

CHAPTER 100

HIGHWAYS

S. F. 55

AN ACT to amend section 4611 (forty-six hundred eleven) of the code relating to the condemnation of land for highway purposes.

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

1 SECTION 1. Section 4611 (forty-six hundred eleven) of the code
2 is amended by inserting immediately after the word "cause" in line
3 2 (two) the words, "the following".

Approved February 5, A. D. 1927.

CHAPTER 101

HIGHWAYS

S. F. 104

AN ACT to amend, revise, and codify sections forty-six hundred twenty-two (4622), forty-six hundred twenty-three (4623), forty-six hundred eighty-seven (4687) to forty-seven hundred six (4706), inclusive, section forty-seven hundred eight (4708), section forty-seven hundred twelve (4712), section forty-seven hundred eighteen (4718), section forty-seven hundred nineteen (4719), sections forty-seven hundred twenty-seven (4727) to forty-seven hundred thirty-eight (4738), inclusive, section forty-seven hundred forty-one (4741), section forty-seven hundred forty-three (4743), section forty-seven hundred forty-four (4744), section forty-seven hundred fifty-five (4755), and section five thousand one (5001) of the code, 1924, and chapter one hundred fourteen (114) of the laws of the forty-first general assembly, and to amend section five thousand two (5002) of the code, 1924, relative to the primary road system and the primary road fund, to transfer the control of the primary roads to the state, to empower the state to construct and maintain the primary road system, to do away with special assessments for paving primary roads, to refund for such assessments heretofore levied, to do away with the area basis for allotting primary road funds among the counties, to provide for an increase in the membership of the state highway commission, to further prescribe their rights and duties, and limiting their powers with respect to creating an obligation against the state.

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

Sections forty-six hundred eighty-seven (4687) to forty-seven hundred six (4706), inclusive, section forty-seven hundred eight (4708), section forty-seven hundred twelve (4712), section forty-seven hundred eighteen (4718), section forty-seven hundred nineteen (4719), sections forty-seven hundred twenty-seven (4727) to forty-seven hundred thirty-eight (4738), inclusive, section forty-seven hundred forty-one (4741), section forty-seven hundred forty-three (4743), section forty-seven hundred forty-four (4744), section forty-seven hundred fifty-five (4755), and section five thousand one (5001) of the code, 1924, and chapter one hundred fourteen (114) of the laws of the forty-first general assembly, are hereby amended, revised, and codified to read as follows:

1 SECTION 1. **Federal aid.** The state highway commission is em-
2 powered on behalf of the state to enter into any arrangement or con-
3 tract with and required by the duly constituted federal authorities,
4 in order to secure the full co-operation of the government of the
5 United States, and the benefit of all present and future federal
6 allotments in aid of highway construction, reconstruction, improve-
7 ment or maintenance. The good faith of the state is hereby pledged
8 to cause to be made available each year, sufficient funds to equal the
9 total of any sums now or hereafter apportioned to the state for road
10 purposes by the United States government for such year, and to
11 maintain the roads constructed with said funds.

1 SEC. 2. **Primary road system.** The highways of the state are,
2 for the purposes of this act, divided into two systems, to-wit: the
3 primary road system and the secondary road system. The primary
4 road system shall embrace those main market roads (not including
5 roads within cities and towns) which connect all county seat towns
6 and cities and main market centers, and which have already been
7 designated as primary roads under chapter 241, code of 1924; pro-
8 vided, that the said designation of roads shall be, with the consent
9 of the federal authorities, subject to revision by the state highway
10 commission. Any portion of said primary system so eliminated by
11 any changes shall revert to and become a part of the system from
12 which originally taken. The state highway commission may, for the
13 purpose of affording access to cities, towns or state parks, or for the
14 purpose of shortening the direct line of travel on important routes
15 or to effect connections with inter-state roads at the state line, add
16 such road or roads to the primary road system, but no other increase
17 shall be made in the mileage of the primary roads until the present
18 primary road mileage has been completed as this act provides.

