

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **400**

Session of
1961

INTRODUCED BY MESSRS. ROONEY, FLACK AND WEINER,
MARCH 13, 1961.

REFERRED TO COMMITTEE ON HIGHWAYS, MARCH 13, 1961.

AN ACT

Amending the act of May 31 1911 (P L 468) entitled "An act providing for the establishment of a State Highway Department by the appointment of a State Highway Commissioner two Deputy State Highway Commissioners chief engineer chief draughtsman superintendents of highways and a staff of assistants and employes defining their duties and the jurisdiction of the State Highway Department and fixing salaries of commissioner and deputies and other appointees providing for taking over from the

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through is to be omitted from bill.
Underlining indicates new matter added to existing law. [Brackets] indicate matter stricken from existing law.

counties or townships of the Commonwealth certain existing public roads connecting county-seats principal cities and towns and extending to the State line describing and defining same by route numbers as the State highways of the Commonwealth providing for the improvement maintenance and repair of said State highways solely at the expense of the Commonwealth and relieving the several townships or counties from any further obligation and expense to improve or maintain the same and relieving said townships or counties of authority over same requiring boroughs and incorporated towns to maintain certain State highways wholly and in part requiring the State Highway Commissioner to make maps to be complete records thereof conferring authority on the State Highway Commissioner providing for the payment of damages in taking of property or otherwise in the improvement thereof providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State highway and procedure therein providing for work of improvement of State highways to be done by contract except where the State Highway Commissioner decides the work be done by the State providing

aid by the State to counties and townships desiring the same in the improvement of township or county roads defining highways and State-aid highways providing method of application for State aid in the improvement maintenance and repair of township or county roads and prescribing the contents of township county borough or incorporated town petitions providing for percentage of cost of improvement or repairs to be paid by State county township borough or incorporated town and requiring contracts by counties townships boroughs and incorporated towns with Commonwealth governing same providing for the minimum width of State highways and State-aid highways and kind of materials to be used in the improvement providing for payment of cost of improvement and repairs providing penalty for injuring or destroying State highways making appropriations to carry out the provisions of the act and providing for the repeal of certain acts relating to Highway Department and improvement of roads and of all acts or parts of acts inconsistent herewith and providing that existing contracts are not affected by provisions of this act" by permitting a contractor to deposit certain securities with the Sec-

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retary of Highways as an alternative to the payment by the Secretary of Highways of interest on amounts withheld pending satisfactory completion of a contract

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows

1 Section 1 Section 33 of the act of May 31 1911 (P L 468) entitled
2 "An act providing for the establishment of a State Highway Department
3 by the appointment of a State Highway Commissioner two Deputy State
4 Highway Commissioners chief engineer chief draughtsman superintend-
5 ents of highways and a staff of assistants and employes defining their
6 duties and the jurisdiction of the State Highway Department and fixing
7 salaries of commissioner and deputies and other appointees providing
8 for taking over from the counties or townships of the Commonwealth
9 certain existing public roads connecting county-seats principal cities
10 and towns and extending to the State line describing and defining same
11 by route numbers as the State highways of the Commonwealth pro-
12 viding for the improvement maintenance and repair of said State high-
18 ways solely at the expense of the Commonwealth and relieving the
14 several townships or counties from any further obligation and expense

1 to improve or maintain the same and relieving said townships or counties
2 of authority over same requiring boroughs and incorporated towns to
3 maintain certain State highways wholly and in part requiring the State
4 Highway Commissioner to make maps to be complete records thereof
5 conferring authority on the State Highway Commissioner providing for
6 the payment of damages in taking of property or otherwise in the im-
7 provement thereof providing for purchase or acquiring of turnpikes or
8 toll-roads forming all or part of any State highway and procedure there-
9 in providing for work of improvement of State highways to be done
10 by contract except where the State Highway Commissioner decides the
11 work be done by the State providing aid by the State to counties and
12 townships desiring the same in the improvement of township or county
13 roads defining highways and State-aid highways providing method of
14 application for State aid in the improvement maintenance and repair of
15 township or county roads and prescribing the contents of township
16 county borough or incorporated town petitions providing for percentage
17 of cost of improvement or repairs to be paid by State county township
18 borough or incorporated town and requiring contracts by counties town-
19 ships boroughs and incorporated towns with Commonwealth govern-
20 ing same providing for the minimum width of State highways and

1 State-aid highways and kind of materials to be used in the improve-
2 ment providing for payment of cost of improvement and repairs pro-
3 viding penalty for injuring or destroying State highways making appro-
4 priations to carry out the provisions of the act and providing for the
5 repeal of certain acts relating to Highway Department and improve-
6 ment of roads and of all acts or parts of acts inconsistent herewith
7 and providing that existing contracts are not affected by provisions
8 of this act" as amended by the act of June 13 1957 (P L 292) is
9 amended to read as follows

10 Section 33 (a) The total cost of the improvement and mainte-
11 nance of the State-aid highways constructed under the provisions of
12 this act as provided by the terms of the contract or otherwise as herein
13 provided when properly certified by the Secretary of Highways shall
14 be audited by the Auditor General and when audited and allowed
15 shall be paid out of moneys specifically appropriated for this purpose
16 by warrants drawn therefor by the Auditor General upon the State
17 Treasurer

18 (b) The share of the county shall be paid as provided by its con-
19 tract and otherwise by the provisions of this act to the State Treas-

