

CHAPTER 122.

STATE HIGHWAY COMMISSION.

S. F. 439.

AN ACT to create a state highway commission and to provide for the appointment, term of office, compensation, powers and duties of such commission, to provide for the removal of the members of said commission, to create a system of county and township road, bridge and culvert construction and maintenance, and to prescribe the procedure and manner of carrying on such improvements, and the rights, duties and power of county, township, and other officers and employees with reference thereto, to fix the rights of parties contracting with reference to such work, to repeal section two thousand six hundred seventy-four-f (2674-f) of the supplement to the code, 1907, relating to highway commission and to amend section three (3) of chapter twenty-four (24) of the acts of the thirty-fourth general assembly, relating to the county road building fund, and to repeal all acts and parts of acts in conflict with this act. [Additional to chapter two (2) of title eight (VIII) of the code relating to working roads.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Location—organization—removal—vacancy—attorney general. The office of the state highway commission is hereby located at the state college of agriculture and mechanic arts. Said commission shall be composed of three members, one of which shall be the dean of engineering of said college, and the other two (2) members of the commission shall be appointed by the governor immediately upon taking effect of this act, from different political parties for the period of two (2) and four (4) years, from July 1, 1913, and terms of office shall thereafter be four (4) years. Such commission when appointed shall fill the interim between the taking effect of this act and July 1, 1913. Each commissioner shall be subject to removal from office as provided by chapter seventy-seven (77), laws of the thirty-third general assembly. If for any reason, a vacancy occurs in the membership appointed by the governor, he shall fill such vacancy for the remainder of the unexpired term, from the same political party from which the vacancy occurred. The attorney general shall act as attorney for the commission, and shall advise them upon all legal questions arising with reference to the duties of said commission.

SEC. 2. Salary. Each of the commissioners appointed by the governor shall receive for his services the sum of ten (\$10.00) dollars per day for each day actually employed in the work of the commission. The total compensation to such commissioner shall not exceed one thousand (\$1000.00) dollars per annum.

SEC. 3. Duties. The duties of said commission shall be:

1st. **General plans.** To devise and adopt plans of highway construction and maintenance suited to the needs of the different counties of the state, and furnish standard plans to the counties in accordance therewith.

2d. **Information.** To disseminate information and instruction to county supervisors and other highway officers, answer inquiries and advise such supervisors and officers on questions pertaining to highway improvements, construction and maintenance and of reasonable prices for materials and construction.

3d. **Records.** To keep a record of all important operations of the highway commission and to annually report the same to the governor by the first day of December, which report shall be printed as a public document.

4th. **Assistants.** To appoint such assistants as are necessary to carry on the work of the commission, define the duties and fix the compensation of each, and terminate at will the terms of employment of all employes; provide for necessary bonds, and fix the amount of same.

5th. **Investigations.** To make investigation as to conditions in any county, and to report any violation of duty, either of commission or omission, to the attorney general, who shall take such steps as are deemed advisable by him to correct the same.

6th. **General supervision.** The state highway commission shall have general supervision of the various county and township officers named in this act in the performance of the duties here enjoined, and shall have full power and authority to enforce the provisions of this act.

7th. **Other duties.** To perform all other duties required by law.

SEC. 4. County engineer—bond—county road system. The board of supervisors of each county, within thirty days from the taking effect of this act, or as soon thereafter as practicable, shall employ a competent engineer or engineers, whose tenure of office may be terminated by the highway commission, who shall perform the duties as hereinafter provided, and who shall be employed for such length of time and at such compensation as may be fixed by the board of supervisors, and to be paid out of the county fund. Said engineer, or engineers, shall give bonds for the faithful performance of their duties in a sum not less than one thousand (\$1,000.00) dollars, nor more than five thousand (\$5,000.00) dollars. At the time of employing such engineer, or as soon thereafter as practicable, the board shall designate and select from the highways of the county not less than ten (10) per cent, nor more than fifteen (15) per cent of the total mileage, same to be the main traveled roads of the county, and which must connect the principal market places of the county, as well as connect with the county roads in adjoining counties. The system of road, bridge and culvert work herein provided shall apply only to highways outside of the limits of incorporated cities and towns. Such highways so designated for improvement under the supervision of the board of supervisors shall hereafter be known as the county road system.