1 SEC. 3. **Primary road fund.** There is hereby created a fund which
2 shall be known as the primary road fund, which shall embrace all
3 federal aid road funds, all funds derived from year to year by the
4 state under acts regulatory of motor vehicles (except such portion
5 of such motor vehicle fees as may by law be set aside for the state
6 highway commission support fund, the motor vehicle department
7 support fund, the refund account, and the reimbursement of county
8 treasurers for collecting the motor fees) all gasoline tax funds de-
9 voted to the primary road system, and all other funds that may by
10 law be appropriated for the use of the primary road fund.

1 SEC. 4. **Uses of primary road fund.** Said primary road fund is
2 hereby appropriated for and shall be used in the establishment, con-
3 struction and maintenance of the primary road system, including the
4 drainage, grading, surfacing, construction of bridges and culverts,
5 the elimination or improvement of railroad crossings, the acquiring
6 of additional right of way, the payment of interest and redemption
7 of any bonds issued in anticipation of said primary road fund, and
8 all other expense incurred in the construction and maintenance of
9 said primary road system, the costs of issuance and redemption of

10 any bonds issued in anticipation of said primary road fund, and the
11 refund of special assessments for paving.

1 **SEC. 5. Reimbursement of counties.** Where additional right of
2 way has been acquired, or where bridges have been built on the
3 primary roads under the supervision of the highway commission, and
4 paid for out of the county road or bridge funds since April 19, 1919,
5 said county shall be reimbursed for said right of way and said bridges
6 out of the primary road fund within three (3) years from the
7 taking effect of this act; provided, however, that any county that
8 has received, or will receive during the year of 1927, primary road
9 money for use on secondary roads, the amount of such primary road
10 money so received by such county and used on the secondary roads
11 shall be deducted from the amount of refunds provided for herein.
12 The refunds made to any county under this section shall at the option
13 of the board of supervisors of said county be placed to the credit of
14 the county road fund or the county bridge fund.

1 **SEC. 6. Accounts.** The state highway commission shall keep ac-
2 counts in relation to the primary road fund and each primary road
3 bond fund, crediting each fund with all amounts by law creditable
4 thereto and charging each with the amount of all duly and finally ap-
5 proved vouchers for claims properly chargeable thereto. Said highway
6 commission's accounts shall also show the amount of each separate
7 authorization of primary road bonds, and the amount, number, date,
8 maturity, and interest rate of each series of bonds actually issued.

9 Any balance remaining in any county's allotment of the primary
10 road fund when this act becomes effective (after setting aside enough
11 to maintain the primary roads of said county during 1927, and to
12 pay the principal and interest of primary road bonds or certificates,
13 if any, maturing in said county during 1927), shall be expended for
14 construction work in said county according to the law prior to the
15 time when this act becomes effective.

1 **SEC. 7. Accounts.** The account of the primary road fund kept by
2 the state auditor and the state treasurer shall show the amount of
3 the primary road fund with all credits thereto and disbursements
4 therefrom. The treasurer of state shall each month certify to the
5 state highway commission the gross amount of motor license fees
6 collected during the preceding month, the amounts of said license
7 fees as accredited by law provided to funds other than the primary
8 road fund, and the amount of said license fees accredited to the pri-
9 mary road fund. Said treasurer shall also each month certify to
10 the said commission as to such amounts as are received (a) from
11 the federal government, (b) from the gasoline tax, or (c) from other
12 sources, and credited to the primary road fund.

1 **SEC. 8. Duties transferred to highway commission.** The powers
2 and duties of the board of supervisors with respect to the construction
3 and maintenance of primary roads are hereby transferred to the state
4 highway commission.

1 **SEC. 9. Improvement of primary roads.** The state highway com-

2 mission shall proceed with the improvement of the primary road sys-
3 tem as rapidly as the funds become available therefor, until the entire
4 mileage of the primary road system is graded, drained, bridged, and
5 surfaced with gravel, pavement, or other surfacing approved by the
6 commission as adequate for carrying the traffic thereon. It shall incur
7 no indebtedness on account of such work, except as herein specifically
8 provided, but shall let the necessary contracts and supervise the
9 expenditure of funds derived from primary road bonds and other
10 sources. No road shall be surfaced until it has been brought to
11 finished grade and drained. In proceeding with the improvement of
12 primary roads hereunder, the highway commission shall give pref-
13 erence to grading and bridging projects. Such work shall be com-
14 pleted at the earliest practical date, and not more than thirty (30)
15 per cent of the primary road fund available for construction work in
16 any year may be expended for paving until the entire mileage of the
17 primary road system has been graded, drained and bridged.

