

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1963 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 1

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**Discard Previous Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1963

## Chapter 23.

### State Highway Department.

Sections 20-A to 20-I. Acquisition of Land and Materials for Highway Purposes.  
Sections 37-A to 37-K. Highway Safety Committee.  
Section 57-A. Access Road to Ski Areas.  
Sections 60 to 65-A. Town Road Improvement Fund.  
Section 126-A. Covered Bridges.

### Objective. Rules of Construction.

**Sec. 2. Rules of construction.**—The rules of construction in section 22 of chapter 10 shall apply to this chapter. The word “maintenance” shall include the restoring of reconstructed and improved highways to their condition when improved and shall be applicable only to highways to the improvement of which the state has contributed or shall hereafter contribute, except as elsewhere herein provided. The word “commission” shall mean the state highway commission. The word “highway” shall mean all of the right of way that may have been laid out by the state, county or town. The word “town” shall include cities, towns, organized plantations and unincorporated townships, except as herein otherwise indicated. The words “municipal officers” shall also include county commissioners having jurisdiction over highways in unincorporated townships. The word “valuation” shall mean the valuation last made by the state tax assessor. The word “section” shall refer to this chapter, unless otherwise indicated. As used in this chapter, and all amendments and additions thereto, unless otherwise defined therein, the words “compact or built up section” shall mean a section of the highway where structures are nearer than 200 feet apart for a distance of  $\frac{1}{4}$  of a mile. (R. S. c. 20, § 2. 1951, c. 158, § 1; c. 321, § 1. 1955, c. 22.)

**Effect of amendment.**—The 1955 amendment inserted the words “structures” for the word “buildings” in the last sentence. defined therein” and substituted the word

### State Highway Commission: Organization.

**Sec. 3. Commission; appointment; tenure; choice of chairman; attorney general attorney for commission; annual reports.**—The state highway commission, as heretofore established, shall consist of 3 members to be appointed by the governor with the advice and consent of the council. One member shall be a member of the political party which cast the 2nd highest number of votes in the last gubernatorial election. One member shall be appointed by the governor as chairman who shall devote each full working day to his duties and whose salary shall be fixed by the governor and council. The term of office of the chairman shall be 7 years, subject only to removal for cause. The other members of the (highway) commission shall receive \$5,000 per year and shall be appointed for a term of 3 years and any vacancies shall be filled for the unexpired term. Each member of the commission, except the chairman, shall receive his actual expenses incurred in the performance of his official duties while away from his home. The attorney general shall be attorney for the commission and shall, without additional compensation, give the commission such advice and service as it may from time to time require. The commission shall be furnished with suitable offices at the seat of government. It shall make an annual report for the fiscal year ending June 30, to the governor and council, of its doings and the expenditures of its office, with such statement relative to the construction and maintenance of public highways and such recommendations as to the general policy of the state relative thereto as it considers appropriate. The chairman shall be the chief administrative officer, having general charge of the office and

records, but all policy decisions of the commission must be by a majority of its total membership. (R. S. c. 20, § 3. 1951, c. 330. 1953, c. 398, § 1. 1957, c. 418, § 7. 1959, c. 361, § 6-A.)

**Effect of amendments.** — The 1957 amendment, effective July 1, 1957, increased the annual salary of members of the commission other than the chairman from \$4,000 to \$4,500.

The 1959 amendment increased the annual salary of members of the commission other than the chairman from \$4,500 to \$5,000 and carried appropriations for the fiscal years ending June 30, 1960 and 1961.

**Editor's note.**—P. L. 1957, c. 323, provided as follows: "Notwithstanding the

provisions of section 3 of chapter 23 of the Revised Statutes, the terms of office of the members of the state highway commission next to be appointed shall be, one for a term of 2 years and one for a term of 3 years. This act shall apply only to the terms of the next 2 appointees."

**Effective date.** — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

### **Powers and Duties of Commission. Controlled Access Highways. Condemnation Proceedings.**

**Sec. 5. Highways classified.**—The commission shall cause charts and maps to be made showing the location and mileage of all highways in the state, and shall classify the highways of the state, and may from time to time amend such classification, namely: 1st, state highways, which shall mean a system of connected main highways throughout the state; 2nd, state aid highways, which shall mean such highways not included in the system of state highways as shall be thoroughfares between principal settlements, or between settlements and their market or shipping point and in so far as practicable feeders to the state highways; 3rd, town ways, which shall mean all other highways not included in the first 2 classes, which are maintained by the towns. (R. S. c. 20, § 5. 1957, c. 336, § 1.)

**Effect of amendment.**—Prior to the 1957 amendment this section provided for the classification of highways into four general classes. This amendment deleted

the former third class and reworded the former fourth class and designated it "3rd".

### **Sec. 6. Controlled access highways.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

### **Sec. 7. Use of controlled access highways.**

In connection with the laying out and establishment of a controlled access highway the commission may take in fee or lesser estate, by purchase, gift, devise or by eminent domain under this chapter, part or all of any part of land adjoining the highway location which, by reason of such laying out and establishment of a controlled access highway, has been severed from legal access to any public highway. (1949, c. 400; 1961, c. 295, § 1.)

**Effect of amendment.**—The 1961 amendment added the second paragraph to this section.

As the first paragraph was not affected

by the amendment, it is not set out.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

### **Sec. 8. Easements of access.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

### **Sec. 9. Commercial enterprises prohibited.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

**Sec. 10. Signs designating location of service facilities.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

**Sec. 11. Limitations of sections 6 to 12.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

**Sec. 12. Interpretation of sections 6 to 12.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

**Sec. 14. Record of location and change of location of highways.** — Whenever the state highway commission shall establish and locate or change the location of a state highway or state aid highway, or any town shall establish and locate or change the location of a highway that was designated as a 3rd class highway at the time that the 3rd class highway designations were rescinded, in any county of this state where the establishing and locating change the present location of any road, the said state highway commission or the town shall cause to be filed with the county commissioners of the county in which any such road is located an accurate description of its metes and bounds, and courses and distances, and also an accurate plan of such location. (R. S. c. 20, § 7. 1961, c. 395, § 10.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, rewrote this section.

**Sec. 15. Provisions of Title 23, United States Code accepted; commission to cooperate with federal government.**—The provisions of "Title 23, United States Code," and all other acts amendatory thereof and supplementary thereto, are assented to. The state highway commission is authorized and empowered to accept, for the state, federal funds apportioned under the provisions of the above act as amended and supplemented, to act for the state, in conjunction with the representatives of the federal government, in all matters relating to the location and construction of highways to be built with federal aid pursuant to the provisions of said act, and to make all contracts and do all things necessary to cooperate with the United States government in the construction and maintenance of public highways in accordance with the above act, as amended and supplemented. (1951, c. 321, § 2. 1959, c. 86.)

**Effect of amendment.**—The 1959 amendment substituted "Title 23, United States Code," in lieu of the "Federal Aid Road

Act," and references thereto in the first sentence of this section.

**Sec. 19. Location, alteration, discontinuance and drainage of state and state aid highways.**

Wherever, on or along public highways, ditches or drains have existed for a period of 20 years or longer, which cause water to be flowed away from the highway, there shall be a conclusive presumption that easements for such flowage from such ditches or drains exist, but only to the extent of the original flowage. This paragraph shall not apply in the cases protected by section 103 of chapter 46. (1951, c. 321, § 2. 1955, c. 305.)

**Effect of amendment.**—The 1955 amendment added the above paragraph at the end of this section. As the first and second paragraphs were not changed, they are not set out.

**Section is a source of jurisdiction and due**

**process for injuries.**—The warrant of security under Me. Const., Art. I, § 21, and §§ 19 to 23 of this chapter, together with established court precedents, supply exhaustive jurisdiction and adequate due process of law for injuries resulting from property

condemnation and road grade changes. Opinion of the Justices, 157 Me. 104, 170 A. (2d) 647.

**Compelling quasi municipal utility to relocate facilities without compensation.** — The state highway commission in the making and maintenance of roads is act-

ing within the scope of the police power and as such may compel a quasi municipal utility to relocate its facilities without compensation. *Brunswick & Topsham Water Dist. v. W. H. Hinman Co.*, 153 Me. 173, 136 A. (2d) 722.

**Sec. 20.** Repealed by Public Laws 1961, c. 295, § 2.

**Cross reference.**—For present provisions as to purchasing and taking lands for high-

ways and materials, see § 20-B of this chapter.

### Acquisition of Land and Materials for Highway Purposes.

**Sec. 20-A. Purposes.**—The purposes of sections 20-A to 20-I are to establish an independent, impartial board composed of men well learned in the elements that may be properly considered in the determination of fair market value of property taken in condemnation proceedings; to empower such board to make awards of just compensation in highway condemnations and to establish before such board a procedure designed to afford to any interested party an opportunity to appear, present his case and have his rights fully protected without the necessity for retaining professional assistance; to thus provide to any interested party a prompt, efficient and inexpensive method of determination of just compensation and prompt payment of all or part of such compensation without prejudice to any right of appeal herein allowed. (1961, c. 295, § 3.)

#### **Sec. 20-B. Purchasing and taking lands for highways and materials.**

—The commissions may purchase or take over and hold for the state, such materials and land as it may deem necessary to lay out and establish, construct, improve or maintain, or to provide a change of location or alignment of, or to provide drainage for, or to provide for the health, safety and welfare of the public using, any state or state aid highway, or to secure materials, with necessary ways and access thereto, for the construction, improvement and maintenance of state and state aid highways.

Where land or material is to be purchased or taken over and held for the state, the commission shall first cause the property or interest therein necessary to be acquired to be surveyed and described and a plan thereof made and to be appraised by one or more appraisers who in making each appraisal shall contact the owner or one of the owners or his designated representative if reasonably possible. (1961, c. 295, § 3.)

For decision interpreting former law, see *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

**Sec. 20-C. Condemnation proceedings.**—If the commission determines that public exigency requires the taking of such land or material or any interest therein forthwith, or is unable to purchase such land or material or the necessary ways and access thereto at what it deems a reasonable valuation, or if the title is defective, it shall file in the registry of deeds for the county or registry district where the land is located a notice of condemnation which shall contain a description of the project specifying the property and the interest therein taken and the name or names of the owner or owners of record so far as they can be reasonably determined. The commission may join in the same notice one or more separate parcels of property whether in the same or different ownership and whether or not taken for the same use.

A copy of the notice of condemnation shall be served on the owner or owners of record. With said copy there shall be served on each individual owner of record a copy of so much of the plan as relates to the particular parcel or parcels of

land taken from him and a statement by the commission with respect to the particular parcel or parcels of land taken from him which shall state:

**I. Date of proposed possession.** The proposed date of taking possession.

**II. Compensation involving severance damage.** Where the commission appraisals disclose severance damages, state the amount of compensation itemized in accordance with the commission's determination of the following elements of damage:

- A.** The highest and best use of the property at the date of taking;
- B.** The highest and best use of the property remaining after the taking;
- C.** The fair market value of the property before the taking;
- D.** The fair market value of the property after the taking;
- E.** The gross damage, showing separately:
  - 1. The fair market value of the real property taken,
  - 2. Severance damages including the impairment or destruction of facilities and structures;
- F.** Special benefits, accruing to the remaining property by reason of the public improvement for which part of the property is taken, to be set off against the gross damage;
- G.** Net damage and offering price.

**III. Compensation not involving severance damage.** Where the commission appraisals disclose no severance damages, state the amount of compensation itemized in accordance with the commission's determination of the following elements of damage:

- A.** The highest and best use of the property at the date of taking;
- B.** The highest and best use of the property remaining after the taking;
- C.** The fair market value of the real property as of the date of taking;
- D.** Special benefits, accruing to the remaining property by reason of the public improvement for which part of the property is taken, to be set off against the value of the property taken;
- E.** Net damage and offering price.

**IV. Compensation in cases involving the facilities of a public utility.** Where the condemnation involves the taking of established rights and facilities owned by a public utility and located outside of an established highway right-of-way, no statement by the commission as provided above shall be sent to the public utility concerned. In any negotiations for an agreement with such public utility with regard to such rights and facilities the commission shall consider, without being limited to, the following elements of damage:

- A.** Relocation costs, which shall include the cost of acquisition of substitute rights and the cost of establishing either existing or substitute facilities in new location;
- B.** The salvage value of facilities removed;
- C.** Cost of removal;
- D.** The value of betterments where the function of the substitute facilities exceeds the function of the replaced facilities.

Service of the notice of condemnation with the copy of the plan and the statement by the commission shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the superior court. The notice of condemnation only shall be published once in a newspaper of general circulation in the county where the property is located and such publication shall constitute service on any unknown owner or owners or other persons who may have or claim an interest in the property.

If such owner is a minor, or an incompetent person, the commission shall cause such notice to be served upon the legal guardian of such minor or incompetent. If there is no such guardian, then the commission shall apply to the judge of probate for the county wherein the property is situated, briefly stating the facts and requesting the appointment of a guardian. The reasonable fee of such guardian as approved by the court shall be paid by the commission.

In case there is a mortgage, tax lien of record or other encumbrance covering any of said land, a copy of the notice of condemnation shall be sent forthwith by registered or certified mail to the holder of record of said mortgage, tax lien or other encumbrance addressed to his office or place of abode if known, otherwise to the office, abode or address as set forth in said record.

The recording of the notice of condemnation shall be the date of taking and shall vest title to the property therein described in the state in fee simple or such lesser state as is specified in the notice of condemnation. Within one year after the completion of the project for which the land is taken, the commission shall file a plan for recording in the registry of deeds for the county or registry district where the land is located. (1961, c. 295, § 3.)