1 urer by the county treasurer upon the warrant of the county commis-
2 sioners in such sum or sums as shall be certified by the Secretary of
3 Highways from time to time during the performance of the work or
4 contract or as provided by the contract and otherwise by the provi-
5 sions hereof after the same shall be completed

6 (c) The share of the township or townships or of any borough
7 or boroughs or of any incorporated town or towns shall be paid to
8 the State Treasurer by the township supervisors or commissioners
9 or by the borough treasurer or by the town treasurer as the case may
10 be in the manner and form as in the case of counties and as other debts
11 of said townships or boroughs are paid when and as demanded by
12 certificate of the Secretary of Highways during the performance of
13 the work or contract or in like manner after the same shall be com-
14 pleted

15 (d) Upon the completion of any State-aid highway improvement
16 or upon the ascertainment of any additional improvement cost or of
17 any maintenance expense incurred thereon thereafter by the Depart-
18 ment of Highways the Secretary of Highways shall certify the same
19 to the State Treasurer and to the county commissioners and township

1 supervisors or borough or town authorities as the case may be the
2 respective shares of said cost or expense for which the county town-
3 ship borough or incorporated town is liable If the said shares or
4 amounts so certified by the Secretary of Highways of the cost and
5 expense of the improvement or of the subsequent maintenance thereof
6 as provided by contract and the provisions of this act of the county
7 township borough or incorporated town or all or either of them shall
8 not be paid to the State Treasurer within thirty days after being certi-
9 fied then the said shares of the county township borough or incor-
10 porated town either or all of them remaining unpaid shall be charged
11 by the State Treasurer against any funds of said county township bor-
12 ough or incorporated town which may be in the hands of the State
13 Treasurer or which may thereafter come into his hands excepting
14 school funds and may also be recovered by action at law or equity
15 as any other debts of such counties townships boroughs or incorporated
16 towns are by law recoverable

17 (e) The amounts paid under this act to the State Treasurer by
18 the counties townships boroughs and towns shall be placed by him to
19 the credit of the proper fund for highway construction or maintenance
20 and shall immediately be available for the use of the Department of

1 Highways for construction or maintenance as the case may be and
2 the Secretary of Highways is hereby authorized and empowered to
3 apportion the said amounts thus paid into the State Treasury by the
4 counties townships boroughs and incorporated towns among the several
5 counties as hereinbefore provided for

6 (f) The Secretary of Highways may make partial payments to
7 any contractor performing any highway improvement under this act
8 as the same progresses upon estimate made by the Department of
9 Highways Ten per centum (10%) of the amount due on partial pay-
10 ments or current estimates representing fifty per centum (50%) of the
11 total contract price shall be withheld from the contractor pending
12 completion Thereafter no per centum of the amount due on partial
13 payments or current estimates shall be withheld from the contractor
14 pending completion Provided That the Secretary of Highways may
15 in his discretion make payments in excess of the percentagos withheld
16 when at least ninety-five per centum (95%) of the work contracted
17 has been completed The amount retained under said contract for the
18 work done and performed shall in all cases be sufficient to cover double

1 the contract price or estimated cost of the work remaining to be done
2 to satisfactorily complete the contract

3 (g) The Secretary of Highways may in addition to the payments
4 herein authorized also pay seventy-five (75) per centum of the bid price
5 of fabricated steel necessary in the construction of bridges after the
6 same has been delivered on the site of the work and inspected and
7 approved by a duly authorized representative of the Department of
8 Highways but whenever any such payment is made the Common-
9 wealth shall take as security for the placing of the steel in the struc-
10 ture proper documents transferring to it the absolute legal title thereto

11 (h) In addition to the payments herein authorized the Secretary
12 of Highways shall pay to the contractor interest at the rate of five
13 (5) per centum per annum on the amount retained and on the final
14 payment due the contractor beginning ninety (90) days after the
15 work under the contract has been completed and accepted by the
16 Department of Highways and running until the date when such amount
17 retained and final payment are tendered to the contractor

18 (i) At the option of the contractor and in lieu of the payment of
19 any interest as hereinbefore provided in Subsection (h) amounts with-

1 held pending completion of any highway improvement under this act
2 may in whole or in part be withdrawn by the contractor as soon as
3 such amounts are credited to his account under either of the herein-
4 before-mentioned methods for making partial and final payments upon
5 depositing with the Secretary of Highways securities of a market value
6 equal to the amount so withdrawn Such securities shall be of a char-
7 acter approved by the Secretary of Highways and shall include but
8 not be limited to bonds or notes of the United States of America the
9 Commonwealth of Pennsylvania or any political subdivision thereof
10 and upon approval such bonds notes or other obligations as may be
11 issued by any authority agency or instrumentality created by the
12 United States of America the Commonwealth of Pennsylvania or any
13 political subdivision thereof

14 The Secretary of Highways shall from time to time collect all
15 interest or income on the securities so deposited and shall pay the same
16 when and as collected to the contractor who deposited the securities
17 If the deposit be in the form of coupon bonds the coupons as they
18 respectively become due shall be delivered to the contractor Upon
19 default the Secretary of Highways may apply such securities interest

1 coupons or income therefrom as may be necessary to correct said de-
2 fault and the contractor shall not be entitled to the balance thereof
3 if any until the work remaining to be done under the contract has
4 been satisfactorily completed

5 Section 2 This act shall take effect immediately

We certify that this bill has passed the Senate and the House of
Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The day of A. D. 1961.

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Governor