18 Improvement shall be made and carried on in such manner as to
19 equalize the work in all sections of the state, as nearly as possible,
20 giving special attention to bringing the sections of the state, where
21 improvements have been retarded, to an equality and on the same
22 basis with the more advanced sections.

1 **SEC. 10. Service plans.** Before proceeding with the improvement
2 of any primary road, the commission shall cause suitable surveys,
3 plans and specifications for said proposed work to be prepared and
4 filed in its office, and the work shall be done in accordance therewith,
5 except in so far as the same may be modified to meet unforeseen or
6 better understood conditions, and no such modification shall be deemed
7 an invalidating matter.

1 **SEC. 11. Bids.** As soon as the approved plans and specifications
2 for any primary road construction project are filed with the state
3 highway commission, it shall, if the estimated cost exceeds one thou-
4 sand dollars (\$1,000), proceed to advertise for bids for the construc-
5 tion of said improvement. No contract shall be let to any state
6 official, elective or appointive, nor to any relative within the third
7 degree, of a member of the state highway commission, nor to any
8 partnership or corporation in which a member of the highway com-
9 mission is financially interested. The letting of a contract in violation
10 of the foregoing provisions shall invalidate the contract, and such
11 violation in case of such termination, shall be a complete defense to
12 any action to recover any consideration due or earned under the
13 contract at the time of such termination.

1 **SEC. 12. Contracts.** In the award of contracts, due consideration
2 shall be given not only to prices bid but also to the mechanical and
3 other equipment and the financial responsibility of the bidder, and
4 his ability and experience in the performance of like or similar con-
5 tracts. The commission may reject any or all bids and may readver-
6 tise for bids, or may let by private contract, at a cost not to exceed
7 the lowest bid received, or if the estimated cost of the work proposed
8 does not exceed the sum of five thousand dollars (\$5,000.00) may

9 proceed to the construction of the same by day labor. All contracts
10 shall be in writing and shall be secured by a bond for the faithful
11 performance thereof, as provided by law.

1 **SEC. 13. Commission to supervise.** The state highway commission
2 is expressly charged with the duty of supervision, inspection and
3 direction of the work of construction of primary roads on behalf of
4 the state, and of supervising the expenditure of all funds paid on
5 account of such work by the state or the county on the primary
6 system and it shall do and perform all other matters and things
7 necessary to the faithful completion of the work herein authorized.

1 **SEC. 14. Engineers — surety bonds.** All engineers having re-
2 sponsible charge of any improvements, shall give bonds for the faithful
3 performance of their duties and for like accounting for all property
4 entrusted to their custody. All bonds given by such engineers in the
5 employ of the state highway commission shall be deemed to embrace
6 any and all improvements of which they may be in charge.

1 **SEC. 15. Claims.** All claims for improving and maintaining the
2 primary road system shall be paid from the primary road fund pro-
3 vided however that when bonds have been issued for improving the
4 primary roads, construction claims may be paid from such bond fund.

1 **SEC. 16. Audit of claims.** All claims shall be itemized upon voucher
2 forms prepared for that purpose, sworn to by the claimants, certified
3 to by the engineer in charge, audited by the state highway commis-
4 sion, and then forwarded to the state board of audit for final audit.
5 Vouchers, after such final audit by the state board of audit, shall
6 then be forwarded to the auditor of state, who shall draw warrants
7 therefor, and said warrants shall be paid by the treasurer of state
8 from the primary road fund.

1 **SEC. 17. Partial payment.** Partial payments may be made on the
2 work during the progress thereof, but no such partial payment shall
3 be deemed final acceptance of the work nor a waiver of any defect
4 therein. The approval of any claims by the state highway commission
5 may be evidenced by the signature of the chairman of said commis-
6 sion or of a majority of the commissioners on the individual claims
7 or on the abstract of a number of such claims with the individual
8 claims attached to said abstract.

1 **SEC. 18. Contingent fund.** The state treasurer is hereby directed
2 to set aside from the primary road fund the sum of three hundred
3 thousand dollars to be known as the primary road contingent fund.