For decision interpreting former law,  
see *Williams v. State Highway Comm.*,  
157 Me. 324, 172 A. (2d) 625.

**Sec. 20-D. Negotiation.**—The commission shall have 60 days from the date of taking within which to negotiate with the owner or owners of record for an agreement as to the amount of just compensation. If, at the expiration of that time, no such agreement for just compensation has been made, the commission shall immediately file a petition with the land damage board setting forth the pertinent facts including the names and addresses of the owner or owners of record and the holders of any mortgages, tax liens or other encumbrances, a copy of the notice of condemnation, the statement of the commission and a plan of the property involved as served upon the owner or owners of record in accordance with section 20-C and requesting a hearing and an award of just compensation. (1961, c. 295, § 3.)

**Sec. 20-E. Proceedings before land damage board.**—The land damage board shall immediately enter the petition of the commission upon its docket and assign a date for hearing at the earliest possible date. Notice of the time and place for the hearing shall be mailed by registered or certified mail to the commission and to the owner or owners of record and to the holders of any mortgage, tax lien or any other encumbrance on the property involved at least 14 days before the date of the hearing. The hearing shall be held in quarters suitable for a full presentation of all evidence and located as conveniently as possible for all interested parties in the county where the land is situated. Before making an award the land damage board shall view the property involved with or without the presence of the interested parties, but it shall first notify the interested parties of the time when it will view the property. The commission shall be represented at the hearing and may present in open hearing evidence as to title, engineering maps and data, and its opinion, evidence and appraisal or appraisals as to the fair market value of the property involved before and after the taking. An accurate and verbatim record of the proceedings before the land damage board shall be kept and shall be furnished to the commission or other interested parties, upon request, and upon payment of a reasonable charge for transcribing and preparing such record. In making its award the land damage board shall not be limited by the range of testimony produced before it but may reach its decision on the basis of the view, the testimony and its own judgment. The land damage board may continue a hearing from time to time for cause shown or by agreement of parties; and where such continuance is made at the request of the landowner, may require that interest be waived for the period of the continuance.

As promptly as possible after the conclusion of the hearing, the land damage board shall make an award in writing specifying:

**I. Owners and encumbrances.** The owner or owners of record and the holder of any mortgage, tax lien or other encumbrance;

**II. Nature of interest taken.** The nature of the interest taken;

**III. Board's decision on elements of damage.** The land damage board's



decision as to each of the elements of damage listed in section 20-C, subsection II or III, or the elements of damage as set forth in section 20-C, subsection IV, and such other elements of damage as are legally compensable;

**IV. Interest on award.** The interest, if any, due on the net amount of the award from the date of taking to the date of the award which shall be added to the net amount of the award.

An attested copy of each award shall be sent forthwith to the commission. The commission shall within 14 days designate to the land damage board the award or awards from which it intends to appeal and forward to the land damage board a check payable to the clerk of courts for the county where said land is situated for the use of the party or parties designated in the award. The land damage board shall forthwith serve upon the party or parties named in the award an attested copy of the award together with a notice that the commission has expressed its intention to appeal the award and that the amount of the award will be paid in to the clerk of courts for the county in which the land is situated subject to withdrawal as provided in section 20-F, and shall forward such check together with an attested copy of the award to the clerk of courts aforesaid.

In all other cases the commission shall, within said 14 days, forward to the land damage board a check payable to the party or parties named in the award and the land damage board shall forthwith serve upon the party or parties named therein an attested copy of the award, the check aforesaid and a notice clearly outlining the rights of appeal as herein provided. If the party or parties named in the award refuse to accept it and appeal therefrom to the superior court as herein provided, the commission, upon notice from the land damage board, shall forward to the land damage board a check in the amount of the award payable to the clerk of courts for the county where the land is situated for the use of the party or parties named in the award which the land damage board shall forthwith file with said clerk together with an attested copy of its award.

Service as required in this section shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the superior court. (1961, c. 295, § 3.)

**Sec. 20-F. Withdrawal of money deposited.**—If the commission or any party named in an award has duly taken an appeal from an award of the land damage board in accordance with section 20-G and the amount of the award has been paid in to the clerk of courts for the county in which the land is situated, the owner or owners of record named in the award may petition the superior court in said county for payment of all or any part of the money thus deposited for and on account of just compensation. The petition shall include:

**I. Statement of ownership.** A statement that the petitioner was the owner of record of the property at the date of taking, is entitled to just compensation and has not conveyed or transferred any of his rights;

**II. Statement of encumbrances.** A statement of the mortgages, tax liens or other encumbrances on the property involved;

**III. Agreement to repay where others entitled.** An agreement by petitioner that he will repay to the commission in whatever manner may be directed by the court all or any part of any sums of money withdrawn by order of the court, if it is determined by the court that another person or persons may be entitled to all or part of said money or that the damages to the property described are less than the amount of money withdrawn.

Upon said petition the court may order all or any part of the money thus deposited to be paid forthwith without prejudice to the petitioners right to have the amount of compensation adjudicated in the appeal pending. (1961, c. 295, § 3.)

**Sec. 20-G. Appeal.**—The commission or any party or parties aggrieved by an award of the land damage board may appeal therefrom to the superior court in the county where the land is situated within 30 days after the date of the re-

ceipt by the appellant of the notice of award. Such appeal shall be taken by filing a complaint setting forth substantially the facts upon which the case shall be tried like other cases. The appellant shall serve notice of such appeal on the opposing party and on the land damage board by sending by registered or certified mail within the time above limited a true copy of said complaint and returning therewith to the land damage board whatever check or checks that may have been forwarded to him with the notice of award.

The court shall determine the same by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto.

If either the owner or owners of record or the commission appeal and the just compensation finally awarded, exclusive of interest, is less than the award of the land damage board, exclusive of any interest allowed, then the court shall give judgment in favor of the commission for the excess of the award of the land damage board, inclusive of interest, over the final award and for its costs from the time of appeal. Execution may be issued on such judgment.

If either the owner or owners of record or the commission appeal and the just compensation finally awarded, exclusive of interest, is not less than the award of the land damage board, exclusive of any interest allowed, then the court shall give judgment to the owner or owners for the amount in which the final award is in excess of the money deposited in court, exclusive of any interest awarded by the land damage board, and for interest on such excess from the date of taking and for costs from the time of appeal. No interest shall be allowed on so much of any award as has been paid into court. The clerk shall certify the final judgment of the court to the commission which shall enter the same of record, and order the same to be paid by the treasurer of state.

In case of the decease of any person entitled to claim damages under sections 20-A to 20-I, the heirs, executors, administrators or assigns of such person shall have the right to prosecute the appeal provided for in this section under the same conditions and limitations as the original owner had, and may be substituted for the appellant in any proceedings commenced by said appellant. In case any landowner assigns, transfers or sells his right to claim damages, his assignee, transferee or vendee shall have the same rights as above set forth. (1961, c. 295, § 3.)

For decision interpreting former law, see  
Williams v. State Highway Comm., 157  
Me. 324, 172 A. (2d) 625.

**Sec. 20-H. Interpleader.**—If difficult questions of law should arise before the land damage board as to entitlement to or apportionment of just compensation, then it is authorized to make a blanket award to all parties interested. If no appeal is taken and no agreement is reached by the parties named in the award within 60 days from the date of such award, the land damage board shall certify the facts and legal questions to the commission. The commission shall then interplead the parties named in the award by a complaint filed in the superior court in the county wherein the land is situated and shall pay in the amount of said award to the clerk of courts of said county to be paid in accordance with the court's order. For purposes of this section the commission shall be acting to prevent double or multiple liability. (1961, c. 295, § 3.)

**Sec. 20-I. Land damage board; composition, appointment, powers, duties.**—The land damage board shall consist of 3 members. Two of said members shall be appointed by the governor, with the advice and consent of the council, one of whom shall be a qualified appraiser and the other an attorney at law. The attorney designated as a member of the board shall be its chairman. The first appointments after September 16, 1961, shall be made for staggered terms of 2 and 3 years, as fixed by the governor. Thereafter all appointments shall be

made for 3 year terms. They shall be sworn, and for inefficiency, willful neglect of duty, or for malfeasance in office may, after notice and hearing, be removed by the governor and council. In case of a vacancy occurring through death, resignation or removal, the governor, with the advice and consent of the council, shall appoint a successor for the whole term of the member whose place he takes, subject to removal as aforesaid.

The governor, with the advice and consent of the council, shall set the rate of pay on a per diem basis which each member of the land damage board shall receive and they shall also be remunerated for all expenses necessarily incurred in the performance of their official duties.

In carrying out its duties, the board shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. It shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant and unduly repetitious testimony. A majority of the board, being present, may determine all matters; provided, however, the chairman shall resolve all questions of admissibility.

The board shall have authority to make rules and regulations and prescribe forms to secure a speedy, efficient and inexpensive disposition of all proceedings hereunder. Each member of the board, for its official purposes, may administer oaths, certify to official acts and issue all process necessary to the performance of the duties of the board. It shall also have a reporter to record each hearing.

The board shall maintain an office in Augusta, Maine, and shall have a permanent clerk to keep its records and to perform such other duties as said board shall assign. The clerk shall also have authority to certify to all official acts of the board, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the board.

The board shall appoint and fix the compensation of a reporter, and shall review and approve all charges made by such reporter for transcripts of the record. They may also appoint, subject to the personnel law, a clerk and such clerical assistance as they may deem necessary.

The 3rd member of the board shall be appointed for each hearing or series of hearings within the county where the land taken lies. He shall be a member of the board of county commissioners of the county wherein the land taken is situated and shall be appointed by the chairman of the land damage board upon recommendation which shall be made, upon request, by the board of county commissioners of that particular county. In the event that any board of county commissioners should fail to make the required recommendation, then the chairman of the land damage board may appoint a member of such board to serve. He shall be sworn by the chairman of the land damage board and shall serve as a member of that board only for the particular hearing or hearings for which he is appointed. He shall participate fully in such hearings and the awards made as a result thereof. Each such member shall be paid at the same per diem rate as that fixed for other members of the board. Any member of a board of county commissioners thus designated shall serve only for the particular hearing or hearings set forth in his appointment and such service shall be as a member of the land damage board and not in his capacity as a member of the board of county commissioners. (1961, c. 295, § 3.)

**Editor's note.**—P. L. 1961, c. 295, which added sections 20-A to 20-I to this chapter, provided in §§ 7 and 8 as follows:

"Sec. 7. Transfer of pending proceedings. All proceedings pending before the joint board on the effective date of this act shall be transferred to the land damage board but the provisions of this act shall not affect any hearings held by the joint board prior to the effective date of this act or any

award made as a result of such hearing or any appeal duly taken from such award within the time prescribed in chapter 23, section 23, herein repealed.

"Sec. 8. Appropriation. There is appropriated from the general highway fund the sum of \$28,000 for the fiscal year ending June 30, 1962 and the sum of \$28,000 for the fiscal year ending June 30, 1963 to carry out the provisions of this act."

**Sec. 21.** Repealed by Public Laws 1961, c. 295, § 4.

**Cross reference.**—For present provisions as to condemnation proceedings, see §§ 20-C to 20-F of this chapter.

**Sec. 22. Proceedings on damage claims.**—Whenever the commission shall change the grade of any state or state aid highway as provided in this chapter to the injury of an owner of adjoining land, he may within 6 months after completion of the work according to the records of the commission apply to the commission in writing for a determination and assessment of his damages. If the commission is unable to settle such damages at what it deems a reasonable amount, the commission or interested parties may apply to the land damage board in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases. (1951, c. 321, § 2. 1961, c. 295, § 5.)

**Cross reference.**—See § 20-I re land damage board.

**Effect of amendments.** — The 1955 amendment deleted the words “alter, widen or” before the word “change” in line two, and inserted the words “according to the records of the commission” in

line four.

The 1961 amendment divided the first sentence into two sentences and substituted “land damage board” for “joint board” in the present second sentence.

**Section is a source of jurisdiction and due process for injuries.**—See note to § 19.

**Sec. 23.** Repealed by Public Laws 1961, c. 295, § 6.

**Cross reference.**—For present provisions as to appeal in condemnation proceedings, see § 20-G.

**Editor’s note.**—The repealed section had been amended by P. L. 1959, c. 317, § 8 and c. 375, §§ 1, 2.

**Sec. 23-A. Payment for cost of relocating utility facilities in interstate system.**—Any utility which is required to move or relocate its facilities under the provisions of this section from or in any way because of construction needs in building the interstate system under the Federal-Aid Highway Act of 1956 on projects for which the contracts are signed after the effective date of this act shall be reimbursed for the cost of relocation of such facilities as said cost is defined in said Federal-Aid Highway Act. The state highway commission may make rules and regulations for the determination of such cost in conformity with applicable federal rules and regulations under said act. The commission shall have such rights to inspect the books of account of the utility as may be required in determining the reimbursable costs provided in this section.

Whenever the commission shall determine that any utility facility which now is, or hereafter may be, located in, over, along or under any way should be moved or relocated because of construction needs in building said interstate system, the utility owning or operating such facility shall relocate or move the same in accordance with an order of the commission. If the failure of the utility to move such facility within the time specified in such order should delay the work of the contractor on the project involved, the utility shall be liable to the state for the damages that the state may be required to allow to the contractor under the contract between the state and the contractor for delay in the work caused by the presence of the facility. The utility shall not be liable for such damages if its failure to move shall be for reasons beyond its control. If the commission and the utility shall not agree as to the liability of the utility for such damages, either party may appeal to the superior court for a determination thereof. Such liability shall not exceed such reimbursable costs as may be determined by the provisions of the preceding paragraph.