SEC. 5. County map—notice of hearing—petition—map sent to commission. As soon as said county roads are so designated, the board of supervisors shall cause said county roads to be plainly marked on a map, to be furnished by the state highway commission. Said map, after being so marked, shall be deposited with the county auditor, and shall be open to public inspection. At once, upon filing said map, the county auditor shall fix a date of hearing thereon, which shall not be more than twenty (20) days distant from the date of filing same; and ten (10) days notice of the filing of said map with the county auditor and the date of hearing fixed, shall be published in one issue of each of the official county papers. At any time before said hearing is concluded, any ten (10) freeholders of the county may file a petition with the county auditor, asking for any change in said designated roads which may be deemed advisable, which petition shall set forth their reasons for the proposed change, and shall be accompanied by a plat correctly showing such proposed change. If no agreement is reached between the county board and the petitioners at the hearing above provided for, the county auditor shall

forward said map, together with all petitions and plats, if any, showing the proposed changes, to the state highway commission. If no objections are filed and no hearing had, or if agreements have been reached, the map shall nevertheless be forwarded to the state highway commission.

SEC. 6. Commission—preliminary map—final approval. The state highway commission shall, upon receipt of said maps, petitions and plats, proceed to examine the same, with a view of determining the correct lines to be followed by the county highway, having regard for volume of traffic, continuity and cost of construction. Such portions of said map as meet with the approval of said commission, may be approved and returned as a preliminary map for immediate use and the original map, when completed in accordance with the decisions of said commission (which decisions shall be final) shall be returned to the county auditor not later than March first 1914, and a copy of same retained in the office of the highway commission.

SEC. 7. Commission may select county roads—cost of designation charged to county. Should any county fail to make the designation of county roads, as herein provided, and fail to forward the same to the state highway commission within the time herein provided, said commission shall have the power to make a proper designation of said county roads for said county, and the designation so made shall be final and of the same force and effect as if made by the board of supervisors, and when so made by the commission, said commission shall certify to the county auditor of said county the actual cost of making said designation, and said county auditor shall thereupon issue warrant on the county road funds therefor.

SEC. 8. Survey and report—length of culverts—bench marks—existing permanent bridges—final survey and report—government corners—penalty. As soon as any part of said approved map is returned to the county auditor, showing the final designation of county roads, the engineer shall, in writing, divide said roads into sections, designating each section by some appropriate number, name or letter and clearly designating the starting point and terminus of each such sections, and such designation shall be recorded at length in a county road book, whereupon the engineer shall proceed to survey said roads and report to the board of supervisors the plan for the road, bridge, tile and culvert work thereon. Such survey and report shall be on the basis and with the object in view of the permanent improvement of said county roads, both as to bridge, culvert, tile and road work. Said survey and report shall consist of an accurate plan and profile of said roads, showing cuts and fills and outline of grades, with careful attention to surface, and lateral drainage and sub-drainage, and shall show the location of all lines of tile and size thereof and of all bridges and culverts, their length, height and width, and foundation soundings, and an estimate of the watershed relating to each bridge and culvert. Culverts constructed under the provisions of this act shall have a clear roadway of not less than twenty (20 ft.) feet. Proper bench marks shall be established on each permanent bridge and culvert, which shall be duly recorded on both profile and plan of road, for future reference. The engineer shall clearly designate and credit on said plan and profile all existing permanent bridges, culverts and grades. The board may cause all sections to be fully surveyed and a report made thereon before proceeding with the improvement contemplated by this act, or, in order to enable the board to proceed with the most necessary and urgent work, said board may designate the order in which the different sections shall be surveyed and planned, and may order the engineer to survey and report on certain named sections before completing the survey and report on all sections.