1 **SEC. 19. Claims against contingent fund.** When claims for labor,
2 freight, or other items which must be paid promptly and which are
3 payable from the primary road fund or from the state highway
4 commission maintenance fund, are presented to the said commission
5 for payment, the said commission may direct that warrants in pay-
6 ment of said claims be drawn on said primary road contingent fund.
7 Such warrants when so drawn and signed by the auditor of the state

8 highway commission, shall be honored by the state treasurer for
9 payment from said contingent fund.

1 SEC. 20. **Contingent fund reimbursement.** The claims in payment
2 of which warrants are drawn on the primary road contingent fund,
3 shall be audited in the usual manner prescribed by law and shall have
4 noted thereon that warrants in payment thereof have been drawn on
5 the said contingent fund. After the final audit of such claims, the
6 state auditor shall draw warrants therefor payable to the treasurer
7 of state and forward the same to the state highway commission for
8 record. When such warrants have been recorded in the office of the
9 said commission, they shall be forwarded to the state treasurer who
10 shall redeem the same, charge them to the proper fund and credit
11 the primary road contingent fund with the amount thereof.

1 SEC. 21. **Audit of claims.** The director of the budget shall establish
2 and maintain an auditing department in the office of the state high-
3 way commission. The director is authorized to employ an auditor
4 and the help necessary to audit all claims and check the records of
5 the state highway commission and their assistants. No claims shall
6 be presented to the state highway commission until said auditor has
7 approved the same. Said auditor shall give a bond to the state in
8 the sum of \$50,000 for the faithful performance of the duties. All
9 expenses for the maintenance of said auditing department and the
10 cost of the bond for the auditor shall be paid from the support funds
11 of state highway commission provided for in section 34 of this act.

1 SEC. 22. **Special assessment refund.** In all cases where special
2 assessments for hard surfacing primary roads have heretofore been
3 levied, under the provisions of chapter 237, acts of 38 G. A. and
4 amendments thereto, all of the same shall be refunded in the amounts
5 levied, less any refunds heretofore made, out of the primary road
6 fund or out of funds arising from the sale of primary road bonds.
7 No special assessments for paving primary roads shall be levied after
8 this act becomes effective.

1 SEC. 23. **Time limit on refunds.** The state highway commission
2 shall determine the time when such refund shall be made of the
3 assessments levied in any hard surfacing district; provided that
4 refunds shall be made in all districts within a period of five years from
5 the date this act becomes effective.

1 SEC. 24. **Interest.** In no case shall interest be allowed on amounts
2 so refunded. Interest on deferred installments shall cease on date
3 of call of the last outstanding certificates of the district.

1 SEC. 25. **Refund procedure.** When it shall have been determined
2 to make the refund of assessments in any particular district, the
3 highway commission shall so advise the county treasurer, and by
4 proper voucher pay over to the county treasurer the amount necessary
5 to make a refund in that particular district. From the reimbursement
6 fund thus created the county treasurer shall pay and credit on the
7 tax list the principal of all unpaid installments and redeem refund

8 warrants drawn by the county auditor and such reimbursement
9 fund shall be used for no other purpose.

10 The county treasurer shall, immediately upon receipt of funds with
11 which to make a refund in any district, call in and redeem all then
12 outstanding special assessment certificates of the district.

1 **SEC. 26. Refund claims.** Claims for refund of special assessments
2 shall be filed with the county auditor and approved by the board of
3 supervisors. The county auditor shall draw refund warrants against
4 the reimbursement fund of the district in payment of duly approved
5 refund claims.

6 In case of sale of such adjoining lands prior to making such refund
7 and such assessments have not been paid in full, the same shall be
8 paid to the parties interested in proportion to the amount paid or
9 assumed by them respectively or as may be agreed between such
10 parties at the time such refund is made.

1 **SEC. 27. Certificates—payment.** Any primary road certificates
2 issued by any county under section forty-seven hundred nineteen
3 (4719) of the code of 1924, shall be paid, with interest, from the
4 primary road fund. The state highway commission shall make
5 available to said county from the primary road fund a sufficient
6 amount to pay said certificates with interest thereon.

1 **SEC. 28. Existing contracts.** In any county where prior to the
2 time when this act takes effect, contracts for improving the primary
3 road system have been let and based for their financial arrangements
4 on the issuance of certificates as provided in section forty-seven
5 hundred nineteen (4719) of the code of 1924, said section shall be
6 deemed as remaining in full force and effect until said contracts have
7 been completed and said certificates may be issued under said section
8 the same as though this act had not been adopted.

