

CHAPTER 125

ROADS AND HIGHWAYS

H. F. 43

AN ACT to amend, revise, consolidate, and codify certain sections of chapters, three hundred nine (309) three hundred ten (310) and three hundred thirteen (313), Code 1946, relating to secondary roads, farm to market roads, and primary roads.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section three hundred nine point thirty-nine (309.39)
2 Code 1946, is hereby amended by striking the second and the third
3 paragraphs of said section and the following is enacted as a new
4 code section:

5 "The board or commission having charge of the receipt of bids and
6 the award of contracts for the construction, reconstruction, improve-
7 ment, repair, or maintenance of any highway, may require, for any
8 highway contract letting, that each bidder shall file with said board
9 or commission a statement showing his financial standing, his equip-
10 ment, and his experience in the execution of like or similar work.
11 Said statements shall be on standard forms prepared by the state
12 highway commission and shall be filed with said board or commission
13 previous to the letting at which such bidder expects to bid. The
14 board or commission may, in advance of the letting, notify the bidder
15 as to the amount and the nature of the work for which he is deemed
16 qualified to bid.

1 SEC. 2. Section three hundred nine point forty (309.40) Code
2 1946, is hereby amended by striking the last sentence of said section;
3 Sections three hundred nine point fifty-seven (309.57), three hundred
4 ten point fifteen (310.15), and three hundred thirteen point eleven
5 (313.11), Code 1946, are hereby repealed, and the following enacted
6 as a new code section:

7 "In the award of contracts for the construction, reconstruction,
8 improvement, repair or maintenance of any highway, the board or
9 commission having charge of awarding such contracts shall give due
10 consideration not only to the prices bid but also to the mechanical or
11 other equipment and the financial responsibility and experience in the
12 performance of like or similar contracts. The board or commission
13 may reject any or all bids, or may let by private contract or build by
14 day labor, at a cost not in excess of the lowest bid received. Upon the
15 completion of any contract or project on either the farm-to-market or
16 secondary road system, the county engineer shall file with the county
17 auditor a statement showing the total cost thereof with certificate that
18 said work has been done in accordance with the plans and specifica-
19 tions. All contracts shall be in writing and shall be secured by a
20 bond for the faithful performance thereof as provided by law."

1 SEC. 3. Section three hundred nine point ninety-two (309.92)
2 Code 1946, is hereby repealed; Section three hundred ten point
3 fourteen (310.14), Code 1946 is hereby amended by striking the last
4 two sentences of said section; section three hundred thirteen point ten
5 (313.10), Code 1946, is hereby amended by striking the last two

6 sentences of said section, and the following is enacted as a new code
7 section:

8 "No state or county official or employee, elective or appointive shall
9 be directly or indirectly interested in any contract for the construc-
10 tion, reconstruction, improvement or maintenance of any highway,
11 bridge or culvert, or the furnishing of materials therefor. The letting
12 of a contract in violation of the foregoing provisions shall invalidate
13 the contract and such violation shall be a complete defense to any
14 action to recover any consideration due or earned under the contract
15 at the time of its termination."

1 SEC. 4. Sections three hundred ten point seventeen (310.17),
2 three hundred thirteen point fifteen (313.15), and three hundred nine
3 point fifty-nine (309.59), Code 1946 are hereby repealed and the
4 following is enacted as a new code section:

5 "All claims for construction, reconstruction, improvement, repair,
6 or maintenance on any highway shall be itemized on voucher forms
7 prepared for that purpose, sworn to by the claimants, certified to by
8 the engineer in charge, and then forwarded to the board or commis-
9 sion in control of that highway for final audit and approval. Claims
10 payable from the farm to market road fund shall be approved by both
11 the board of supervisors and the state highway commission. Upon
12 approval by the Highway Commission of vouchers which are payable
13 from the farm to market road fund, or from the primary road fund,
14 as the case may be, such vouchers shall be forwarded to the state
15 comptroller, who shall draw warrants therefor, and said warrants
16 shall be paid by the treasurer of the state from the farm to market
17 road fund or from the primary road fund, as the case may be.

18 If the engineer makes such certificate or a member of the board or
19 commission approves such claim when said work has not been done in
20 accordance with the plans and specifications, and said work be not
21 promptly made good without additional cost, he shall be liable on his
22 bond for the amount of such claim."

1 SEC. 5. Sections three hundred nine point sixty (309.60) and
2 three hundred thirteen point sixteen (313.16) Code 1946, are hereby
3 repealed and the following is enacted as a new code section:

4 "Partial payments may be made on highway contract work during
5 the progress thereof, but no such partial payment shall be deemed
6 final acceptance of the work nor a waiver of any defect therein. The
7 approval of any claim by the board or commission in control of the
8 work, or highway on which the work is located, may be evidenced by
9 the signature of the chairman of said board or commission, or of a
10 majority of the members of said board or commission, on the indi-
11 vidual claims or on the abstract of a number of claims with the indi-
12 vidual claims attached to said abstract."

