
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **725** Session of
1961

INTRODUCED BY MR. ROONEY, JUNE 1, 1961.

REFERRED TO COMMITTEE ON HIGHWAYS, JUNE 1, 1961.

AN ACT

Amending the act of June 1 1945 (P L 1242) entitled "An act relating to roads streets highways and bridges amending revising consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto" authorizing acquisition and property necessary for present or future highway purposes designating certain functions as highway purposes and regulating procedure for such acquisition and the payment therefor

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

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

1 Section 1 Section 210 act of June 1 1945 (P L 1242) known as
2 the "State Highway Law" amended May 14 1949 (P L 1391) is
3 amended to read

4 Section 210 Relocation etc Abandonment as State Highway Vaca-
5 tion The secretary is hereby empowered to change alter or establish the
6 width lines location or grades of any State highway or any intersecting
7 road in any township borough or incorporated town in such manner as
8 in his discretion may seem best in order to correct danger or incon-
9 venience to the traveling public or lessen the cost to the Commonwealth
10 in the construction reconstruction or maintenance thereof After the re-
11 location has been opened to traffic the secretary by notice to the local
12 authorities shall abandon as a State highway route or vacate the section
13 of highway between the termini of the relocation Where the new route
14 in the judgment of the secretary supplies and takes the place of any
15 part of the old highway and such part is of a length of not more than
16 two miles the secretary being of the opinion that such part is unneces-
17 sary for public use and travel or burdensome or dangerous and having
18 due regard for the convenience of access to the new highway by the

1 owners of property abutting on such part may at any time by written
2 order declare such part to be vacated Thereafter the part so vacated
3 shall be closed to public use and travel and shall no longer be a public
4 road Before any change or order of vacation is made the secretary shall
5 first submit a plan of the proposed change or any proposed order of
6 vacation duly acknowledged to the Governor and the same shall be
7 approved by him and filed as a public record in the office of the depart-
8 ment and a copy thereof shall be recorded in the office for the record-
9 ing of deeds in the proper county at the expense of the department in
10 a plan book or books provided by the county for that purpose [The ap-
11 proval of such plan or plans by the Governor shall be considered to
12 be the condemnation of an easement for highway purposes from all
13 property within the lines marked as required for right of way and the
14 condemnation of an easement of support or protection from all property
15 within the lines marked as required for slopes] All plans or orders so
16 approved filed and recorded shall indicate the names of the owners or
17 reputed owners of the land affected by taking or vacation and of lands
18 abutting the same It shall be the duty of the recorder of deeds of each
19 county to provide a plan book or books for the recording of such plans
20 and orders and to maintain an adequate locality index for the same

1 Section 2 The act is amended by adding after section 221 the
2 following new sections to read

3 Section 222 Power to Acquire Property for Highway Purposes

4 (a) The secretary may acquire all property necessary for present or
5 future highway purposes

6 (b) Highway purposes include but are not limited to the following

7 (1) Establishment construction reconstruction location relocation
8 improvement maintenance and repair of all highways

9 (2) Adequate drainage of highways

10 (3) Slone areas

11 (4) Channel changes

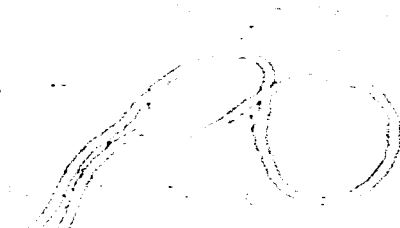
12 (5) Rock quarries gravel pits sand and earth borrow pits disposal
13 areas sites for manufacture of highway and road materials and access
14 highways to all these places