1 **SEC. 29. In cities and towns.** The state highway commission is
2 hereby given plenary jurisdiction, subject to the approval of the
3 council, to purchase or condemn right of way therefor, and grade,
4 drain, bridge, eliminate danger at railroad crossings, gravel, or hard
5 surface any road or street which is a continuation of the primary
6 road system and which is (1) within any town, or (2) within any
7 city, including cities under special charter having a population of
8 less than twenty-five hundred, or (3) within that part of any city,
9 including cities acting under special charter where the houses or
10 business houses average not less than two hundred feet apart.

11 The primary road fund shall not be charged with the cost of hard
12 surfacing within cities and towns specified above in excess of the
13 cost of hard surfacing which is twenty feet in width.

1 **SEC. 30. Condemnation proceedings.** In the improvement of roads
2 hereunder, including extensions of primary roads within cities and
3 towns as provided in the preceding section, the state highway com-
4 mission shall have the authority to purchase or to institute and
5 maintain proceedings for the condemnation of the necessary right of
6 way therefor. All the provisions of the law relating to the condemna-

7 tion of lands for public state purposes, shall apply to the provisions
8 hereof in so far as applicable.

1 **SEC. 31. Road on corporate line.** Whenever any public highway
2 located along the corporate line of any town or any city, including
3 cities under special charter, is an extension of the primary road
4 system, it may be included in said primary road system and may
5 be improved and maintained as a part of the primary road system
6 under this act.

1 **SEC. 32. In cities and towns—maintenance.** Primary roads out-
2 side of cities and towns and along the corporate lines of cities and
3 towns shall be maintained by the state highway commission under
4 the patrol system, and the cost of said work paid from the primary
5 road fund. Extensions of primary roads within any town or within
6 any city having a population less than twenty-five hundred, or within
7 that part of any city, including cities under special charter, where
8 the houses or business houses average not less than two hundred
9 feet apart, may be maintained by the state highway commission and
10 the cost thereof paid out of the primary road fund.

11 On extensions of primary roads within that part of any city having
12 a population over twenty-five hundred, including cities under special
13 charter, where the houses or business houses average less than two
14 hundred feet apart, the state highway commission may make pay-
15 ment to the city from the primary road fund for maintenance work
16 performed after this act becomes effective, in no event exceeding an
17 average of two hundred dollars per year per mile of such primary
18 road extension.

1 **SEC. 33. Material—machinery.** The state highway commission is
2 authorized to purchase road material or road machinery required in
3 the improvement or maintenance of the primary roads, after receiving
4 competitive bids, and to pay for the same out of the primary road
5 fund, and is directed to purchase, rent or lease any machinery or
6 other articles necessary for the use and most economical operation
7 of the field engineering work, the testing of materials, the preparation
8 of plans, and for all allied purposes, in order to enable the commission
9 to carry out the provisions of this act.

1 **SEC. 34. Highway commission maintenance fund.** There is hereby
2 created a fund for the maintenance of the state highway commission
3 consisting of two and one-half per cent of all moneys paid into the
4 state treasury under the act regulatory of licenses on motor vehicles.
5 Said fund shall be used for no other purpose than as a maintenance
6 fund for the state highway commission and shall be drawn out only
7 on warrants drawn by the auditor of state on itemized vouchers ap-
8 proved by the state highway commission. The expenditures of said
9 commission shall be audited by the state board of audit and a full and
10 complete report of all said expenditures shall be published in the
11 annual report under the act creating the state highway commission.

1 **SEC. 35. County roads.** When any county has voted a bond issue
2 for improvement of primary roads, such improvement program shall

3 be completed as authorized by the voters of said county. Provided,
4 all county primary road improvement programs and the amount of
5 bonds to be issued therefor must be approved by the highway com-
6 mission.