“Utility” as used in this section shall mean and include any public utility under the jurisdiction of the public utilities commission and also any corporation which owns and operates a telephone or telegraph system or an oil pipe line system and which is subject to the jurisdiction of the federal communications commission or interstate commerce commission and also any municipality or any quasi-municipal

body operating a utility service such as a fire or police alarm line, street lighting, sewerage or water pipes and also any rural electrification cooperative which is subject to chapter 51.

The reimbursable costs provided in this section shall be paid from the general fund operating capital under the direction of the state highway commission, and said general fund operating capital shall be repaid in full for any costs so paid from reimbursements received by the state highway commission from the federal government on account thereof. At no time during the biennium ending June 30, 1961 and thereafter shall the amount paid from the general fund operating capital for the purposes of this section exceed the amount of the 90% federal funds to be available for projects in said interstate system under Title 23, United States Code, §123 to match the state appropriation made for the pertinent biennium. Any appropriation so made, which shall be expended under the direction of the state highway commission, shall apply to projects in said interstate system for which contracts are signed prior to June 30th of the second year of said biennium and to the extent of such contracts shall be carried forward and not lapse. (1957, c. 378, § 1; c. 441, § 1. 1959, c. 203. 1961, c. 317, § 29.)

**Effect of amendments.**—The 1957 amendment added the clause relating to municipalities and quasi-municipal bodies in the third paragraph of this section.

The 1959 amendment added the last two sentences at the end of the section.

The 1961 amendment substituted "appeal to" for "petition any justice of" in the fourth sentence of the second paragraph of this section.

**Editor's note.**—P. L. 1957, c. 378, which inserted this section, provided in §§ 2 and 3 thereof as follows:

"Sec. 2. Limitation. The provisions of this act shall apply only to projects in said interstate system for which the contracts are signed prior to June 30, 1959, and at no time during the fiscal year 1957-58 or the fiscal year 1958-59 shall the amount paid from the general fund operating capital for the purposes of this act exceed the amount of the 90% federal funds to be available for projects in said interstate system under the Federal-Aid Highway Act of 1956 to match a state appropriation of \$12,500."

"Sec. 3. Appropriation. There is hereby appropriated from the general fund, to be expended under the direction of the state highway commission, for the purposes of this act the sum of \$12,500 for the fiscal year ending June 30, 1958 and the sum of \$12,500 for the fiscal year ending June 30, 1959. Any unexpended balance on June 30, 1958 shall not lapse, but shall carry forward into the next fiscal year for the same purposes. All unexpended balances on June 30, 1959 shall lapse into the unappropriated surplus of the general fund."

P. L. 1957, c. 433, §§ 1 and 2, amending P. L. 1957, c. 378, §§ 2 and 3, read as

follows:

"Section 2 of chapter 378 of the Public Laws of 1957 is amended to read as follows:

"Sec. 2. Limitation. The provisions of this act shall apply only to projects in said interstate system for which the contracts are signed prior to June 30, 1959, and at no time during the fiscal year 1957-58 or the fiscal year 1958-59 shall the amount paid from the general fund operating capital for the purposes of this act exceed the amount of the 90% federal funds to be available for projects in said interstate system under the Federal-Aid Highway Act of 1956 to match a state appropriation of \$43,000."

"The first sentence of section 3 of chapter 378 of the Public Laws of 1957 is amended to read as follows: 'There is hereby appropriated from the General Fund, to be expended under the direction of the State Highway Commission, for the purposes of this act the sum of \$43,000 for the fiscal year ending June 30, 1958 and the sum of \$43,000 for the fiscal year ending June 30, 1959.'"

P. L. 1957, c. 441, amending the third paragraph of this section, provided in section 2 thereof as follows:

"Sec. 2. Validating clause. It is hereby declared that it was the legislative intent to include the subject matter of this amendment in chapter 378 of the Public Laws of 1957, and that any contracts made by the state highway commission since August 8, 1957 concerning the utility services described in section 1 are hereby validated."

**Effective dates.**—The effective date of the act inserting this section is August 28, 1957. P. L. 1957, c. 441, amending this

section, became effective on January 17, 1958. came effective on its approval, April 17, 1959.

The 1959 act amending this section be-

**Sec. 24. Land acquired may be vacated, sold or leased.**

Applied in *Williams v. State Highway Comm.*, 157 Me. 324, 172 A. (2d) 625.

**Sec. 25. Highway boundaries; procedure; damages.** — The commission may establish the boundary lines, limits or locations of any or all state highways and state aid highways and cause durable monuments to be erected at the angles thereof. Whenever in the opinion of the commission the boundary lines, limits or locations of any state highway or state aid highway, or any part thereof, shall become lost, uncertain or doubtful, they may reestablish the same. They shall file with the town clerk of the town in which the highway is located and with the registry of deeds in the county in which the highway is located, maps showing the boundary lines, limits or location of such reestablished highway, and such lines, boundaries, limits and location, as reestablished, shall be the lines, boundaries, limits and location of such highway. The commission shall post descriptions, of such parts of such highways as lie within any towns, in 1 conspicuous place in such towns, and shall publish a description of such parts of such highways as lie within any county, in some newspaper, if any, in such county. Any person aggrieved by the reestablishment of such boundary lines, limits and location may file a complaint for the assessment of damages to the superior court in the county where the reestablished highway is located within 60 days from the filing of such maps with the registry of deeds, and not thereafter, and the court shall assess the damages, if any, by jury, provided such reestablished boundary lines, limits or location are not the same as originally established. The commission shall pay from the funds of its department all expenses incurred and the amount of final judgment and costs, except that the amount of the final judgment costs shall be paid by the plaintiff if such plaintiff fails to recover any damages. (1951, c. 321, § 2. 1961, c. 317, § 30.)

**Effect of amendment.**—The 1961 amendment substituted "file a complaint" for "petition" in the fifth sentence of this section, substituted "plaintiff" for "petitioner" in

two places in the last sentence thereof and made other minor changes in such last sentence.

**Sec. 27. General powers and duties of commission.**

**Compelling quasi municipal utility to relocate facilities without compensation.**—The state highway commission in the making and maintenance of roads is acting within the scope of the police power and

as such may compel a quasi municipal utility to relocate its facilities without compensation. *Brunswick & Topsham Water Dist. v. W. H. Hinman Co.*, 153 Me. 173, 136 A. (2d) 722.

**Sec. 27-A. Records confidential.**—The records and correspondence of the right-of-way division of the state highway commission relating to negotiations for and appraisals of property, pending the final settlement for all claims on the project to which they relate and the records and data of the said commission relating to engineering estimates of costs on projects to be put out to bid, shall be confidential, and shall not be open for public inspection, except that the records and correspondence of the right-of-way division relating to negotiations for and appraisals of property shall be open for public inspection after 9 months following the completion date of the project according to the record of the commission, not including those claims which have been appealed to the superior court, said records to be open for public inspection following the award of the court. (1959, c. 223, § 2.)

**Sec. 28. Certain provisions for traffic direction and control.** — The state highway commission may make and shall enforce rules and regulations relating to traffic control and the installation and maintenance of traffic control sig-

nals, devices, signs and markings on all state, state aid and federal aid highways. The commission may be consulted by and shall without charge advise municipal officers and road commissioners on the subject of traffic control.

(1961, c. 395, § 11.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, added “traffic control and” near the

beginning of the first paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 29-A. Motor vehicle registration fees in Swan’s Island, Cranberry Isles, Isle au Haut, North Haven and Vinalhaven, apportioned.**—Seventy-five per cent of all fees received by the state from the inhabitants of the towns of Cranberry Isles and Swan’s Island in Hancock county, of the towns of Isle au Haut, North Haven and Vinalhaven in Knox county for the registration of motor vehicles shall be spent in said towns under the supervision of the commission on the roads in said towns, in each town according to the proportion the amount paid by its inhabitants bears to the amount paid by the inhabitants of all the towns mentioned in this section. (1957, c. 397, § 18.)

**Sec. 30. Rights granted commission in connection with highway openings.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

**Sec. 34. Officers appointed to enforce commission’s orders re closed or restricted ways; powers and fees of sheriffs.**—The commission may appoint any person in its employ whose special duty it shall be to enforce the statutes and orders promulgated thereunder which prohibit or restrict the passage of vehicles and trailers over ways and bridges, or designated sections thereof, under such conditions or in such manner as may cause undue damage to any such way or bridge. Every such person shall be appointed in writing by the commission to serve during its pleasure and shall have the same power as sheriffs and their deputies to arrest and prosecute all persons caught violating the provisions of said statutes and orders within the territorial limits designated in his appointment. He shall be entitled to the same fees as sheriffs and their deputies for like services. (1951, c. 321, § 6. 1961, c. 395, § 12.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, substituted “designated” for “designate” in the first sentence.

**Sec. 36. Construction of entrances to highways regulated.**—It shall be unlawful to construct or maintain any driveway, entrance or approach within the right-of-way of any state or state aid highway which lies outside of the compact or built up section, so called, without a written permit from the state highway commission. or if within the compact or built up section so called, without a written permit from the proper town officials, and such right-of-way shall be deemed the full width of the right-of-way as laid out by the state, county or the town. The commission and towns are authorized and directed to make such rules and regulations as to design, location and construction of driveways, entrances and approaches on said highways as will adequately protect and promote the safety of the traveling public, but the commission and the towns shall in no case deny reasonable ingress and egress to property abutting the highway except on limited access highways. No permit shall be required for any existing driveway, entrance or approach unless the grade or location of the same is changed, but if any driveway, entrance or approach is changed in location or grade or improved, a permit shall be required. If any existing driveway, entrance or approach is changed in degree or kind of use, a permit shall be required.

Whoever violates any of the foregoing provisions or the rules and regulations

made under authority thereof shall be punished by a fine of not more than \$100. (1951. c. 332 1953. c. 154. 1955. c. 334.)

**Effect of amendment.**—The 1955 amendment added the last sentence to the first paragraph.

### Highway Safety Committee.

**Secs. 37-A to 37-F.** Repealed by Public Laws, c. 120, § 2.

**Cross reference.**—For present provisions as to highway safety committee, see §§ 37-G to 37-K of this chapter.

**Editor's note.**—The repealed sections, which related to the highway safety committee, derived from P. L. 1957, c. 366 as

amended by P. L. 1957, c. 429, § 34 and P. L. 1959, c. 352, § 1. The act repealing sections 37-A to 37-F provided that the act "shall in no way affect the present tenure of office of the present members of the highway safety committee."

**Sec. 37-G. Highway safety committee established; designation.**—In recognition that safety on public streets and highways is a joint responsibility of public officials and private citizens and that there is need for the state of Maine to stimulate active support for highway safety measures and action programs originating among official agencies and citizen groups, a highway safety committee, as heretofore created, is established and shall be known as the Maine highway safety committee. (1963, c. 120, § 1.)

**Editor's note.**—P. L. 1963, c. 120, § 3, now codified as c. 23, §§ 37-G to 37-K, affect the present tenure of office of the present members of the highway safety committee.

**Sec. 37-H. Officers and executive board of committee.**—The affairs of the committee shall be conducted by an executive board consisting of not less than 15 nor more than 25 members, selected from civic, religious, industrial and similar groups and organizations with interests relating to traffic safety, said members to be appointed by the governor for terms of 2 years, except, to provide that all appointments do not expire at the same time, approximately  $\frac{1}{2}$  of the total number of members' initial appointments shall be for one year. In addition, the governor shall appoint from the membership of the executive board a chairman, and the executive board shall elect a vice-chairman, said officers to assume the duties customary with their offices. The terms of the chairman and vice-chairman shall be for 2 years. (1963, c. 120, § 1.)

### Sec. 37-I. Powers and duties of executive board.—

**I. Safety programs.** It shall develop, administer and promote street and highway safety action programs throughout the state of Maine.

**II. Safety recommendations.** It shall formulate and recommend to the legislature specific measures which, in its opinion, will prevent traffic accidents.

**III. Report.** It shall make, through its chairman, a written report annually to the governor, said report to be made available to the public.

**IV. Subcommittees.** It may appoint, at its discretion, subcommittees with membership recruited from the public at large to assist in formulating and administering committee programs and activities. (1963, c. 120, § 1.)

**Sec. 37-J. Advisory committee; meetings.**—The heads of the following state departments and agencies or their designated representatives shall constitute an advisory committee of state officials: attorney general, secretary of state, education, highway commission, state police, public utilities commission. Advisory committee members shall participate in the study of traffic safety problems and possible solutions, and shall in turn present to the executive board for its consideration matters of mutual concern originating in their departments.

The executive board and the advisory committee shall meet at least quarterly. In addition, the chairman may call special meetings of the executive board at his



discretion. Members of the executive board and its officers shall serve without salary. (1963, c. 120, § 1.)

**Sec. 37-K. Executive secretary.**—The governor shall appoint a person nominated by the executive board to be executive secretary for a term of 4 years and fix his salary. (1963, c. 120, § 1.)

**Construction: State Highways. System Established. Award of  
Contracts for Construction.**

**Sec. 38. State highways; expense of construction.**

**Compelling quasi municipal utility to relocate facilities without compensation.**—The state highway commission in the making and maintenance of roads is acting within the scope of the police power and as such may compel a quasi municipal utility to relocate its facilities without compensation. *Brunswick & Topsham Water Dist. v. W. H. Hinman Co.*, 153 Me. 173, 136 A. (2d) 722.