15 (6) Roadside rests

16 (7) Unobstructed view at intersections curves and railroad grade
17 crossings

18 (8) Cattle passes

19 (9) Grade separation structures



- 1 (10) Underpasses and overpasses for pedestrian use
- 2 (11) Protection of highways from physical or functional encroach-
 3 ment of any kind
- 4 (12) Acquisition of remainders of property and landlocked par-
 5 cels in excess of that needed for the highway to reduce severance
 6 damage or to prevent or eliminate economically useless parcels of
 7 property
- 8 (13) Acquisition of property for live snow breaks and the crea-
 9 tion of snow fences
- 10 (14) The erection and maintenance of traffic signs and signals
- 11 (15) The construction and maintenance of sidewalks and highway
 12 illumination devices
- 13 (16) Acquisition of property necessary for detours
- 14 (17) The acquisition of property to be exchanged for other prop-
 15 erty required by the department if the interests of the Commonwealth
 16 will be served and if acquisition costs will be reduced
- 17 (18) Sites for shops offices storage buildings weighing stations
 18 or other necessary or auxiliary facilities
- 19 (19) The acquisition of property necessary for the changing alter-
 20 ing relocating improving or widening roads where they intersect with

1 highways

2 (20) The acquisition of property necessary for local service roads

3 (21) The acquisition of property to provide a substitute right of

4 way for a public utility whose right of way has been acquired by the

5 department

6 (22) The acquisition of unimproved property for the purpose of

7 moving and establishing thereon buildings and structures located on

8 lands required for the highway where the owner of the buildings or

9 structures and the owner of such unimproved land consent in writing

10 to the moving and where acquisition costs would be reduced by the

11 moving provided however that no relocation hereunder shall be in

12 violation of any local zoning ordinance and in the absence of any such

13 ordinance may only be made with the approval of the local political

14 subdivision to which the building or structure is to be moved

15 Section 223 Legal Interests Acquired The secretary may acquire

16 property in fee simple absolute or such lesser estate or interest as he

17 determines is necessary

18 Section 224 Title in Name of Commonwealth Title to all prop-

19 erty acquired by the secretary shall be taken in the name of the Com-

20 monwealth

1 Section 225 Procedure Where Possession of Property is With-
2 held Whenever possession of property acquired for highway purposes
3 is withheld the secretary may petition the court of common pleas of
4 the county in which the property is located for a rule returnable in
5 ten days to show cause why a writ of possession should not be issued
6 The rule shall be served upon the persons named in the petition and
7 upon all other persons found in possession of the property The pro-
8 thonotary shall add the names of the persons found in possession and
9 not named in the petition as respondents after service of the rule If
10 no answer is filed or if an answer is filed and after such hearing as
11 the court directs it shall deem the answer to be insufficient the court
12 shall issue a writ of possession ordering the sheriff to deliver possession
13 to the Commonwealth

14 This remedy is in addition to any other remedies possessed by the
15 Commonwealth

16 Section 226 Revocation of Condemnation Proceedings The secre-
17 tary may by revising the plan relinquish all or any part of the property
18 condemned before physical entry upon the property and before final
19 determination of damages In these cases the department shall be under

1 no obligation to accept and pay for any property condemned and sub-
2 sequently relinquished provided however the court shall make such
3 order as may be just to compensate such owner for any loss occasioned
4 by such condemnation and subsequent relinquishment and may require
5 an undertaking or other security to secure the owners against any and
6 all such loss or damages occasioned to them from the time of the
7 original condemnation to the time of the modification thereof

8 Section 227 Power to Sell Exchange or Lease The secretary may
9 sell at public sale or may exchange any property which he acquired
10 if he determines that the property is not needed for present or future
11 highway purposes The secretary may lease any property which he ac-
12 quired if he determines that the property is not needed for present high-
13 way purposes

14 Section 228 Exchange of Property When the secretary exchanges
15 properties he may pay or may receive the difference between the values
16 of the properties being exchanged

17 Section 229 Approval by Governor When the secretary determines
18 that it is necessary to condemn property for highway purposes he shall
19 submit to the Governor a plan showing the property and estate or in-
20 terest condemned the names of the owners or reputed owners of the

1 property affected by the condemnation and such other information as
2 may be necessary