7 Where primary road bonds have been issued by any county under
8 chapter 241 or chapter 242, code of 1924, before or after this act
9 becomes effective, or where bonds have been issued to refund such
10 primary road bonds, the state highway commission shall each year
11 set aside from the primary road fund an amount equal to the interest
12 and principal of such bonds maturing in such year. Provided, that
13 the amount so set aside on account of any county in any year, plus
14 the cost of maintaining the primary road system in said county during
15 said year, shall not exceed the amount which such county would have
16 received in said year had the primary road fund been allotted among
17 the counties in the ratio that the area of each county bears to the
18 total area of the state.

19 The funds so set aside are hereby appropriated for the payment
20 of the maturing principal and interest of primary road bonds issued
21 by said county. Thirty days prior to the maturing of any of said
22 bonds or the interest thereon the state highway commission shall
23 prepare a voucher in favor of the county treasurer and drawn against
24 the primary road fund in the amount set aside therefor. Said voucher
25 shall be paid from the primary road fund in the same manner as
26 other primary road claims. The funds so received by any county
27 treasurer shall be used for paying the maturing interest and principal
28 of such bonds, and for no other purpose.

1 SEC. 36. That section five thousand two (5002) of the code of 1924
2 is hereby amended by inserting a period (.) after the word "fund" in
3 the ninth (9th) line thereof, and striking out all of the remainder
4 of said section.

1 SEC. 37. **Audit and check.** The director of the budget shall, at
2 least once each year, cause all books and accounts of the state high-
3 way commission to be examined by certified public accountants, and
4 a detailed report of such examinations to be filed and kept in his
5 office.

1 SEC. 38. **Personnel of commission.** Section forty-six hundred
2 twenty-two (4622) of the code, 1924, is hereby repealed and the
3 following enacted in lieu thereof:

4 The state highway commission shall be composed of five appointive
5 members, not more than three of whom shall belong to the same
6 political party, and each commissioner shall serve for four years from
7 July first of the year of his appointment, except as hereinafter pro-
8 vided. The office of said commission shall be located in the city of
9 Ames, Iowa.

1 SEC. 39. **Appointment by governor.** Section forty-six hundred
2 twenty-three (4623) of the code, 1924, is hereby repealed and the
3 following enacted in lieu thereof:

4 Within sixty days after the convening of the general assembly in
5 regular session in 1929, and each two years thereafter, the governor

6 shall appoint, with the approval of two-thirds of the senate in ex-
 7 ecutive session, a successor or successors to the member or members
 8 of said commission whose terms expire on July first following.

1 SEC. 40. **Temporary provision.** As soon as this act has been
 2 approved by the governor, the governor shall appoint, with the
 3 approval of two-thirds of the senate in executive session, three mem-
 4 bers of said commission, one of whom shall serve for a term com-
 5 mencing July 1, 1927, and ending July 1, 1929, and the other two
 6 members shall be appointed for a term commencing July 1, 1927, and
 7 ending July 1, 1931.

1 SEC. 41. **Special charter cities.** The provisions of this act, in so
 2 far as they pertain to cities and towns, shall apply to cities acting
 3 under special charter.

1 SEC. 42. **Allotments to counties.** All allotments made by the state
 2 highway commission to counties voting bond issues for the purpose
 3 of hard surfacing, or otherwise improving any portion of the primary
 4 road system, shall be paid for within the biennium so as not to create
 5 an obligation against the state.

1 SEC. 43. **Agreements prohibited.** The highway commission or the
 2 highway engineers shall not enter into an agreement, oral or written,
 3 with the citizens or officers of any county, to the effect that any
 4 amount of money will be furnished from the primary fund for the
 5 purpose of supplementing funds to be raised by the sale of county
 6 road bonds.

Approved March 17, A. D. 1927.

See chapters 102 and 103.

CHAPTER 102

HIGHWAY COMMISSION

S. F. 352

AN ACT to amend the law as it appears in senate file number one hundred four (104)
 as enacted by the forty-second general assembly of Iowa, relating to the primary
 road system and the appointment of members of the highway commission.

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

1 SECTION 1. That the law as it appears in senate file number one
 2 hundred four (104) as enacted by the forty-second general assembly of
 3 the state of Iowa be and the same is hereby amended by striking
 4 all of section thirty-eight (38) of said bill, and by substituting in
 5 lieu thereof the following:

6 "SEC. 38. From and after July 4, 1927, the state highway commis-
 7 sion shall be composed of five appointive members, not more than
 8 three of whom shall be from the same political party, and each com-