**Sec. 40. Contracts for construction of state highways.**—The commission shall have full power in the letting of all contracts for the construction of all state highways and other work under its jurisdiction, except as elsewhere herein otherwise provided. The commission shall make all surveys, plans, estimates, specifications and contracts for all proposed work and shall, except as otherwise provided in this chapter, advertise for bids for the same in two or more public newspapers printed wholly or in part in the state, also in 1 public newspaper printed wholly or in part in the county where the proposed work is to be done, if any such newspaper is so printed in such county; such advertisement shall state the place where the bidders may examine the plans and specifications, and the time and place where the bids for such work will be received by the commission. Each bidder must accompany his bid with an official bank check, a cashier's check, a certified check or a United States postal money order, payable to the treasurer of state, for an amount which the commission considers sufficient to guarantee that if the work is awarded to him he will contract with the commission for its due execution. Such checks or money orders shall be returned to the respective unsuccessful bidders. The check or money order of the successful bidder shall be returned to him upon the execution and delivery to the commission of his contract and his bond with sufficient sureties, in terms satisfactory to the commission for the due execution of such work. All bids so submitted shall be publicly opened and read at the time and place stated in such advertisement. The commission shall have the right to reject any and all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for state highway construction within its limits, and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The commission may, however, construct state highways by day labor without advertising for bids; and may, with the approval of the governor and council, award contracts for state highways without advertising for bids if the same shall be for the best interest of the state. The commission shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts, and for the protection of the state and town from all liability arising from damage or injury to persons or property. (R. S. c. 20, § 21. 1953, c. 202. 1961, c. 21.)

**Effect of amendment.**—The 1961 amendment divided the former third sentence into the present third and fourth sentences, added "an official bank check" near the beginning of the present third sentence and substituted "opened and read" for "opened, read and posted" in the present sixth sen-

tence.

**Purpose of highway construction bond.**

—A highway construction bond is required not alone for the benefit of third persons, as the laborer and the supplier, but for the benefit of the state to secure compliance with the particular highway

construction contract. *Carpenter v. Susi*, 152 Me. 1, 121 A. (2d) 336.

**Coverage under bond.**—See *Carpenter v. Susi*, 152 Me. 1, 121 A. (2d) 336.

**Bank loaning money to contractor not subrogated to rights of laborer.**—A bank does not by the mere act of loaning money to the contractor for the purpose of paying labor become subrogated to the rights of

the laborer under this section. *Newport Trust Co. v. Susi*, 153 Me. 51, 134 A. (2d) 543.

**Quoted in** *Carpenter v. Seaboard Engineering Co.*, 158 Me. 277, 183 A. (2d) 216.

**Cited in** *Brunswick & Topsham Water Dist. v. W. H. Hinman Co.*, 153 Me. 173, 136 A. (2d) 722.

### **Construction: State Aid Highways. System Established. Procedure. Town Appropriations. Apportionments of State Aid.**

**Sec. 44. Appropriations by towns desiring state aid.**—If any town desires state aid, as provided by this chapter, for the building or permanent improvement of one or more of its state, or state aid highways, such town may raise and appropriate in addition to the amounts regularly raised and appropriated for the care of ways, highways and bridges the following amounts on account of which state aid shall be paid:

Towns having a valuation of \$400,000 or less may appropriate any amount not exceeding \$300; towns having a valuation of over \$400,000 and not over \$1,600,000 may appropriate any amount not exceeding \$533; towns having a valuation of over \$1,600,000 and not over \$2,000,000 may appropriate an amount not exceeding \$600; and towns having a valuation of over \$2,000,000 and not over \$6,000,000 may appropriate in addition to the sum of \$600 an additional sum of \$66 for each \$400,000 or fraction thereof valuation in excess of \$2,000,000; towns having a valuation of over \$6,000,000 and not over \$8,000,000 may appropriate not exceeding \$1,333; and towns having a valuation of over \$8,000,000 may appropriate in addition to the sum of \$1,333 an additional sum not exceeding \$133 for each additional \$2,000,000 or fraction thereof of additional valuation. (R. S. c. 20, § 25. 1945, c. 128, § 1 1955, c. 20 § 1.)

**Effect of amendment.**—The 1955 amendment, which became effective on its approval, February 28, 1955, changed the

second paragraph by doubling the amount of valuation in each instance.

**Sec. 46. Apportionment to each town.**—The commission, from the fund provided for the improvement of state aid roads, shall to each town which has conformed to the provisions of sections 44 and 45, for each dollar so appropriated, apportion the following amounts: to each town having a valuation of \$400,000, or less, \$3.50 for each dollar appropriated by said town; to each town having a valuation of over \$400,000 and not over \$1,600,000, \$2 for each dollar appropriated by said town; to each town having a valuation of over \$1,600,000 and not over \$2,000,000, \$1.75 for each dollar appropriated by said town; to each town having a valuation of over \$2,000,000 and not over \$2,400,000, \$1.55 for each dollar appropriated by said town; to each town having a valuation of over \$2,400,000 and not over \$2,800,000, \$1.35 for each dollar appropriated by said town; to each town having a valuation of over \$2,800,000 and not over \$3,200,000, \$1.20 for each dollar appropriated by said town; to each town having a valuation of over \$3,200,000 and not over \$3,600,000, \$1.10 for each dollar so appropriated by said town; and to each town having a valuation of over \$3,600,000, \$1 for each dollar so appropriated by said town. The money appropriated by towns applying for state aid as hereinbefore provided, with the amount apportioned by the commission as hereinbefore provided, shall constitute a joint fund for the construction and improvement of the state or state aid highways in such towns. (R. S. c. 20, § 27. 1945, c. 128, § 3 1953, c. 221 1955, c. 20, § 2.)

**Effect of amendment.**—The 1955 amendment, which became effective on its approval, February 28, 1955, changed this

section by doubling the amount of valuation in each instance.

**Sec. 47.** Repealed by Public Laws 1955, c. 424, § 2.

**Third class designations rescinded.**—“All third class designations are hereby Rescinded. Section 4 of the repealing act provides: rescinded.”

**Sec. 55. Joint fund for state aid construction used with town road improvement fund.**—If any town desires that the whole or any portion of the joint fund provided in sections 44, 46 and 49 shall be applied to the construction of unimproved state aid or town ways within its boundaries in combination with the town road improvement fund, the same may be so applied at the discretion of the commission. All state aid joint funds so transferred shall be expended in accordance with sections 60 to 65. Roads constructed under this section shall be maintained by the towns. (1951, c. 359, § 1. 1955, c. 424, § 7. 1961, c. 395, § 13.)

**Effect of amendments.**—The 1955 amendment inserted the reference to § 49

The 1961 amendment, effective on its approval, June 17, 1961, divided the former first sentence into two sentences, substi-

tuted “or town ways” for “3rd class or 4th class highways” in the present first sentence and eliminated “the provisions of” preceding “sections” in the present second and third sentences.

### Access Roads to Ski Areas.

**Sec. 57-A. Access roads to ski areas open to general public.**—Whenever the municipal officers of one or more municipalities, or the county commissioners if they are acting in the capacity of municipal officers, and the owner or owners of a ski area open to the general public jointly deem it necessary that a road be constructed in the municipality or unorganized township represented by the municipal officers or county commissioners, they may jointly petition the state highway commission for the construction of such a road. Following a review of the petition, if the state highway commission deems it advisable to do so, it shall arrange for a public hearing to be held for the purpose of allowing the petitioners and others interested in the proposed road to be heard. Following the hearing, if the state highway commission decides construction of such a road is warranted, it may arrange for such construction under the following conditions:

**I. Consent of owner.** Such a road shall be constructed only with the consent of the owner or owners of the land over which the section of road shall be constructed, which owner shall donate the land required in accordance with the requirements of the state highway commission. Following donation of the land to the municipality or municipalities or county or counties, the said municipality or municipalities or county or counties which are involved shall lay out the way as a town or county way.

**II. Cost.** The cost of construction shall be paid 50% from the general highway fund, 25% from the municipality and county if the road is located in whole or in part in unorganized township or townships, and 25% from the owner or owners of the ski area involved. Construction shall not be authorized by the state highway commission until the owner of the ski area involved gives a bond to the state, approved by the state highway commission, to guarantee the payment of the ski owner's proportionate share and the municipality or county involved advises the state highway commission that its share of funds is available for construction of the access road.

**III. Supervision.** The state highway commission shall have the responsibility for the supervision and construction of the road.

**IV. Limitation.** No more than 2 miles of access road shall be constructed under this section to serve any one ski area.

**V. Prerequisite.** Before the state highway commission shall authorize the construction of the road the commission shall determine that there has been expended in developing the facilities of the ski area a minimum of \$100,000 or that there are funds in the amount of at least \$100,000 available to be expended in developing the facilities of the ski area within a time to be established by the state highway commission.

**VI. Maintenance.** Upon completion of the sections of access road constructed under this section the municipality or municipalities and county or counties in which the section of highway is located shall assume the responsibility for properly maintaining the road as a public highway.

No such road shall be constructed until the municipalities and counties that are involved have appropriated or raised by taxation or otherwise in such municipalities and counties a sum sufficient to pay to the state their proportionate share of the cost of such access road constructed under this section. (1963, c. 306.)

### **Special Legislative Appropriations; Construction.**

**Sec. 59.** Repealed by Public Laws 1955, c. 424, § 3.

### **Town Road Improvement Fund.**

#### **Sec. 60. Town road improvement fund.**

**Appropriations.**—P. L. 1955, c. 436, § 8 provides: "Beginning with the fiscal year ending June 30, 1956, there is hereby appropriated annually from the general highway fund the sum of \$500,000 to the town

road improvement fund. This appropriation shall be in addition to any other appropriation for the town road improvement fund made by the 97th legislature."

**Sec. 62. Expenditures.**—The expenditures of this fund shall not exceed the sum of \$6,000 in any 1 mile. The various towns shall assume and pay any cost or damages arising from any change in location, grade or drainage. (1945, c. 371, § 1. 1947, c. 329, § 2. 1953, c. 329. 1955, c. 17.)

**Effect of amendment.**—The 1955 amendment substituted "\$6,000" for "\$3,000" in the first sentence, and deleted from the second sentence a provision as to furnishing "all local road material, including rocks, sand, gravel, etc."

**Sec. 63. Limitation.**—No money from this fund shall be expended on the improved sections of any road which is a part of the state or state aid systems, as it is intended to apply only to the unimproved roads of the state. This limitation shall not apply to the \$200 referred to in section 61. Any balance unexpended by the towns at the end of any fiscal year shall remain to their credit for use in any other fiscal year to carry out the purposes of sections 60 to 65, inclusive. (1945, c. 371, § 1. 1947, c. 329, § 3. 1957, c. 336, § 8.)

**Effect of amendment.**—Prior to the 1957 amendment the first sentence also applied to "federal aid", "3rd class" and "so-called CCC roads", and the present second sentence appeared as a proviso of the first sentence.

#### **Sec. 65. "Unimproved roads" defined.**

**III.** All improved sections of state and state aid highways. (1947, c. 329, § 4. 1957, c. 336, § 2.)

**Effect of amendment.**—Prior to the 1957 amendment subsection III applied also to "federal", "3rd class" and "so-called resolve" highways. As the rest of the section was not changed by the amendment, only subsection III is set out.

**Sec. 65-A. Combined use of state aid and town road improvement funds.**—Municipal officers may petition the state highway commission for authority to combine state aid allocations and town road improvement funds into a single fund for construction or reconstruction of their roads. The commission is authorized to grant such authority, notwithstanding other provisions of this chapter to the contrary, subject to the following conditions:

**I. Plan.** The municipal officers shall submit to the commission a plan of all state aid and town ways with specifications for construction or reconstruction based upon present and projected future use of such ways, irrespective of the existing classifications of such ways, with such supporting data as the com-

mission shall deem necessary, and shall include a proposal relating to future maintenance.

**II. Program.** The municipal officers shall in addition submit a proposed 2-year construction-reconstruction program based upon specifications contained in the plan under subsection I.

**III. Contents of program.** The 2-year construction-reconstruction program shall contain specific proposals and financial commitments of the municipality for the year under consideration.

**IV. Funds combined.** Upon approval of the program by the commission, the commission shall authorize the municipal officers to combine state aid joint funds and town road improvement funds into a single fund to be used to carry out the approved construction-reconstruction program.

**V. Funds apportioned under section 50.** Funds apportioned by the commission under section 50 shall not be used under this section unless such funds are to be expended in accordance with section 50. (1963, c. 278.)

### Maintenance: Highways.

**Sec. 66. System of maintenance; culverts for abutters.**—The commission shall provide a system of maintenance for all state highways to which section 68 may apply and for all state aid highways to which sections 72 and 73 may apply so that all sections of such highways may be effectually and economically preserved and maintained, in accordance with the best maintenance practice in so far as funds will permit. The provisions of this section do not include snow removal work on state aid highways or town ways.

(1957, c. 336, § 3.)

**Effect of amendment.**—Prior to the 1957 amendment snow removal work on third class highways was also excepted from the provisions of this section by the

last sentence of the first paragraph. As the second paragraph was not changed by the amendment, it is not set out.

### Maintenance: State Highways. Snow Removal. Secondary Federal Aid Projects. Compact Sections.

**Sec. 68. Maintenance and snow removal on state highways.** — Improved state highways shall be continually maintained, and the snow removed from such sections of designated state highways as the commission may determine, under the direction and control of the commission at the expense of the state; except that a charge against a town for snow removal work shall be a fixed sum of \$40 per mile per year. The charge of \$40 per mile per year shall not be made for any portion of the interstate system.