Whenever it may become necessary in grading the highways to make a cut which will disturb or destroy, or a fill which will cover up a government or other established corner, it shall be the duty of the engineer to establish permanent witness corners, and make a record of the same, which shall show the distance and direction the witness corner is from the corner disturbed or covered up.

A failure to perform this duty shall subject the engineer to a fine of not less than ten (\$10.00) dollars, nor more than fifty (\$50.00) dollars, to be collected on his bond.

SEC. 9. Approval—board of supervisors—highway commission—work done according to plan—culverts classified—county fund—township fund. The survey and report of each section, as soon as completed and approved by the board of supervisors, shall be submitted to the state highway commission, and the board of supervisors may designate to the said commission which sections, in their estimation, should be first passed upon by said state highway commission. The said commission is hereby charged with the duty of passing upon such reports and plans, and, in so doing, shall take into consideration the thoroughness, feasibility and practicability of such plans, and may approve or modify the same. After said survey and plan for each section is passed upon by the state highway commission, they shall be returned to the county auditor with full and explicit directions as to modifications, if there be any. The county auditor shall, upon receipt of the approved and modified survey and plans, record the same at length in a county road book, and the board of supervisors shall thereupon proceed to the construction of the road, bridge, tile and culvert work in accordance therewith, and as herein provided. The duty to construct and maintain all bridges and culverts throughout the county is imposed on the board of supervisors. All culverts having a span of four (4 ft.) feet, or less, may be classified as road work, and may be paid for out of the county road funds.

All culverts over four (4 ft.) feet, and all bridges, shall be paid for out of the county bridge fund.

All other moneys received by the board of supervisors for road purposes, shall be paid out only on the order of the said board, for the purchase of tools, machinery and equipment, or for work done upon the county road system, or for tile and tiling or for culverts classified as road work, as herein provided. All moneys received by the township trustees for road purposes shall be expended for, and upon the township road system.

SEC. 10. Enlarging of county road system. Whenever all the roads of the county road system have been improved according to the plans as herein provided, the board of supervisors shall add such roads from the township road system as have been improved by the township in accordance with the general plans and specifications furnished by the engineer and in accordance with the requirements of this act, and if the township roads so improved be not sufficient to use all county funds available for that purpose, the board of supervisors may select additional county roads, following the same proceedings in all regards as herein provided for the original selection and improvement of county roads, but no increase shall be made in the mileage of the county road system until that system is completed.

SEC. 11. Itemized bills—engineer's certificate—partial payment on contracts—repair work—violation. All bills for road work, tile and tiling culvert and bridge construction or for repairs designated by the engineer, shall be filed in itemized form and certified to by the engineer before being allowed by the

board and before warrants in payment therefor are drawn by the county auditor. Before any warrant shall be issued by the county auditor upon the funds of the county road system in payment for any work or construction of highways, except for dragging, maintenance or repairs not designated by the engineer, he must secure on this bill the certificate of the engineer employed by the board of supervisors, that such improvement has been made in accordance with the plans and specifications as herein provided, and when so endorsed, warrants may be drawn for the amount so certified by the county engineer: but if said engineer make said certificate when said work was not done in accordance with the plans and specifications, and same be not properly made good without additional cost, then the full cost of making same good may be recovered upon said engineer's bond, and his bond shall be liable therefor.

Partial payments may be allowed by the board on contract work on the basis of the engineer's certified estimates and the percentages specified in the standard specifications of the state highway commission.

Repair work shall be known as work not designated by the highway engineer and work of a temporary character or of immediate necessity and work necessary to maintain finished roads completed under this act.

A violation of this section shall render the county auditor liable on his bond for the amount of said warrant.