1 SEC. 6. Sections three hundred nine point forty-five (309.45) and
2 three hundred ten point twenty-one (310.21), Code 1946, are hereby
3 repealed and the following is enacted as a new code section:

4 "The board or commission in control of any secondary road or any
5 primary road is authorized, subject to approval of the council, to
6 eliminate danger at railroad crossings and to construct, reconstruct,

7 improve, repair, and maintain any road or street which is an extension of such road within any town or city, including cities under special charter. Provided, that this authority shall not apply to the extensions of secondary roads located in cities over twenty-five hundred population, where the houses or business houses average less than two hundred feet apart.

13 The phrase 'subject to the approval of the council' as it appears in this section, shall be construed as authorizing the council to consider said proposed improvement only in its relationship to municipal improvements such as sewers, water lines establishing grades, change of established street grades, sidewalks and other public improvements. The locations of such road extensions shall be determined by the board or commission in control of such road or road system."

1 SEC. 7. Sections three hundred ten point twenty-five (310.25) and 2 three hundred thirteen point thirty-five (313.35), Code 1946, are 3 hereby repealed and the following is enacted as a new code section:

4 "Whenever any public highway located along the corporate line of 5 any town or city, including cities under special charter, is an extension of a farm to market road, or of a primary road, it may be included in the farm to market road system or the primary road system, 6 as the case may be, and may be constructed, reconstructed, improved, 7 repaired, and maintained as a part of said road system."

1 SEC. 8. Section three hundred nine point forty-four (309.44), 2 Code 1946, is hereby repealed and the following is enacted as a new 3 code section:

4 "Officers, employees, and contractors in charge of improvement or 5 maintenance work on any highway shall not cut down or injure any 6 tree growing by the wayside which does not materially obstruct the 7 highway, or tile drains, or interfere with the improvement or maintenance of the road, and which stands in front of any town lot, farm- 8 yard orchard or feed lot, or any ground reserved for any public use. 9 Nor shall they destroy or injure reasonable ingress or egress to any 10 property, or turn the natural drainage of the surface water to the 11 injury of adjoining owners. It shall be their duty to use strict 12 diligence in draining the surface water from the public road in its 13 natural channel. To this end they may enter upon the adjoining 14 lands for the purpose of removing from such natural channel obstructions that impede the flow of such water."

1 SEC. 9. Section three hundred nine point sixty-two (309.62), 2 Code 1946, is hereby repealed and the following is enacted as a new 3 code section:

4 "Whenever it may become necessary in grading the highways to 5 make a cut which will disturb, or fill which will cover up, a government 6 or other established corner or land monument, it shall be the duty of 7 the engineer to establish permanent witness corners or monuments, 8 and make a record of the same, which shall show the distance and 9 direction the witness corner is from the corner disturbed or covered 10 up. When said construction work is completed the engineer shall 11 permanently re-establish said corner or monument. A failure to

12 perform said duties shall subject the engineer to a fine of not less
13 than ten dollars nor more than fifty dollars to be collected on his bond."

1 SEC. 10. Section three hundred nine point sixty-five (309.65),
2 Code 1946, is hereby repealed and the following is enacted as a new
3 code section:

4 "The board or commission in control of any highway or highway
5 system, or the engineer or any other person employed by said board
6 or commission, may after written notice to the owner and to the
7 occupant, enter upon private land and make surveys, borings and
8 excavations thereon, for the purpose of determining whether gravel
9 or other material exists on said land of suitable quality and in suffi-
10 cient quantity, to warrant the purchase or condemnation of said land
11 or part thereof and roadway thereto to secure such material for the
12 improvement or maintenance of such highway or highway system.
13 Any damage caused by such entry, survey, borings and excavations
14 shall be determined by agreement or in the manner provided for the
15 award of damages in condemnation of land for highway purposes.
16 No such prospecting shall be done within twenty rods of the dwelling
17 house or buildings on said land without written consent of the owner."

1 SEC. 11. Section three hundred nine point seventy-two (309.72),
2 Code 1946, is hereby repealed and the following is enacted as a new
3 code section:

4 "The board or commission in control of any highway or bridge
5 bordering on or crossing a state line is authorized to confer and agree
6 with the board or official of such border state, or subdivision of such
7 state, having control of such highway or bridge relative to the inter-
8 state connection, the plans for the improvement, and maintenance,
9 the division of work and the apportionment of cost of such highway
10 or bridge."

1 SEC. 12. Section three hundred nine point ninety (309.90), Code
2 1946, is hereby repealed and the following is enacted as a new code
3 section:

4 "Telephone, telegraph, electric transmission and pipe lines may
5 be permitted to use any highway bridge on or across a state line on
6 such terms and conditions as the boards, commissions, or officials
7 jointly constructing, maintaining or operating such bridge may
8 jointly determine. No discrimination shall be made in the use of such
9 bridge as between such utilities. Joint use of telephone, telegraph,
10 electric transmission or pipe lines may not be required. No grant
11 to any public utility to use such bridge shall in any way interfere with
12 the use of such bridge by the public for highway purposes."

Approved May 5, 1949.