The maintenance provisions of sections 66, 67, 68, 79, 80 82 and 87 shall not apply to those compact or built up sections of state highway in cities or towns whose population according to the last U. S. census exceeds 5,000 inhabitants, except as hereinafter provided for maintenance of secondary federal aid projects, and the snow removal provisions shall not apply to those compact or built up sections and "compact areas" as determined by the commission, in which compact sections are intermittent and separated by a short interval or intervals of sections that are not compact of state highway in cities or towns whose population according to the last U. S. census exceeds 2,000 inhabitants. The commission may take over the snow removal on such portions of controlled access highways within compact sections as it deems advisable. (R. S. c. 20, § 46. 1945, c. 334, § 2. 1949, c. 18, § 3; c. 349, § 29. 1951, c. 158, § 2. 1955, c. 46. 1959, c. 167. 1961, c. 47, § 1.)

**Effect of amendments.** — The 1955 amendment inserted the provision as to "compact areas" in the last paragraph.

The 1959 amendment added the last sentence at the end of the first paragraph.

The 1961 amendment added the last sentence in the section.

As the second and third paragraphs were not affected by the amendments, they are not set out.

**Sec. 69. Secondary federal aid projects on state highways.**—Secondary federal aid projects constructed on the state highway system with funds provided under Title 23 of the U. S. Code approved August 27, 1958 (Public No. 85-767), and all acts amendatory thereof and supplementary thereto, shall be maintained by the state highway commission under the same provisions and conditions stated in section 66 for the maintenance of improved state highways. With the exception of snow removal, section 68 shall also apply to secondary federal aid projects constructed on designated state highways within the compact or built up sections of all towns regardless of population. (R. S. c. 20, § 47. 1951, c. 158, § 3. 1961, c. 395, § 14.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, divided the section into two sentences, changed the reference to the federal act in the present first sentence and made other minor changes.

**Sec. 71. Towns to maintain state highways in compact or built up sections.**—Except as otherwise provided, all state and state aid highways within compact or built up sections of towns having a population of 5,000 and over, as determined by the commission, shall be maintained in good repair by the town wherein the same are located at the expense of the town and whenever any town shall neglect so to maintain within 14 days after notice given its municipal officers by the commission, the commission may proceed to make necessary repairs to such way, which shall be paid for by the state and the cost thereof shall be collected and paid as provided in section 53; and the amounts so collected from such towns shall be added to the fund for maintenance of state and state aid highways. The commission may take over the maintenance of such portions of controlled access highways within compact sections as it deems advisable. The commission may in respect thereto grant such towns such financial assistance as it deems advisable. (R. S. c. 20, § 49. 1951, c. 158, § 4. 1953, c. 353, § 2. 1961, c. 47, § 2.)

**Effect of amendment.**—The 1961 amendment added the present second sentence.

### **Maintenance: State Aid Highways.**

#### **Secondary Federal Aid Roads.**

**Sec. 73. Maintenance of secondary federal aid roads.**—All state aid highways improved with funds provided under Title 23 of the U. S. Code, approved August 27, 1958 (Public No. 85-767), and all acts amendatory thereof and supplementary thereto, for the construction of secondary or federal roads, except improved secondary federal projects on the state highway system as defined in section 5, shall be maintained by the state highway commission under the same provisions as for the maintenance of state aid roads. (R. S. c. 20, § 51. 1961, c. 417, § 44.)

**Effect of amendment.**—The 1961 amendment substituted "Title 23 of the U. S. Code, approved August 27, 1958, (Public No. 85-767)" for "the provisions of section 7 of the federal act approved June 16, 1936, (Public No. 686 74th Congress)" and deleted "hereinbefore stated in this chapter" following "same provisions as" near the end of the section.

### **Maintenance: Third Class Highways.**

**Secs. 74-75.** Repealed by Public Laws 1955, c. 424, § 3

**Third class designations rescinded.**— "All third class designations are hereby rescinded." Section 4 of the repealing act provides:

**Maintenance: Highways Constructed with Special Appropriations.**

**Secs. 76-78.** Repealed by Public Laws 1955, c. 424, § 3.

**Third class designations rescinded.**— "All third class designations are hereby Section 4 of the repealing act provides: rescinded."

**Snow Removal.**

**Sec. 79. Winter routes cleared of snow.**—The commission, on petition of the municipal officers of 2 or more towns through which extends a continuous state aid highway or town way, may from year to year lay out winter routes over such state aid highways or town ways as in their judgment seem advisable for the clearance of snow therefrom for the reasonable use of motor vehicles, sleighs and sleds during such season. The commission may take similar action upon petition of the municipal officers of any town with respect to any other state aid highways or town ways. Except as provided, all snow removal petitions are to be received in the office of the commission on or before December 1st previous to any season's work.

Petitions already, or in the future, received from the municipal officers and approved by the highway commission covering state aid highways and town ways shall be effective until the commission shall have received and approved written recommendations from said municipal officers of proposed changes. Such changes, which shall include any additions, discontinuances or corrections, shall be made to the commission in writing on or before December 1st previous to any season's work. (R. S. c. 20, § 58. 1957, c. 336, § 4.)

**Effect of amendment.**— Prior to the 1957 amendment this section was also applicable to "3rd class highways". The 1957 amendment deleted such quoted words wherever they appeared in this sec-

tion and made other minor changes.

**Third class designations rescinded.**— P. L. 1955, c. 424, § 4, provides: "All third class designations are hereby rescinded."

**Sec. 80. Towns to keep such routes clear of snow; sanding.**—Towns through which extends such a system of winter routes approved and accepted by the commission in accordance with the provisions of section 79 shall, through and by their board of municipal officers, keep said state aid highways and town ways cleared of snow during the winter season or such part of the year as the highway commission may direct, so that they may be reasonably usable by motor vehicles, sleighs and sleds. Snow on such state aid highways and town ways shall be removed to the outside edges of the shoulders of the road, and in a manner satisfactory to the highway commission whose judgment shall be final. The towns shall sand the state aid highways and town ways to the satisfaction of the highway commission, and in case the towns fail to sand the highways to the satisfaction of the highway commission, the said commission shall be authorized to make arrangements for the proper sanding and the cost of such sanding done by the highway commission shall be paid by the towns and the state shall reimburse the towns on the same basis as other snow removal and sanding accounts. (R. S. c. 20, § 59. 1945, c. 332, § 1. 1957, c. 336, § 5.)

**Effect of amendment.**— Prior to the 1957 amendment this section was also applicable to "3rd class highways". The 1957 amendment deleted such quoted words wherever they appeared in this section and made other minor changes.

**Sec. 82. Towns to be reimbursed; snow fences; appeal.**—Towns, organized plantations and unincorporated townships, having a valuation of more than \$400,000 which clear state aid highways and town ways to the satisfaction of the commission and when necessary apply sand, gravel or other materials to a width of not less than 7 feet through the center of the road within a reasonable length

of time after surface of the road becomes slippery, shall be reimbursed for the cost thereof to the extent of \$65 per mile on the highways or town ways designated as provided in section 79.

Towns, organized plantations and unincorporated townships having a valuation of \$400,000 or less, which clear said highways and town ways to the satisfaction of said commission, and when necessary apply sand, gravel or other materials to a width of not less than 7 feet through the center of the road within a reasonable length of time after surface of the road becomes slippery, on the highways and town ways designated as provided in section 79 shall bear 50% of the cost thereof not to exceed \$35 per mile and reimbursement shall be made to said towns, plantations and townships accordingly.

The state or the town shall not be liable for accidents while the road surface is covered with snow or ice.

All payrolls for the season's snow removal work, on routes designated in section 79, are to be received at the office of the commission monthly, on or before the 15th day of each month, and a final payroll on or before May 1st, following the winter in which this work is done. The provisions of this paragraph shall not apply to towns, organized plantations and unincorporated townships having a valuation of more than \$400,000.

The commission, the county commissioners or the municipal officers of any city or town may provide snow guards or snow fences along any state highways, state aid highways or town ways for the prevention of snow from encumbering such highways or town ways.

Said officials likewise shall have authority also to erect such snow guards or fences upon private property adjacent to such highways or town ways; if they do not agree with the owner of such property with relation to the location of such guards or fences, the compensation to be paid such owner, or the time the same shall be maintained, then such officials, before erecting such snow guards or snow fences upon such private property, shall give written notice of their intentions to be posted for 7 days in 2 public places in the city or town in the vicinity of the location proposed for the erection of the same, describing such location and the time intended for the maintenance of such snow guards or fences, with such definiteness that such location may be understood readily.

Within 5 days after a hearing thereon, such officials shall make a written return of their proceedings and findings to the registry of deeds in the county in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained thereon permanently, or to the clerk of such city or town in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained during the winter season only for which they propose to erect same; in said return they shall state the amount of damages awarded such owner and the same shall be paid within 30 days after said return, by the state, city or town whose officials have authorized the construction or erection of such guards or fences.

In case the owner of such property is aggrieved with the award of damages so made, or with any part of such decrees, within 30 days after the filing of said return, he may take an appeal therefrom by filing in the superior court in the county where such guard or fence is located a complaint requesting a new award or assessment of damages, and the court, after ordering such notice as it sees fit, shall thereupon determine the amount of damages sustained by said owners. The court may make any other change in the decree deemed proper. An appeal to the superior court vacates the original award.

If said officials determine that such fences are to remain for the winter season only, and not permanently, then the same shall be erected not before the 15th day of November nor remain occupying such private property later than April 1st next following; particular regard shall be exercised in the location of said fences so that the owners of private property shall be incommoded as to view and



otherwise to as small a degree as possible. (R. S. c. 20, § 61. 1945, c. 332, § 2. 1953, c. 340, §§ 1, 2. 1955, c. 19. 1957, c. 336, §§ 6, 7. 1961, c. 317, § 31.)

**Effect of amendments.**—The 1955 amendment substituted in the first paragraph "more than \$400,000" for "\$200,000 or more," in the second paragraph "\$400,000 or less" for "less than \$200,000," and in the fourth paragraph "more than \$400,000" for "\$200,000 or more."

The 1957 amendment substituted "state aid highways" for "2nd and 3rd class

highways" in the first paragraph and deleted "3rd class highways" which formerly appeared in the enumeration of highways in the fifth paragraph.

The 1961 amendment substituted "30 days" for "20 days" and "complaint" for "petition" in the first sentence of the next to last paragraph of this section.

### Installations.

**Sec. 89. Installations in state or state aid highways forbidden.**—No person shall install, erect or construct, or cause to be installed, erected or constructed any such installations as buildings, gasoline pumps or other fixtures, excepting only the installations or other property devoted to the public use of any public utility or district and underground pipe lines, in, upon or near any state or state aid highway, located as follows:

**I.** Within the full width of the right of way of any state or state aid highway as laid out by the state, the county or the town; or

**II.** Within 33 feet of the center line of any such highway. This provision shall not apply to installations or other property in existence on August 6, 1949; or

**III.** Within 20 feet from the outside edge of any of the paved portion of any such highway having more than 2 travel lanes and having a total paved portion in excess of 24 feet in width. This provision shall not apply to installations or other property in existence on September 1, 1955. (1955, c. 346.)

**Effect of amendment.**—The 1955 amendment rewrote the first paragraph to appear as shown above. As the second paragraph was not changed, it is not set out.

### Warning Signs.

**Sec. 93. Penalties; jurisdiction.**—Whoever unlawfully removes, injures or tampers with any warning, caution or directional sign, described in sections 16, 90 and 91, shall be punished by a fine of not less than \$10, nor more than \$50. (R. S. c. 20, § 71. 1953, c. 308, § 22. 1963, c. 402, § 25.)

**Effect of amendment.**—The 1963 amendment deleted the former last sentence of the section. shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

**Application of 1963 act.**—Section 280 of c. 402, P. L. 1963, provides that the act

### Roadside Improvement.

**Sec. 97. Construction and maintenance of picnic areas, etc.**—The commission is authorized to construct along state and state aid highways roadside picnic areas, roadside springs, scenic turnouts or other landscaping where in the opinion of the state highway commission it may seem advisable and place distinguishing signs upon the same; and the commission is further authorized to use for the maintenance of the same such funds as are now available for maintenance of state and state aid highways. (1951, c. 327, § 1. 1953, c. 153. 1955, c. 27.)

**Effect of amendment.**—The 1955 amendment deleted the former second sentence, which limited the cost of constructing the projects provided for in this section.

### Bridge Construction: State Aid and Third Class Roads.

**Bridges on third class ways.**—P. L. 1955, c. 424, § 5, provides: "Any bridges on the third class ways, which have not been reconstructed under the "Bridge Act," so called, and are not now maintained by the state, may be reconstructed under the provisions of sections 108 to 116, inclusive,

and sections 120 to 122, inclusive, of chapter 23 of the revised statutes."

**Third class designations rescinded.** — Section 4, c. 424, P. L. 1959, provides: "All third class designations are hereby rescinded."

