

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

The Military Code of 1949.

Section 1. Section 827.1, act of May 27, 1949 (P. L. 1903), known as "The Military Code of 1949," added October 21, 1959 (P. L. 1338), is amended to read:

Section 827.1, act of May 27, 1949, P. L. 1903, added October 21, 1959, P. L. 1338, amended.

Section 827.1. Promotions of Officers, Warrant Officers and Enlisted Men.—Every retired officer, warrant officer and enlisted man of the Army or Air National Guard or Reserve, shall, upon application to the Adjutant General after his or her retirement, be promoted to the next higher grade in the Pennsylvania National Guard above that presently held in a grade or rank federally recognized: Provided, That the applicant meets the following requirements:

(1) The applicant has served ten years in the Pennsylvania National Guard with active Federal service counting as double time.

(2) The applicant has served a total of twenty-five years in any of the Reserve components of the armed forces of the United States, to include the Army National Guard, Air National Guard, Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve and Coast Guard Reserve.

(3) Such twenty-five years' service as prescribed in clause (2) hereof shall be such as would be credited for retirement under Federal law covering retirement of National Guard and Reserve personnel—*or*

*(4) In lieu of the requirements of clauses (1), (2) and (3) hereof, the applicant shall have attained the grade of Major-General in the Pennsylvania National Guard and has been federally recognized in such grade.*

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 25th day of May, A. D. 1961.

DAVID L. LAWRENCE

No. 131

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 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 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," \*\* permitting a contractor to deposit certain securities with the Secretary of Highways as an alternative to the payment by the Secretary of Highways of interest on amounts withheld pending satisfactory completion of a contract.

Department  
of Highways.

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

Section 33, act  
of May 31, 1911,  
P. L. 468,  
amended by the  
act of June 13,  
1957, P. L. 292,  
further amended.

Section 1. Section 33 of 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 counties or townships of the Commonwealth certain existing

\* "public" in original.  
\*\* "by" in original.

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," \* amended by the act of June 13, 1957 (P. L. 292), is amended to read\*\*:

Section 33. (a) The total cost of the improvement and maintenance of the State-aid highways constructed under the provisions of this act, as provided by the terms of the contract, or otherwise as herein provided, when

Payment of cost  
of improvement  
and maintenance.

\* "as" in original.

\*\* "as follows" in original.

properly certified by the Secretary of Highways, shall be audited by the Auditor General, and when audited and allowed shall be paid out of moneys specifically appropriated for this purpose, by warrants drawn therefor by the Auditor General upon the State Treasurer.

County's share.

(b) The share of the county shall be paid as provided by its contract, and, otherwise, by the provisions of this act, to the State Treasurer by the county treasurer, upon the warrant of the county commissioners, in such sum or sums as shall be certified by the Secretary of Highways, from time to time, during the performance of the work or contract, or as provided by the contract, and, otherwise, by the provisions hereof, after the same shall be completed.

Borough's and Township's share.

(c) The share of the township or townships, or of any borough or boroughs, or of any incorporated town or towns, shall be paid to the State Treasurer by the township supervisors or commissioners, or by the borough treasurer, or by the town treasurer, as the case may be, in the manner and form as in the case of counties, and as other debts of said townships or boroughs are paid, when and as demanded by certificate of the Secretary of Highways during the performance of the work or contract, or, in like manner, after the same shall be completed.

Certificate of Secretary of Highways.

(d) Upon the completion of any State-aid highway improvement, or upon the ascertainment of any additional improvement cost, or of any maintenance expense, incurred thereon thereafter by the Department of Highways, the Secretary of Highways shall certify the same to the State Treasurer, and to the county commissioners and township supervisors, or borough or town authorities, as the case may be, the respective shares of said cost or expense for which the county, township, borough, or incorporated town is liable. If the said shares or amounts, so certified by the Secretary of Highways, of the cost and expense of the improvement, or of the subsequent maintenance thereof, as provided by contract and the provisions of this act, of the county, township, borough, or incorporated town, or all or either of them, shall not be paid to the State Treasurer within thirty days after being certified, then the said shares of the county, township, borough, or incorporated town, either or all of them, remaining unpaid, shall be charged by the State Treasurer against any funds of said county, township, borough, or incorporated town which may be in the hands of the State Treasurer, or which may thereafter come into his hands, excepting school funds, and may also be recovered by action at law or equity as any other debts of such counties, townships, boroughs, or incorporated towns are by law recoverable.

Failure to pay.

\* "Traesurer" in original.

(e) The amounts paid under this act to the State Treasurer by the counties, townships, boroughs, and towns, shall be placed by him to the credit of the proper fund for highway construction or maintenance, and shall immediately be available for the use of the Department of Highways for construction or maintenance, as the case may be; and the Secretary of Highways is hereby authorized and empowered to apportion the said amounts, thus paid into the State Treasury by the counties, townships, boroughs, and incorporated towns, among the several counties as hereinbefore provided for.

Fund.

Apportionment.

(f) The Secretary of Highways may make partial payments to any contractor performing any highway improvement, under this act, as the same progresses, upon estimate made by the Department of Highways. Ten per centum (10%) of the amount due on partial payments or current estimates representing fifty per centum (50%) of the total contract price shall be withheld from the contractor pending completion. Thereafter, no per centum of the amount due on partial payments or current estimates shall be withheld from the contractor pending completion: Provided, That the Secretary of Highways may, in his discretion, make payments in excess of the percentages withheld when at least ninety-five per centum (95%) of the work contracted has been completed. The amount retained under said contract for the work done and performed shall in all cases be sufficient to cover double the contract price or estimated cost of the work remaining to be done to satisfactorily complete the contract.

Partial payments.

Amount retained.

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

Payment on account of steel delivered.

Security.

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

Rate of interest to be paid on amount retained.

Option of contractor to withdraw amounts.

(i) *At the option of the contractor and in lieu of the payment of any interest as hereinbefore provided in subsection (h), amounts withheld pending completion of any highway improvement under this act may, in whole or in part, be withdrawn by the contractor as soon as such amounts are credited to his account under either of the hereinbefore mentioned methods for making partial and final payments upon depositing with the Secretary of Highways securities of a market value equal to the amount so withdrawn. Such securities shall be of a character approved by the Secretary of Highways and shall include, but not be limited to, bonds or notes of the United States of America, the Commonwealth of Pennsylvania, or any political subdivision thereof and, upon approval, such bonds, notes or other obligations as may be issued by any authority, agency or instrumentality created by the United States of America, the Commonwealth of Pennsylvania, or any political subdivision thereof.*

Duty of Secretary of Highways to collect interest and income.

*The Secretary of Highways shall, from time to time, collect all interest or income on the securities so deposited and shall pay the same, when and as collected, to the contractor who deposited the securities. If the deposit be in the form of coupon bonds, the coupons as they respectively become due shall be delivered to the contractor. Upon default, the Secretary of Highways may apply such securities, interest, coupons or income therefrom as may be necessary to correct said default and the contractor shall not be entitled to the balance thereof, if any, until the work remaining to be done under the contract has been satisfactorily completed.*

Act effective immediately.

Section 2. This act shall take effect immediately.

APPROVED—The 25th day of May, A. D. 1961.

DAVID L. LAWRENCE

No. 132

AN ACT

Amending the act of May 4, 1927 (P. L. 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," authorizing disturbing the peace to be defined and penalized, and providing for disposition of such penalties.

The Borough Code.

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