SEC. 12. Standard specifications—manner of letting contract—bids—contract exceeding \$2000. approved by commission—plans and specifications—permanent records—pay roll for day labor. Standard specifications for all bridges and culverts shall be furnished without cost to the counties by the state highway commission, and the work shall be done in accordance therewith, and when said work is completed and approved a duplicate statement of the cost thereof shall be filed at once with the state highway commission by the county auditor. All culverts and bridge construction, tile and tiling and repair work or materials therefor, of which the engineer's estimated cost shall be one thousand (\$1,000.00) dollars, or less, may be advertised and let at a public letting, or may be let privately at a cost not to exceed the engineer's estimate, or may be build by day labor. All culvert and bridge construction, tile and tiling and repair work, or materials therefor, of which the engineer's estimated cost shall exceed one thousand (\$1,000.00) dollars, shall be advertised and let at a public letting, provided, that the board shall have the power to reject all bids, in which event they may re-advertise, or let privately by submitting contract to the state highway commission for approval, or build by day labor, at a cost not to exceed the lowest bid received. All bids received shall be publicly opened at the time and place specified in the advertisement and shall be recorded in detail, in a book kept for that purpose, by the county auditor; said book shall, at all times, be open to the public for inspection. Any proposed contract which shall exceed the sum of two thousand (\$2,000.00) dollars for any one bridge or culvert, or repairs thereon, shall be first approved by the state highway commission before the same shall be effective as a contract.

Before beginning the construction of any bridge or culvert by day labor or by contract, the plans, specifications, estimate of drainage area, estimates of cost and their specific location shall be filed in the county auditor's office by the engineer. On completion, a detailed statement of cost, and of any additions or alterations to the plans shall be added to the above records by the engineer, all of which shall be retained in the county auditor's office as

permanent records, and when said work is completed and approved a duplicate statement of the cost thereof shall be filed at once with the state highway commission by the county auditor.

The board of supervisors may authorize the county auditor to draw warrants for the amount of pay rolls for labor furnished under the day labor system, when said pay rolls are certified to by the engineer in charge of the work. Said bills shall be passed upon by the board at the first meeting following said payment.

SEC. 13. Resolution of necessity—notice to trustees—hearing—decision—no appeal—new resolution. It is hereby made the duty of the board of supervisors, whenever they shall determine to construct a permanent bridge or culvert, the engineer's estimated cost of which exceeds the sum of three hundred (300) dollars, to adopt a resolution of necessity, which shall set forth the determination of said board to construct said bridge or culvert and shall contain the following matters, to wit:

1. The location of such bridge or culvert, which location shall be so plainly pointed out that the same can easily be determined.
2. The material of which such bridge or culvert is to be constructed.
3. The approximate width of the roadway and depth of fill, if any, over the crown or floor of said bridge or culvert.
4. The approximate length of span or arch of said bridge or culvert.
5. The approximate area of the water shed to be drained through said bridge or culvert.
6. The estimated cost of said bridge.
7. The time and place when said board will hear protests, if any, against the construction of said bridge or culvert, which time shall be at least ten (10) days after the date of the last publication of any of said papers, hereinafter specified.

Immediately upon the adoption of said resolution the county auditor shall mail a copy of said resolution to each of the township trustees of the township or townships in which said bridge or culvert is to be located. The county auditor shall also cause said resolution to be published in one issue of each of the official papers of the county.

At the time and place fixed for said hearing, the board shall hear all protests, if any, unless on account of some unforeseen contingency it is unable to do so, in which event a new time and place shall be fixed by the board or county auditor, of which time and place all parties shall take notice. Upon the termination of said hearing, the board shall adopt a resolution stating its final determination to construct said bridge or culvert or to abandon the construction of the same. The decision of the board shall be final and no appeal shall be allowed therefrom. The said resolution of necessity may embrace more than one bridge or culvert.

If the final order of the board is for the construction of said bridge or culvert and the same is not constructed within one (1) year from the date of such final determination, a new resolution of necessity shall be adopted and proceeding had as herein provided. The publication herein provided for shall be paid for at the rate specified in section 441 of the supplement to the code, 1907.