#### **Sec. 108. Cost of construction and rebuilding of certain bridges in towns.**

When the commission shall deem that any bridge on any main thoroughfare must be built or rebuilt, it may notify the municipal officers of the town or city, or the county commissioners having jurisdiction of the roads in any unorganized township in which said bridge is located or may be built, and the county commissioners of the county in which said bridge is located or may be built or rebuilt, to meet with it for the purpose of forming a joint board possessing the same powers and prerogatives as a joint board formed in response to a petition emanating from the municipal officers of a town or city. The commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans and estimates of cost. On each question arising in all meetings of joint boards, each component body shall have 1 vote and its vote shall be recorded in the records of the meetings. (R. S. c. 20, § 84. 1961, c. 395, § 15.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, substituted "main thoroughfare" for "state aid or 3rd class highways" in the

first sentence of the last paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 109. Apportionment of cost.**—The cost of construction of a bridge built or rebuilt under the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall be divided as follows: when the cost of said construction makes a tax rate of  $2\frac{1}{2}$  mills or less on the valuation of the town last made by the state tax assessor, 45% by the town, 30% by the county in which said town is located and 25% by the state; when the tax rate determined as above is 5 mills, the cost shall be borne as follows: 40% by the town, 30% by the county and 30% by the state; when the tax rate determined as above is  $7\frac{1}{2}$  mills, the cost shall be borne as follows: 35% by the town, 30% by the county and 35% by the state; when the tax rate determined as above is 10 mills, the cost shall be borne as follows: 30% by the town, 30% by the county and 40% by the state; when the tax rate determined as above is 15 mills, the cost shall be borne as follows: 25% by the town, 30% by the county and 45% by the state; when the tax rate determined as above is 20 mills, the cost shall be borne as follows: 20% by the town, 30% by the county and 50% by the state; when the tax rate determined as above is 30 mills, the cost shall be borne as follows: 15% by the town, 30% by the county and 55% by the state; when the tax rate determined as above is 40 mills, the cost shall be borne as follows: 12% by the town, 30% by the county and 58% by the state; when the tax rate determined as above is 50 mills the cost shall be borne as follows: 10% by the town, 30% by the county and 60% by the state. For intermediate tax rates the percentage of cost to be borne by the town and State shall be proportional, computed to the nearest tenth of 1%. When the tax rate determined as above is over 50 mills, the town shall pay a fixed sum, equivalent to  $\frac{1}{2}$  of 1% of its state valuation, the county 30% of the cost of construction and the State the balance. The cost of reconstruction of a bridge owned and maintained wholly by the county, but located in a town or organized plantation, shall be borne as follows: 50% by the county and 50% by the state.

The portions of the cost payable by the counties and towns shall be due as follows: 50% upon the award of the contract; 25% 60 days after the award and the remainder, including the proportional part of any additional cost over the estimate, on the completion of the work.

In the event of two or more bridges being built or rebuilt simultaneously or practically so, in the same town, the basis for computing the tax rate applicable and used in determining the apportionment of cost to be borne by the state and the town shall be the total cost of each bridge as a separate unit, and the apportionments shall be determined and assessed separately for each bridge. The cost of construction shall include the complete cost of the bridge proper and such embankments, surfacing and other work as is necessary to provide proper, adequate and safe approaches to the bridge; the maintenance of traffic by temporary detours and structures whenever existing highways cannot satisfactorily be used for such service; and such charges for engineering, advertising and inspection as may be incurred in the preliminary and actual construction phases of the work.

Unless otherwise expressed or implied, wherever the word "town" occurs in sections 108 to 115, inclusive, section 118 and sections 120 to 122, inclusive, it shall mean to include towns, cities, organized plantations and unorganized townships.

The words "main thoroughfare" as used in sections 108 to 115, section 118 and sections 120 to 122 shall mean only such state aid highways as have been so designated, determined and accepted by the commission to receive aid from the state as provided by law. Any bridges on ways that were designated as 3rd class highways at the time that the 3rd class highway designations were rescinded, which bridges have not been reconstructed under sections 108 to 115, section 118 and sections 120 to 122, and which are not maintained by the state, shall be considered as being located on a "main thoroughfare", and the word "bridge" shall mean only such a structure as shall require a span of 10 or more feet between the faces of the abutments thereof. (R. S. c. 20, § 85. 1955, c. 20, § 3. 1957, c. 12, § 1. 1961, c. 395, § 16.)

**Effect of amendments.** — The 1955 amendment, which became effective on its approval, February 28, 1955, changed the first paragraph by halving the tax rate in each instance. In the next to last sentence of the first paragraph it changed "1%" to "½ of 1%."

The 1957 amendment inserted the second paragraph appearing above as the

second paragraph of this section.

The 1961 amendment, effective on its approval, June 17, 1961, divided the last paragraph into two sentences, eliminated "and 3rd class highways" following "state aid highways" in the present first sentence thereof and added all of the present second sentence which precedes the words "and the word".

**Sec. 110. Plans and specifications, award of contracts, requisition of amounts due from town and county; advertising; bidding; bonds; money how raised.**—The commission shall prepare all engineering plans and specifications for materials, construction and workmanship which it considers necessary for the complete construction of the bridge structure, approaches and for maintenance of traffic and, as soon as practicable after being advised that the municipal officers are authorized to raise the town's share of the estimated cost of such construction, shall requisition the county and city or town for their respective portions of the estimated cost of construction as provided in section 109. and except as otherwise provided in this section, advertise for bids for the construction of the bridge in 2 or more public newspapers printed wholly or in part in the state, also in 1 public newspaper printed wholly or in part in the county in which the proposed work is to be done, if any such newspaper is so printed in such county; such advertisement shall state the place where the bidders may examine or obtain the plans and specifications, and the time and place where the bids for such work will be received by the commission. Each bidder must accompany his bid with a cashier's check or a certified check or a United States postal money order, payable to the treasurer of state, for an amount which the commission con-

siders sufficient to guarantee that if the work is awarded to him he will contract with the commission for its due execution; such checks or money orders shall be returned to the respective unsuccessful bidders. The check or money order of the successful bidder shall be returned to him upon the execution and delivery to the commission of his contract and his bond with sufficient sureties, in terms satisfactory to the commission for the due execution of such work. All bids so submitted shall be publicly opened, read and posted at the time and place stated in such advertisement. The commission shall have the right to reject any and all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for bridge construction within its limits and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The commission may provide for the construction of the bridge on a day labor basis, or with approval of the governor and council, by contract without advertising for bids. The commission shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts. These bonds shall protect fully the state, county and town from all liability arising from damage or injury to persons or property as a result of the contractor's operations. The county commissioners of any county where a bridge is built or rebuilt in any unorganized township are authorized and required to assess upon said township such sums as may be required to build or rebuild said bridge according to the last state valuation. This expense shall be added to their assessment on said township for repairs authorized by section 65 of chapter 89, which assessment shall create a lien upon said township for the amount thereof as effectually as is now provided in relation to repairs on county roads. The portion of such expense to be assessed in any one year shall be determined by the county commissioners, but in no case shall the total expense be distributed over a period of more than 5 years. That portion of said assessment which is for building or rebuilding said bridge as aforesaid shall be set down in the assessment in distinct items in a separate column and shall be enforced as is provided in section 66 of chapter 89. (1955, c. 405, § 29.)

**Effect of amendment.**—The 1955 amendment changed the second and third sentences of the first paragraph so as to allow a bidder to give a cashier's check or postal money order as guarantee, the sec-

tion having formerly allowed a certified check only. As the second paragraph was not changed by the amendment, it is not set out.

**Sec. 111. Construction supervised; statement of costs rendered; salvaged material; failure of county or town to pay proportional cost.**

In case any county or town neglects or refuses to pay into the state treasury its proportional part of the estimated cost of construction which may be due and payable under the provisions of the said sections or its proportional part of the excess cost of construction above the estimated cost, then the treasurer of state shall, out of any funds in the state treasury due said county or town, pay such proportional part and deduct the amount so paid from any sum in the state treasury due said county or town. In case such funds due or to become due any town or county from the state treasury in any 1 year do not equal or exceed the town's or county's share of either the estimated cost or the actual cost of a bridge, the construction of which is provided for under the terms of the said sections, then a civil action in the name of the treasurer of state may be maintained against such delinquent county or town to recover any sum so due the state, but these remedies shall be in addition to, and not exclusive of, other remedies afforded by law for the proper enforcement of said sections. (R. S. c. 20, § 87. 1957, c. 12, § 2. 1961, c. 317, § 32.)

**Effect of amendments.** — The 1957 amendment omitted the word "unreasonably" which appeared preceding the word

"neglects" in the first sentence of the last paragraph.

The 1961 amendment substituted "a civil

action" for "an action of debt" in the last sentence of this section and deleted "the provisions of" formerly preceding "said sections" at the end of such sentence.

As only the last paragraph was changed by the amendments, the rest of the section is not set out.

### Bridge Maintenance: State Aid and Third Class Roads.

**Third class designations rescinded.** — third class designations are hereby rescinded. — Section 4, c. 424, P. L. 1959, provides: "All

**Sec. 118. Maintenance of bridges built or rebuilt.**—All costs of maintenance of bridges built or rebuilt under sections 108 to 116 and sections 120 to 122 shall be borne entirely by the state. This section shall apply to the maintenance of the bridge between Machiasport and East Machias, all the 22 bridges built under the "Works Program Flood Relief Program," and the following covered bridges: Lovejoy Bridge, Andover; Robyville Bridge, Corinth; Hemlock Bridge, Fryeburg; Bennett Bridge, Lincoln Plantation; Watson's Bridge, Littleton; Artist's Bridge, Newry; Lowe's Bridge, Sangerville-Guilford and Babb's Bridge, Windham-Gorham.

If replacement of any of these covered bridges is necessary, sections 108 to 115, this section and sections 120 to 122 shall apply. (R. S. c. 20, § 94. 1947, c. 365. 1955, c. 313. 1959, c. 257. 1961, c. 7; c. 416, § 1.)

**Effect of amendments.**—The 1955 amendment included in the second sentence of the first paragraph the 22 bridges built under the "Works Program Flood Relief Program."

The 1959 amendment rewrote this section, adding the provisions at the end of the first paragraph relative to particular covered bridges. It also added the second paragraph.

P. L. 1961, c. 7, added "Morse's Bridge, Bangor" in the first paragraph, which was

deleted by the later 1961 amendment, and substituted "this section" for "section 118" in the second paragraph. P. L. 1961, c. 416, effective December 2, 1961, deleted "also" before "apply to" and deleted "Morse's Bridge, Bangor;" in the first sentence.

**Editor's note.**—P. L. 1961, c. 416, effective December 2, 1961, which amended this section, in § 2 provided for the dismantling of Morse's Bridge in Bangor and in section 3 provided for the re-assembling of Morse's Bridge in Bangor.

### Wire Lines and Pipe Lines to International and Interstate Bridges.

**Sec. 123. Affixing of wire lines, cable lines and pipe lines to international and interstate bridges.**—The commission shall have the power, upon such terms and conditions as 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 this state and which is under the supervision of the commission, such pole and wire lines, cable lines or pipe lines, as it shall determine will not interfere with public safety or with the convenient use of such bridge by the public. (R. S. c. 20, § 99. 1957, c. 397, § 21.)

**Effect of amendment.** — The 1957 amendment deleted the former last sentence of the section.

### Covered Bridges.

**Sec. 126-A. Covered bridges.**—Upon application by the municipal officers of a municipality responsible for maintenance of a covered wooden bridge on a public highway, the state highway commission is authorized to perform such maintenance and rehabilitation work as it considers necessary and practicable for preservation of the structure. (1957, c. 277, § 1.)

**Editor's note.**—Section 2 of the act inserting this section provided as follows: "There is hereby appropriated from the general highway fund the sum of \$25,000

for the fiscal year ending June 30, 1958 and \$25,000 for the fiscal year ending June 30, 1959 to carry out the purposes of this act."

### General Highway Fund.

**Sec. 131. General highway fund defined.** — To provide funds for the construction of state, state aid and town ways, for the maintenance of state and state aid highways, and interstate, intrastate and international bridges, and for other items of expenditure specified, there is established a fund to be known as the general highway fund. This fund shall include all fees received from the registration of motor vehicles and licensing of operators thereof, all fees accruing to the treasurer of state under the provisions of section 2 of chapter 15, the receipts from the tax on internal combustion engine fuels, and all sums received on account of the commission for permits to open highways, or from other sources, the disposition of which is not otherwise designated by law. After payment from said general highway fund of such sums for interest and retirement as are necessary to meet the provisions of bond issues for state highway and bridge construction, the remainder of said fund shall be segregated, apportioned and expended as provided by the legislature. (R. S. c. 20, § 105. 1949, c. 323, § 2. 1961, c. 395, § 17.)

**Effect of amendment.**—The 1961 amendment, effective on its approval, June 17, 1961, substituted "town ways" for "3rd class highways" and eliminated "hereinafter" preceding "specified" in the first sentence.

**Appropriation for town road improvement fund.**—P. L. 1955, c. 436, § 8, pro-

vides: "Beginning with the fiscal year ending June 30, 1956, there is hereby appropriated annually from the general highway fund the sum of \$500,000 to the town road improvement fund. This appropriation shall be in addition to any other appropriation for the town road improvement fund made by the 97th legislature."

### Miscellaneous Financial Provisions.

**Sec. 135. Towns having money to become available from state for road or bridge work may anticipate expenditure.**—Any town to which, under any legislative enactment or resolve, money will become available for road and bridge work at the beginning of the fiscal year, may, at any time preceding the commencement of the fiscal year for which such appropriation is made, anticipate the expenditure of any appropriation for repair or improvement of a highway or bridge, by arranging to finance such work from funds of the town, or otherwise, prior to the date when such appropriation will become available, with the advice and consent of the commission. Provided, however, that the commission may at any time, from appropriate funds, reimburse towns for expenditures previously made for the improvement of state aid roads under the supervision of the commission in the usual manner for the improvement of state aid highways, and that such reimbursements in any year shall not exceed the apportionments made to such towns for the improvement of state aid roads under existing statutes.