3 Section 230 Filing and Recording If the plan is approved by the
4 Governor it shall be filed as a public record in the department and
5 a copy thereof shall be recorded in the office of the recorder of deeds
6 in the proper county or counties at the expense of the department
7 in a plan book or books provided by the county for that purpose

8 Section 231 Condemnation and Effective Date The approval of
9 the plan by the Governor shall be the condemnation in fee simple ab-
10 solute or such lesser estate or interest as is specified on the plan of
11 all property therein shown The date of the Governor's approval shall
12 be the effective date of condemnation and the date on which the de-
13 partment may enter upon and take possession of the property so specified

14 Section 232 Agreement Viewers' Petition After the plan is ap-
15 proved by the Governor the secretary shall give written notice to the
16 owners by mail or personally If the owners or their whereabouts are
17 unknown then notice shall be given by publication in a newspaper of
18 general circulation in the county in which the property is located The
19 secretary shall when possible enter into an agreement with the owners
20 as to the amount of damages to be paid If an agreement cannot be

1 made or if the owner is legally incapacitated or unable to convey valid
2 title or is absent or unknown either the Commonwealth of the owner or
3 the owner's guardian may apply to the court of common pleas of the
4 county in which the property is located or if the property is located
5 in two or more counties than in any one of the counties for the ap-
6 pointment of viewers to determine the amount of damages if any re-
7 sulting from the condemnation

8 Section 233 Statute of Limitations The petition may be presented
9 within six years from the date of the approval by the Governor but
10 not thereafter

11 Section 234 Contents of Petition The petition for appointment of
12 viewers shall contain the following and any other relevant information
13 and allegations

14 (1) The name of the petitioner

15 (2) The name of the owner

16 (3) The name of the condemnor the date of condemnation and a
17 reference to the act of Assembly authorizing the condemnation

18 (4) The names of tenants if any and the terms and conditions of
19 the lease

1 (5) A description of the property condemned

2 (6) A list of all judgments mortgages or liens of record affecting
3 the property condemned

4 (7) A plan showing the location and extent of property condemned
5 and the remainder drawn to a suitable scale which shall be indicated
6 thereon

7 (8) If the petitioner is the owner a list of the elements of dam-
8 ages claimed

9 Section 235 Appointment of Viewers Upon presentation of a proper
10 petition the court shall appoint three viewers and fix a time not less
11 than thirty nor more than sixty days thereafter when the viewers
12 shall view the property Before the view the viewers shall be sworn or
13 affirmed faithfully to perform their duties

14 Section 236 Service of Copy of Petition and Order Within ten
15 days of the entry of the order the petitioner shall serve by certified
16 mail or personally a true and correct copy of the petition and order on

17 (1) The secretary if the owner is the petitioner

18 (2) The owner if the department is the petitioner

19 If the owner is unknown notice shall be given as the court directs

1 Section 237 Viewers' Hearing After the view the viewers shall
2 hold a hearing to ascertain the damages if any The viewers or any
3 party may on application to the court compel the attendance of wit-
4 nesses or the production of books papers documents or records

5 Section 238 Viewers' Report When the viewers have ascertained
6 the damages they shall submit a report to the court The prothonotary
7 shall mail a copy of the report to all parties

8 Section 239 Exceptions to Report Within thirty days of the filing
9 of the report any party may file exceptions thereto with the court The
10 court shall either confirm the report absolutely or modify it or refer
11 it back to the same or to other viewers for such action as the court
12 directs

13 Section 240 Jury Trial and Appeal Within thirty days after
14 final action on the report by the court any party may demand a trial
15 by jury or if all parties consent by the court without a jury From any
16 judgment after a jury trial or trial by the court without a jury an
17 appeal may be taken by any party to the Supreme Court or Superior
18 Court depending upon the amount in controversy

19 Section 241 Special Benefits Qualified Interest Condemned In all
20 proceedings to assess damages resulting from the condemnation of