SEC. 14. Trustees to select druggable roads—road superintendent—township road system—one mill drag fund—annual report. At every February meeting, or as soon thereafter as possible, the township trustees of each township shall select from its township road system the roads to be

dragged for the year, to be known as draggable roads, and shall employ a superintendent of the township road system, who shall give bond for the faithful performance of his duties in such sum as the township trustees may direct. Said superintendent shall have the general supervision of all dragging and repair work on the township road system, whose term of office and compensation shall be at the discretion of the township trustees. He shall see that the approaches to all the bridges on the said roads are maintained in such manner as to present smooth and uniform surfaces; keep the openings to all culverts and ditches free from weeds, brush and other material that will in any manner prevent the free discharge of surface water. He shall have charge of all draggable roads of the township road system and make contracts for dragging, and shall see that all draggable roads of the township road system are properly dragged at such times as are necessary to maintain such roads in a smooth condition, at such price as is reasonable and necessary to secure such contracts. For this purpose there shall be expended, under the direction of the township trustees, through the road superintendent, upon the township road system not less than the one mill drag tax now authorized by law.

The township trustees shall not allow any bills for dragging, maintenance, or repair work, nor shall warrants in payment therefor be drawn by the township clerk upon funds of the township road system until itemized bills therefor shall have been certified to by the township road superintendent. A violation of this section shall render the township clerk liable on his bond for the amount of said warrant. The compensation of such superintendent for all duties, including any dragging actually performed by him, and the cost of all equipment for dragging, shall be paid for out of the township road funds. He shall at least once each year, or on demand, furnish the township trustees a report of all work done under and by him.

SEC. 15. Township work—plans and specifications. Before beginning any work upon the township road system, other than hereinbefore described as repair work, the trustees shall make application to the board of supervisors, who shall furnish them with an engineer, to be paid out of the county fund, who shall survey and lay off such roads according to the plans and specifications as hereinbefore provided for the county road system, and the work shall be done in accordance therewith.

SEC. 16. Repair and dragging county road system—officers not interested in contracts. The county board of supervisors and the engineer are charged with the duty of repairing and dragging the county road system as is required to keep same in proper condition, and shall adopt such methods as are necessary to maintain continuously, in the best condition practicable, the entire mileage of this system.

No member of the highway commission, their deputies, or assistants, or any other person in the employ of the commission, no county supervisor, township trustee, county engineer, road superintendent or any person in their employ or one holding an appointment under them, shall be either, directly or indirectly, interested in any contract for the construction or building of any bridge or bridges, culvert or culverts or any improvement of any road or parts of road coming under the provisions of this act.

SEC. 17. Township clerk—duties—county engineer reports—blanks. Not later than the first Monday in November, or at any time upon the demand of the township trustees, the township clerk shall report the work accomplished on the township road system in his township; and said township trustees shall, as nearly as practicable, recommend what is to be done upon the town-

ship road system for the succeeding year. A duplicate report of the work accomplished shall be filed by the clerk with the county auditor; and the county engineer, as nearly as practicable, shall credit the same on the township road system of the county road map. It shall also be the duty of the engineer to make a written report to the board of supervisors of the work accomplished upon the roads for the current year, which report shall show what roads of the county and township systems have been completed or partially completed, and credit to such roads shall be shown upon the county road plan not later than November 15th, and a copy of said report shall be immediately forwarded to the state highway commission upon standard printed forms.

All forms and blanks necessary to secure uniformity of records and reports in the systems herein provided, shall be furnished by the state highway commission.