The towns are hereby authorized to make such anticipations as are approved by the commission for a period of not more than one year beyond the biennium for which state aid funds have been allocated. No new anticipation shall be allowed until former anticipations have been reimbursed in full. (R. S. c. 20, § 109. 1947, c. 255. 1955, c. 434.)

**Effect of amendment.**—The 1955 amendment added the second paragraph. It also changed the first paragraph by deleting from the proviso the words "provided such expenditures have been made with the

consent of the commission and under its supervision" and inserting in place thereof the words "under the supervision of the commission in the usual manner for the improvement of state aid highways."

### Outdoor Advertising.

**Sec. 138. Permits.**—No person, firm or corporation shall erect or maintain upon real property any outdoor advertising structure, device or display, including those now or hereafter existing, until a permit for the erection or mainte-

nance of such structure, device or display shall have been obtained from the commission. The provisions of this section shall not apply to outdoor advertising structures, devices or displays upon the property whereon the goods so advertised are manufactured or sold or the business or profession so advertised is carried on or practiced, or which advertise the real property upon which the same may be for sale or for rent, provided such structures, devices or displays shall not exceed 10 in number, and such structures, devices or displays shall be within 1,000 feet of the building wherein the goods advertised are manufactured or sold or the business or profession advertised is carried on or practiced, except that if such building is not adjacent to a public way designated by state or federal highway route numbers, said structures, devices or displays shall be within 300 feet from the junction of the nearest such highway and the traveled way, public or private, constituting the approach to said building, and such signs shall not exceed 2 in number or 200 square feet in total area. None of such signs shall be of an area greater than 100 square feet or shall endanger the safety of persons using the highways.

None of such structures, devices or displays exempted in this section shall be:

- I. Within the full width of the right-of-way of any state or state aid highway as laid out by the state, the county or the town; nor
- II. Within 33 feet of the center line of any such highway if the right-of-way as laid out is less than 33 feet from the center line of any such highway; nor
- III. Within 20 feet from the outside edge of any of the paved portion of any such highway having more than 2 travel lanes and having a total paved portion in excess of 24 feet in width.

Subsections II and III shall not apply to such structures, devices or displays permanently set and in existence September 1, 1957. (R. S. c. 20, § 112. 1951, c. 302, § 1. 1955, c. 38; c. 279, § 3. 1957, c. 267, § 1; c. 397, § 22.)

**Effect of amendments.**—Both of the 1955 amendments substituted “1,000” for “300” in the second sentence of this section. The second 1955 amendment also deleted the words “or a total area of 250 square feet,” formerly appearing after the word “number” in such sentence.

The first 1957 amendment added all of the section following the first paragraph. The second 1957 amendment, which did not refer to or give effect to the first amendment, re-enacted the first paragraph making minor changes as to form therein.

**Sec. 142. Limitation on granting of permits.** — No permit shall be granted for the erection, construction or maintenance of any outdoor advertising structure, device or display within a distance of 300 feet of the intersection or junction of a highway with another highway, or with a railway, at a point where it would obstruct or interfere with a view of a train or any vehicle on the intersecting or joining highway or railroad; or within 300 feet of any public park, reservation, public forest, public playground, school, church or cemetery and in public view therefrom; or within 50 feet from the nearer line of the traveled way of a public highway and in public view therefrom; or on any public highway, park or other public property; or which in the judgment of the commission is or would be injurious to property in the vicinity thereof, or would injuriously affect any public interest or endanger the safety of persons using any highway; or in a place wherein the erection, construction or maintenance thereof is or shall be prohibited by any municipal ordinance or regulation; or upon real property owned by or leased to a person other than the applicant, except with the consent of such owner or lessee; or whose area shall exceed 900 square feet; or which, in whole or in part, in its operation shall move or simulate motion, or has any animated or moving parts, or which contains, includes or is illuminated by any flashing intermittent or moving light or lights or which uses lighting in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way, or

is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle, or which is or shall be painted upon or annexed to any rock or tree or any other natural features within the prohibited area. No permit shall be granted or renewed for the further maintenance of any billboard, sign or other advertising device unless the front, back, braces, anchors and lattice work thereof are kept in proper condition. (R. S. c. 20, § 116. 1957, c. 267, § 2. 1959, c. 339, § 1.)

**Effect of amendments.** — Prior to the 1957 amendment the first prohibition of this section applied also to intersections with street railways and to interfering with streetcars on such intersecting street railways. The 1957 amendment also inserted the word "would" preceding the words "injuriously affect" in the first sentence.

The 1959 amendment added in the first sentence the provisions as to displays with animated or moving parts or illuminated or otherwise interfering with vehicle operation and also added "or any other natural features" following "tree" near the end of that sentence.

**Sec. 143. Powers.**—The commission is authorized to employ, subject to the provisions of the personnel law, clerical or other assistants required for the administration of the provisions of sections 137 to 148, inclusive; to make and enforce orders and regulations for the enforcement of said provisions; to prosecute and maintain in the name of the state actions for violations hereof and the recovery of penalties therefor; to revoke any license or permit hereunder for any violation hereof or of any such order or regulation hereunder, after hearing of the time and place of which and of the alleged violation or violations not less than 30 days' written notice shall have been given to the licensee or holder of the permit by registered mail addressed to such licensee or holder at the residence or place of business stated in the application; to prescribe and from time to time to make changes in the forms of applications for licenses and permits and of licenses and permits; to order and cause the removal of any outdoor advertising structure, device or display erected or maintained in violation hereof, or which in its judgment endangers the safety of persons using the highways, and for said purpose to enter upon private property. The commission may file in the superior court a complaint seeking a mandatory decree ordering the removal of any outdoor advertising structure, device or display erected or maintained in violation of any of the provisions of sections 137 to 148. The superior court shall have jurisdiction of any such proceeding. (R. S. c. 20, § 117. 1957, c. 267, § 3. 1961, c. 317, § 33.)

**Effect of amendments.** — The 1957 amendment added the last sentence.

The 1961 amendment substituted "superior court" for "court of equity" in the last

sentence of this section. It also substituted "file in the superior court a complaint seeking" for "petition the court of equity for" in the next to last sentence.

**Sec. 144. Removal of structure.**—When in its judgment the public safety requires it, the commission may order a hearing for the removal of any such outdoor advertising structure, device or display by causing a copy of the order for hearing to be mailed by registered mail to the holder of the permit therefor to the residence or place of business appearing in the application for such permit or to the person, firm or corporation owning or controlling such structure, device or display at least 30 days prior to the date of said hearing and if, after due hearing, the said commission shall order said structure, device or display removed and if said order shall not be complied with within 30 days thereafter, the commission may remove said structure, device or display and recover the expense thereof from the holder of the permit or person, firm or corporation owning or controlling said structure, device or display, and said commission may remove without hearing any structure, device or display for which no application has been filed and permit granted as required by sections 137 to 148, inclusive, and may recover the expense as aforesaid. The state police, and the



police officers of any municipality and the peace officers of any county or township shall, at the request of the commission, remove or cause to be removed any structure, device or display, the removal of which it shall have ordered under the provisions of sections 137 to 148, inclusive. (R. S. c. 20, § 118, 1957, c. 267, § 4.)

**Effect of amendment.** — The 1957 amendment deleted the word "such" of sections 137 to 148, inclusive" for "as which formerly appeared preceding the aforesaid" at the end of such sentence. word "structure" in the last sentence and

**Sec. 146. "Display" defined.**—The word "display" as used in sections 137 to 148, inclusive, and in other laws of the state relating to advertisements and signs shall mean erecting, maintaining, pasting, painting and posting any advertisement or sign out of doors or erecting or maintaining any billboard or other structure designed and intended for the display of advertising matter where the same may be seen by the public or allowing any such advertisement, billboard or other structures, erected or displayed either before or after July 6, 1935, to remain exposed, in whole or in part, to public view, and shall include the act itself and the causing of such act to be done. The obligation to pay license and permit fees required by law shall apply and be in force for such time as such advertisement or sign or any part thereof shall remain visible and as long as any board or structure or any part thereof erected or built for the purpose of displaying advertising matter thereon shall remain exposed to public view. Warning or directional signs upon or near highways erected by the state or political subdivisions thereof or other signs erected or intended exclusively for the safety of persons using such highways, or temporary signs or posters for political or agricultural fair purposes, shall not be deemed to be outdoor advertising structures, devices or displays within the meaning of sections 137 to 147 and section 148, but they shall not be painted upon or annexed to any rock or tree and are subject to regulation and supervision by the commission to prevent or remove whatever will injuriously affect any public interest or endanger the safety of persons using any highway. Signs or posters located on railroad property and intended for display to the public using such railroad, and signs erected, maintained or displayed under any statute, and directional signs erected by authority of the commission upon designs determined by it and not exceeding 48 inches in length and 9 inches in width, except in cases where the commission shall decide that a larger directional sign is necessary for control of traffic, designating places of interest within 20 miles of the location of said sign shall not be deemed outdoor advertising structures, devices or displays within the meaning of sections 137 to 148, inclusive. (R. S. c. 20, § 120, 1955, c. 279, § 1, 1961, c. 332, § 1.)

**Effect of amendments.**—The 1955 amendment deleted the words "welfare or convenience" formerly appearing after the word "safety" near the beginning of the third sentence. The 1961 amendment, effective on its approval, May 26, 1961, substituted "sections 137 to 147 and section 148" for "sections 137 to 148, inclusive" in the third sentence and deleted "the provisions of" preceding "any statute" in the fourth sentence.

The 1961 amendment, effective on its ap-

**Sec. 147. Limitation.**—Except for outdoor advertising in areas adjacent to the interstate system, these regulations shall not apply to outdoor advertising in the compact or built up section of any town or city but such advertising is subject to regulation by town or city by-laws or ordinances. The application for a permit under section 138, when such outdoor advertising is to be located outside the compact or built-up section of any municipality, shall contain a certificate stating that the proposed structure, device or display is in conformity with existing municipal ordinances. Any person, firm or corporation who shall erect, maintain or display outdoor advertising in a city or town contrary to the zoning ordinances thereof shall be subject to the penalties of section 148 and the commission may require such structure, device or display to be removed. The compact or built up section of any town or city, for the purposes of this section, shall be the terri-

tory thereof contiguous to any way which is built up with buildings devoted to business or dwelling purposes which are situated less than 150 feet apart for a distance of at least  $\frac{1}{4}$  of a mile. (R. S. c. 20, § 121. 1951, c. 302, § 2. 1955, c. 279, § 2. 1959, c. 256. 1961, c. 332, § 2.)

**Effect of amendments.** — The 1955 amendment substituted the words "dwelling purposes which" for the words "where the dwelling houses" in the last sentence.

The 1959 amendment added the second and third sentences of this section.

The 1961 amendment, which became effective upon its approval, May 26, 1961, added "except for outdoor advertising in areas adjacent to the interstate system" at the beginning of the section.

**Sec. 147-A. Restrictions on interstate system.**—No person shall erect or maintain within 660 feet of the nearest right-of-way boundary line of any portion of the interstate system, including ramps and interchange areas, any advertising sign or advertising structures or devices of any kind. As used in this section "advertising signs or advertising structures or devices" shall mean any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, traffic on the main-travelled way, including ramps and interchange areas of the interstate system.

This section shall not apply to the following:

**I. Official signs.** Directional or other official signs or notices erected and maintained by the state highway commission for the purpose of directing the movement of or control of traffic or intended exclusively to provide for the safety of persons using such highways.

**II. On-premise signs.** Signs which advertise the sale or lease of property or activity being conducted upon the real property where the signs are located. Not more than one such sign advertising the sale or lease of the same property may be permitted which is visible to traffic proceeding in any one direction on any portion of the interstate system, including ramps and interchange areas. Not more than one such sign advertising activities being conducted upon the real property where the sign is located which is visible to traffic proceeding in any one direction on any portion of the interstate system, including ramps and interchange areas, may be permitted more than 50 feet from the building, structure or permanently emplaced fixture where the goods advertised are sold or the business or profession advertised is carried on. No sign shall exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim, but excluding supports, and no sign that displays any trade-name which refers to or identifies any service rendered or product sold, or otherwise handled, may be permitted unless the name of the advertised activity is displayed as conspicuously as such trade-name; except that this sentence shall not apply to signs located not more than 50 feet from the building, structure or permanently emplaced fixture where the goods advertised are sold, or the business or profession advertised is carried on.

No such sign shall be permitted which:

**A.** Attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

**B.** Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

**C.** Contains, includes or is illuminated by any flashing, intermittent or moving light or lights.

**D.** Uses lighting in connection therewith unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-travelled way of the interstate system, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

**E.** Moves or has any animated or moving parts.

**F.** Is erected or maintained upon trees or painted or drawn upon rocks or other natural features.

**III. Areas adjacent to interstate system.** Advertising signs or advertising structures or devices in areas adjacent to segments of the interstate system which traverse commercial or industrial areas legally designated as such by incorporated municipalities on or before September 21, 1959. Advertising signs or advertising structures or devices in urban areas as established by the state highway commission as of April 1, 1961, or subsequently established or enlarged, adjacent to segments of the interstate system which traverse commercial or industrial areas legally designated as such by incorporated municipalities after September 21, 1959. The commission shall regulate outdoor advertising in industrial and commercial areas as set forth in this subsection under sections 137 to 146 and section 148.

**IV. Outside incorporated municipalities.** Advertising signs or advertising structures or devices outside incorporated municipalities where the land use as of September 21, 1959, was legally established as commercial or industrial.