1 property for highway purposes special benefits if any shall be considered

2 A local service road shall be treated as a special benefit

3 When the secretary condemns less than a fee simple absolute the
4 qualified nature of the interest condemned shall be considered

5 Section 242 Partial Payment After the Governor approves the plan
6 the secretary shall prior to taking possession of the property offer to
7 pay to a claimant having clear title or pay into the court having juris-
8 isdiction thereof in the manner to be provided by the rules of court a
9 sum equal to seventy-five per cent of the amount estimated by the de-
10 partment as the damages which will result from such condemnation
11 the court shall pay the money to the person entitled thereto upon peti-
12 tion and proof of such entitlement the amount of money paid into court
13 shall be taken into consideration in determining the amount of any
14 bond authorized or required by law to be tendered in such proceeding
15 payments made pursuant to this section shall not prejudice the rights
16 of the parties to have the true damages determined in appropriate pro-
17 ceedings any payments made pursuant to this act shall be credited upon
18 the award and final judgment provided such award and judgment is in
19 a greater amount any payments made in excess of the award and final
20 judgment shall be refunded interest on the award of damages shall be

1 limited to the amount if any by which the amount of money paid as
2 herein required is less than the award and final judgment

3 Section 3 Sections 303 and 304 of the act are amended to read

4 Section 303 Assessment of Damages and Benefits Payment by

5 County In case an agreement satisfactory to the county commissioners

6 and said owner or owners cannot be made and the approval of the

7 court thereto secured the owner or owners of said property damaged

8 thereby or the commissioners of the proper county may present their

9 petition to the court of [quarter sessions] common pleas for the ap-

10 pointment of viewers to ascertain and assess such damages as well as

11 any benefits Such petitions shall be presented within six (6) years

12 from the date of the approval by the Governor of the plan making

13 the change but not thereafter

14 In assessing the damages the viewers shall take into consideration

15 the advantages derived from such road passing through the land of the

16 complainant The viewers shall make report in writing to the court

17 of [quarter sessions] common pleas within the time fixed by the court

18 in its decree appointing the viewers or such extension thereof as the

19 court may allow At the end of thirty (30) days after the filing of the

20 report if no exceptions thereto have been filed the report shall be con-

1 firmed absolute by the court without waiting until the next term of
2 court If all parties in interest waive the thirty (30) day period before
3 confirmation absolute and shall in writing agree to have the report
4 of the viewers confirmed absolute at any time before the expiration
5 of the thirty (30) day period the court may enter confirmation abso-
6 lute accordingly The county commissioners or any other party to such
7 proceedings may within thirty (30) days after the filing of the report
8 of the viewers appeal from the award of the viewers to the court of
9 common pleas and shall be entitled to a trial by jury from the judg-
10 ment of the court of common pleas an appeal may be had to the Supreme
11 Court or Superior Court as in other cases Such damages when ascer-
12 tained shall be paid by the county in which the State highway is located

13 Section 304 Fixing or Assessment of Damages and Benefits Pay-
14 ment by Commonwealth Whenever the county commissioners do not
15 consent to or approve any such change of width or of existing lines
16 and location and the secretary determines such change to be necessary
17 he shall when possible enter into an agreement with the owner or
18 owners of said property as to the amount of damages to be paid there-
19 for and if agreed upon such damages shall be paid by the Common-
20 wealth out of moneys in the Motor License Fund If such agreement

1 cannot be made the owner or owners of said property damaged thereby
 2 or the Commonwealth may present their or its petition to the court
 3 of [quarter sessions] common pleas for the appointment of viewers
 4 to ascertain and assess such damage as well as any benefits within the
 5 same time in the same manner and with the same right of appeal to
 6 the owner or owners and to the Commonwealth as is hereinbefore pro-
 7 vided in cases where the county agreed to such change The damages
 8 when ascertained shall be paid by the Commonwealth out of moneys
 9 in the Motor License Fund

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