SEC. 18. Removal of obstructions in highways—telephone and telegraph lines—expense. County and township boards, charged with the duty of improving public highways, shall have power to remove all obstructions in the highways under their jurisdiction, but fences and poles used for telephone, telegraph or other transmission purposes, shall not be removed until notice, in writing, of not less than ten days has been given to the owner, occupant, or agent of the land enclosed in part by such fence or to the owner or company operating such lines. The notice to any owner or operator of any such telephone, telegraph or transmission line may be served on any agent or officer of such line, and all such fences and poles shall, within the time designated, be removed to such line on the highway, and as designated by the engineer, and if not removed by the date fixed in such notice, same may be forthwith removed by the proper officials. Any new lines, or parts of lines hereinafter constructed, shall be located by the engineer, and shall be removable according to the provisions of this section.

The notice of removal may designate to which side of the highway the said poles shall be removed. Any removal made in compliance with this section shall be at the expense of the owners thereof, without liability on the part of any officer ordering or effecting the removal.

SEC. 19. Contractors' bonds—limitation of action. The board of supervisors shall require all contractors to give a bond for the faithful performance of the contract, in such sum as the board of supervisors may deem necessary. The surety on any bond given to guarantee the faithful performance and execution of any work shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

1. To any extension of time to the contractor in which to perform the contract when each particular extension does not exceed sixty days.

2. To any change in the plans, specifications or contract when such change does not involve an increase of more than twenty per cent of the total contract price, and shall then be released only as to such excess increase.

No contract shall be valid which seeks to limit the time to less than five (5) years in which an action may be brought upon the bond covering concrete work nor to less than one year upon the bond covering other work.

SEC. 20. Decision of supervisors and commission final. The procedure herein provided for the designation and selection of county roads by the board of supervisors and the approval or modification of such selection by the state highway commission, shall exclude all other procedure. And the decision of the board of supervisors and the state highway commission in the designation and selection of the county road system shall be final.

SEC. 21. Tax levy. That section three (3) of chapter twenty-four (24) of the acts of the thirty-fourth general assembly is hereby amended by striking from the fourth line of said section the words "not more than".

SEC. 22. Repeal. That section two thousand six hundred seventy-four-f (2674-f) of the supplement to the code, 1907, be and the same is hereby repealed.

SEC. 23. Acts in conflict repealed. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 24. In effect. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Register and Leader and the Des Moines Capital, newspapers published at Des Moines, Iowa.

Approved April 3 A. D. 1913.

I hereby certify that the foregoing act was published in the Register and Leader and the Des Moines Capital April 9, 1913.

W. S. ALLEN,
Secretary of State.

CHAPTER 123.

STATE HIGHWAY COMMISSION.

S. F. 536.

AN ACT to amend an act passed by the thirty-fifth general assembly and approved on the 3rd day of April, 1913, and entitled "A bill for an act to create a state highway commission and to provide for the appointment, term of office, compensation, powers and duties of such commission, to provide for the removal of the members of said commission, to create a system of county and township road, bridge and culvert construction and maintenance and to prescribe the procedure and manner of carrying on such improvements, and the rights, duties and power of county, township, and other officers and employees with reference thereto, to fix the rights of parties contracting with reference to such work, to repeal section twenty-six hundred seventy-four-f (2674-f), supplement to the code, 1907, relating to highway commission and to amend section three (3) of chapter twenty-four (24) of the acts of the thirty-fourth general assembly, relating to county road building fund and to repeal all acts and parts of acts in conflict with this act."

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. County road system—construction—application outside cities and towns. That section four (4) of the act entitled "A bill for an act to create a state highway commission and to provide for the appointment, term of office, compensation, powers and duties of such commission, to provide for the removal of the members of said commission, to create a system of county and township road, bridge and culvert construction and maintenance and to prescribe the procedure and manner of carrying on such improvements, and the rights, duties and power of county, township, and other officers and employees with reference to such work, to repeal section twenty-six hundred seventy-four-f (2674-f), supplement to the code, 1907, relating to highway commission and to amend section three (3) of chapter twenty-four (24) of the acts of the thirty-fourth general assembly, relating to county road building fund and to repeal all acts and parts of acts in conflict with this act, and passed by the thirty-fifth general assembly and approved on the third (3rd)