**V. Right-of-way acquired prior to 1956.** Any portion of the interstate system for which the right-of-way was initially acquired prior to July 1, 1956.

**VI. Limitation.** This section shall not affect any advertising sign or advertising structure which was in existence on or before May 26, 1961, on segments of the interstate system within the limits of an incorporated municipality. (1959, c. 339, § 2. 1961, c. 332, § 3. 1963, c. 98, §§ 1, 2.)

**Effect of amendments.** — The 1961 amendment, effective on its approval, May 26, 1961, deleted "prior to the effective date of laws enacted by the 100th legislature" at the beginning of this section, deleted "in the rural area" following "maintain" near the beginning of this section, added all of subsection II following the first paragraph thereof, rewrote subsection III, which formerly applied to signs in urban areas, redesignated former subsection IV as subsection V and added present subsections IV and VI.

The 1963 amendment added "established or" following "or subsequently" in the second sentence of subsection III, added "which was in existence on or before May 26, 1961," following "advertising structure" in subsection VI and deleted "which at the time of passage of this act or hereafter itself regulates or controls outdoor advertising by municipal ordinance" at the end of subsection VI.

**Sec. 147-B. Agreements.** — The state highway commission is authorized to enter into agreements with the secretary of commerce of the United States to control outdoor advertising in accordance with national standards and sections 143, 144, 147-A, 148 and 150. (1961, c. 332, § 4.)

**Effective date.** — The 1961 amendment adding this section became effective on its approval, May 26, 1961.

**Sec. 148. Penalty.**—Any person, firm or corporation who shall erect, maintain or display an advertisement, sign or billboard, or any structure designed for the display of advertising matter contrary to sections 137 to 147, section 147-A and section 148 shall be punished by a fine of not less than \$10 nor more than \$100. The display of each sign shall constitute a separate offense. Whoever, after conviction for a violation of any of the provisions of sections 137 to 147, section 147-A, and section 148, unlawfully maintains any such advertisement, sign or billboard or structure designed for the display of advertising matter for 10 days after the conviction may be punished by a fine of not more than \$50 for each day upon which such advertisement, sign or billboard or structure designed for display of advertising matter is maintained. The fines and costs imposed and collected under this section shall be paid to the treasurer of state

and deposited in accordance with section 141. (R. S. c. 20, § 122. 1951, c. 43. 1957, c. 267, § 5. 1959, c. 339, § 3.)

**Effect of amendments.**—The 1957 amendment inserted the third sentence. tion so as to make it applicable to section 147-A.

The 1959 amendment rewrote this sec-

**Sec. 149. Restrictions on signs and billboards adjacent to turnpikes.**—In order to better safeguard the interests and investments of the state and its people in the state turnpike system, to afford a greater measure of protection to the users of the turnpike by elimination of dangerous hazards, to best maintain the turnpikes for the welfare of society and to prevent the unrestricted use of signs and advertising structures and devices immediately adjacent to them, no person shall erect or maintain within 500 feet of the nearest right-of-way boundary line of any state turnpike any advertising sign or advertising structures or devices of any kind intended for display to the traffic thereon. As used in this section "advertising sign or advertising structure or device" shall be deemed to mean any advertising structure, sign, picture, word or device for the advertisement thereon or thereby of any commodity, service or thing. The provisions of this section shall not apply to outdoor advertising structures, devices or displays upon the property whereon the goods so advertised are manufactured or sold, or the business or profession so advertised is carried on or practiced, or which advertise the real property upon which the same may be for sale or for rent, provided that such structures shall not exceed 10 in number or a total area of 250 square feet, and provided that such structures, devices or displays shall be within 300 feet of the building wherein the goods advertised are manufactured or sold, or the business or profession advertised is carried on or practiced. Any person violating the provisions of this section shall be guilty of a misdemeanor. (1947, c. 279. 1955, c. 230.)

**Effect of amendment.**—The 1955 amendment added the words "intended for display to the traffic thereon" at the end of the first sentence.

**Sec. 149-A. Area directional signs.**—In order to guide the users of the state turnpike system to the exit leading therefrom to the major recreational areas of the state, there shall be erected and maintained at strategic points on the rights-of-way beside the lanes of traffic approaching the said exits, separate descriptive and directional signs of such design that each sign will be conspicuous and readable when traveling at the maximum lawful speed. The state highway commission shall erect and maintain said signs on the state constructed and maintained interstate system and the Maine turnpike authority shall erect and maintain said signs on the highways constructed by said authority; and said state and authority shall cause the wording of said signs to be sufficiently descriptive of the area to identify it clearly to the traveling public. Nothing in this section shall require the state highway commission to erect signs which are not in accordance with the manual for signing and pavement marking of the national system of interstate and defense highways, this manual having been adopted by the American association of state highway officials and approved by the U. S. department of commerce, bureau of public roads.

The major recreational areas of the state are:

**I. Kittery to Portland beaches;**

**I-A. Portland and Casco bay region:** Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from exit 7 and shall be worded as follows:

Portland and Casco Bay Region—Exit 7;

**I-B. Sanford region:** Such sign shall be constructed and maintained on the Maine turnpike about  $\frac{1}{2}$  distance northerly between the Kittery and Sanford exits and shall be worded as follows:

Sanford — Recreational Lake Region — Exit 2;

**I-C.** Bethel area: Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from exit 7 and shall be worded as follows:

Bethel-Recreation Area—Exit 11;

**II.** Sebago lake—Raymond—Bridgton area;

**II-A.** Sebago lake, west shore: Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from exit 7 and shall be worded as follows:

Sebago Lake

West Shore

Exit 7;

**III.** Coastal route one (Falmouth exit);

**III-A.** Andover-Rumford area: Such sign shall be constructed and maintained on the Maine turnpike no more than 3 miles southerly from exit 12 and shall be worded as follows:

Andover-Rumford Recreation Area—Exit 12;

**IV.** Belgrade lakes region: Such sign shall be constructed and maintained on the Maine turnpike as close as possible to 6 miles southerly from the Belgrade interchange on interstate 95 and shall direct traffic to use the Belgrade interchange;

**IV-A.** Boothbay harbor region. Such sign shall be constructed and maintained on the Maine turnpike in the vicinity of York and shall be worded as follows:

Boothbay Harbor Region—Exit 9;

**V.** Mid-Coastal area (Route 3—Augusta to Belfast);

**V-A.** Acadia trail (Route 3—Belfast to Bar Harbor): Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from Augusta exit.

**VI.** Moosehead lake region;

**VII.** Katahdin Park area & Aroostook County;

**VIII.** Hancock & Washington County coastal areas, including Bar Harbor and Passamaquoddy;

**VIII-A.** Acadia National Park—Route 3—Exit 15;

**VIII-B. Washington county:** Such sign shall be constructed and maintained on the Maine turnpike no more than 10 miles southerly from the Augusta exit and shall be worded as follows:

Most Easterly Point in the U. S.—Washington County—Exit 15;

**IX.** Arnold Highway to Quebec, routes 201-201A;

**IX-A.** Rangeley—Recreation and Ski Areas—Exit 12;

**X.** Sugar Loaf Mountain: Such sign shall be constructed and maintained on the Maine turnpike no more than 2 miles southerly from exit 12;

**XI.** Bath area: Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from exit 9;

**XI-A.** Damariscotta-Pemaquid region: Such sign shall be constructed and maintained on the Maine turnpike no more than 7 miles southerly from exit 9 and shall be worded as follows:

Damariscotta-Pemaquid Region—Exit 9;

**XII.** Lewiston-Auburn: Such sign shall be constructed and maintained on the Maine turnpike no more than one mile southerly from exit 9;

**XIII.** Winthrop Lakes region (Exits 13): Such signs shall be constructed and maintained on the Maine turnpike at exits 13, known as Lewiston exits.

In the absence of a specific recreational area, the state highway commission on the state constructed and maintained interstate system and the Maine turnpike authority on the highways constructed by said authority may erect, situated near an exit, suitable signs at the exit designating motel, hotel and restaurant areas. (1957, c. 419; c. 427. 1959, c. 258. 1961, c. 251, §§ 1-4; c. 417, §§ 45, 46. 1963, cc. 126, 231, 269, 282; c. 347, §§ 1, 2.)

**Effect of amendments.** — The 1957 amendment, effective on January 30, 1958, added recreational area number IX.

The 1959 amendment increased the number of major recreational areas from 9 to 16 and generally rewrote the section.

P. L. 1961, c. 251, increased the number of major recreational areas from 16 to 19, added the last sentence of the first paragraph and also added subsections I-B,

VIII-A and IX-A. P. L. 1961, c. 417, § 45, deleted "nineteen" before "major recreational areas" in the first sentence and in the first clause of the second paragraph.

P. L. 1963, c. 126, added subsection IV.

P. L. 1963, c. 231, added subsection IV-A.

P. L. 1963, c. 269, added subsection XI-A.

P. L. 1963, c. 282, added subsection I-C.

P. L. 1963, c. 347, added subsections III-A and VIII-B.

### **Sec. 150. Advertising signs on highways prohibited; state police to remove signs.**

Provided that the provisions hereof shall not apply to the state or to any political subdivision thereof or to signs erected or maintained with the approval of the commission solely for the purpose of safeguarding, facilitating or protecting travel along the highway; and provided further, that the commission may authorize the placing of directional signs of such design as it shall determine, not exceeding 48 inches in length and 9 inches in width to designate places of interest; to be posted without expense to the state at the junction of roads. Any person, firm or corporation, while working on, under, over or immediately adjacent to any highway, may erect temporary warning or directional signs or signals for the purpose of safeguarding or protecting its workmen and facilitating and protecting travel along the highway by the traveling public.

Any person found guilty of violating the provisions of this section shall be punished by a fine of not less than \$5, nor more than \$500; and whoever after conviction of such violation unlawfully maintains any such sign, billboard, panel, placard, poster, notice or other advertising device for 10 days after such conviction may be punished by a further fine of not more than \$50 for each day upon which such sign, billboard, panel, placard, poster, notice or other advertising device is maintained. The state police shall remove all signs, billboards, panels, placards, posters, notices or other advertising devices existing within the limits of the highway in violation hereof. (1951, c. 302, § 3. 1961, c. 119, § 1. 1963, c. 402, § 26.)

**Effect of amendments.**—The 1961 amendment added the last sentence of the second paragraph.

The 1963 amendment deleted the former next-to-last sentence of the third paragraph.

As the first paragraph of this section was not affected by the amendments it is not set out.

**Application of 1963 act.** — See note to § 93.

### **Unauthorized Signs.**

**Sec. 151. Display of unauthorized signs, signals or markings.**—No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or so interferes with the effectiveness of any official traffic-control device or any railroad sign or signal as to endanger the public, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information or promoting highway safety and of a type that cannot be mistaken for official signs. Any person, firm, corporation or political subdivision of the state, while working on, under, over or immediately adjacent to any highway may erect temporary warning or directional signs or

signals for the purpose of safeguarding or protecting its workmen and facilitating and protecting travel along the highway by the traveling public.

(1961, c. 119, § 2.)

**Effect of amendment.**—The 1961 amendment added the last sentence of the first paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

## Chapter 24.

### Aviation.

#### Sec. 1. Title.

**Cross references.**—See c. 91-A, §§ 123-132, re excise tax on aircraft. See c. 91-A, § 128, re payment of excise tax as pre-

requisite to registration under this chapter.

**Sec. 4. Aeronautics commission; appointment; terms.**—The aeronautics commission, as heretofore established, shall consist of 5 persons who shall be residents of the state and who shall be appointed by the governor, with the advice and consent of the council, one to serve for one year, 2 to serve for 2 years and 2 to serve for 3 years. One member of the commission shall be a commercial airport operator, one member shall be regularly employed in the aviation trades and 3 members shall be in no way connected with the aviation industry. After the original appointments each member shall be appointed and serve for a term of 3 years and until his successor is duly appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term and shall serve until their successors are appointed and qualified. The commission shall organize annually by electing from its membership a chairman. Each member of the commission shall receive as compensation for each day actually spent on the work of the commission the sum of \$20 and his actual and necessary expenses incurred in the performance of duties pertaining to his office. (R. S. c. 21. 1949, c. 389. 1959, c. 120.)

**Effect of amendment.**—The 1959 amendment rewrote this section, changing the terms of office.

#### Sec. 5. Duties.

The commission shall supervise and control all state airports and shall make such rules and regulations concerning the use of the said airports and their facilities as they deem necessary for the efficient management thereof and the development of aviation. The commission, with the consent of the governor and council, may lease facilities at state-owned airports on such terms as they direct.

The commission shall have the care and supervision of such planes as may be owned by the state for the use of its departments and agencies and shall provide adequate hanger facilities and be responsible for the maintenance, repair, upkeep and operation of such planes, and for that purpose the governor and council may authorize the advance of working capital from the unappropriated surplus of the general fund. The commission is authorized to charge said departments and agencies requisitioning planes amounts sufficient to reimburse the commission for operating expense of said planes. Planes owned or operated by the department of inland fisheries and game, the department of sea and shore fisheries or the forestry department are exempt and excluded from this paragraph. (R. S. c. 21. 1949, c. 389. 1957, c. 229. 1961, c. 347.)

**Effect of amendments.** — The 1957 amendment added the last sentence of the second paragraph.

The 1961 amendment, effective on its approval, June 8, 1961, added "the depart-

ment of sea and shore fisheries" in the last sentence of the last paragraph.

As the rest of the section was not changed by the amendments, only the second and last paragraphs are set out.