line and the purpose thereof, ~~The application shall be filed in duplicate, and the governor and council forthwith shall transmit one copy thereof to the state highway commission,~~ and after receipt thereof said highway commission shall investigate as to the engineering and similar features of the proposed construction, ~~and within thirty days shall report the result of the investigation to the governor and council, and shall give its opinion as to~~ **determine** whether or not the proposed line will, or in the future may, interfere with public safety or with the convenient use of said bridge by the public; during the course of its investigation the state highway commission may call upon the applicant for such additional data and information as it deems necessary in the proper completion of its investigation.'

**'Sec. 79. Public hearing to be held; notices and procedure; rules.** ~~Upon receipt of such report from~~ **After such investigation** the state highway commission ~~the governor and council~~ shall set a date for public hearing on the application, which date shall be not more than 60 days after the filing of the application, shall give notice by publication in such newspapers as ~~the governor and council~~ **it shall designate**, and such other notice as ~~the governor and council~~ **it may determine necessary** in any particular case, at least 14 days prior to the date set for such hearing. Rules for procedure at such hearings may be determined from time to time by the ~~governor and council~~ **commission.**'

**'Sec. 80. Decision to be rendered within 30 days; application may be granted upon terms; right to be exercised within 2 years; term limitation of permit.** Decision on the application shall be rendered by the ~~governor and council~~ **state highway commission** within 30 days after the hearing is closed. The ~~governor and council~~ **commission** may grant the application as filed, or may refuse to grant the same, or may grant the application in part only, but if the application is granted in full or in part, the ~~governor and council~~ **commission** may attach thereto such terms and conditions as

~~they~~ it deems necessary to protect the public interest in the safe and convenient use of such bridge. If any authority granted by the ~~governor and council~~ **commission** is not exercised within 2 years from the date thereof, the same shall be deemed to have expired and may not thereafter be exercised except upon further and subsequent authority from said ~~governor and council~~ **commission**. Any authorization made or permit granted under the provisions of sections 77 to 80 shall be limited to a term not exceeding 50 years from the date of such authorization or grant.'