

No. 1981-11

AN ACT

HB 20

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," eliminating the requirement of court approval for the construction of bridges and viaducts.

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

Section 1. Section 2604, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," is amended to read:

Section 2604. Plans and Surveys for Bridges and Viaducts; **Petition to Quarter Sessions**.—Whenever the commissioners of any county resolve to provide a bridge or viaduct, pursuant to this article, they shall cause to be prepared plans and surveys showing the location of the proposed structure, its approaches and the property or rights of property affected thereby, together with any roads in any city, borough, incorporated town or township proposed to be used in connection therewith. **[They shall present the same, together with their petition, to the court of quarter sessions, praying for an order approving their exercise of the said authority to locate, lay out, open and construct such a bridge. Such petition shall briefly set forth the location and the estimated cost of such bridge, or, if the method of construction has not been fully determined, the estimated cost thereof for each alternative method of construction proposed.]**

Section 2. Sections 2605 and 2606, subsections (b) and (c) of section 2607 and sections 2609 and 2610 of the act are repealed.

Section 3. Section 2612 of the act is amended to read:

Section 2612. Bridges on Boundary Between Two Counties.—
(a) Whenever any bridge provided for by this article is on the boundary line between two counties or within one-fourth of a mile therefrom and necessary for the accommodation of the inhabitants of both counties, the commissioners of such counties shall act jointly in the exercise of all powers conferred upon them and in the performance of all duties imposed upon them. Whenever a petition of residents or taxpayers is required, such petition shall be made by the required number of petitioners in each county to the **[court of quarter sessions or the court of common pleas, as the case may be,] county commissioners** of their county. Whenever any other petitions are required, such petitions shall be made to **[the proper court or to] the county commissioners[, as the case may be,]** in each of such counties. Each **[of the courts and each] of the boards of county commissioners[, as the case may be,]** shall act on such petitions and shall communicate its approval or disapproval to the other **[court or] board**.

[(b) Whenever the appointment of viewers or inspectors is required, the court of each county shall appoint a full number of such viewers or inspectors and order a view in like manner and with like powers, duties and procedure provided for in the case of public roads. The total number thereof shall act together in the view or inspection and shall make their joint report and recommendations to each court. Exceptions to the report of viewers may be filed in and appeals therefrom made to the court of either county, in which case the courts of the two counties sitting together shall hear and determine the same.]

(c) Whenever publication of notice is required, such publication shall be made in each county. The approval of both boards of commissioners [and of both courts] shall be necessary in order to authorize any action requiring such approval.

(d) Whenever the procedure provided in Article XXIV of this act is to be followed, such procedure shall be carried out only in and by the county in which the lands, other property or materials entered upon, taken or damaged are located and the damages shall be paid by such county only.

(e) Any such bridge shall be a joint county bridge. All costs and expenses pertaining to such bridge and the maintenance thereof shall be borne by the two counties, jointly, in such proportions as shall be agreed upon, from time to time, by the commissioners thereof.

Section 4. Subsections (a) and (b) of section 2613 of the act are repealed.

Section 5. Sections 2614 and 2615 of the act are amended to read:

Section 2614. County Commissioners May Purchase Bridges Already Erected.—Whenever, in accordance with the provisions of this article, a county is authorized to erect a bridge and instead of building a new bridge the county commissioners can purchase any bridge already erected at a reasonable cost, they may[, with the approval of the court of quarter sessions,] make such purchase [upon the recommendation of viewers. Such viewers shall, in their report, file an estimate of the actual value of such existing bridge, or the cost at which said bridge could be built. The amount expended by the county commissioners for such purchase shall not exceed the estimate filed by the viewers].

Section 2615. Rebuilding Privately Owned Bridge.—The commissioners of any county may take charge of or rebuild any bridge suitable for public traffic within the county and abandoned by the owners thereof. [If the commissioners of the county shall neglect or refuse to act, as herein provided, then, upon petition to the proper court of common pleas of fifty property owners, being taxpayers, residing in the city, borough or township in which such bridge was or is located, said court may issue a writ of mandamus to said commissioners to proceed in the acquisition and rebuilding of such bridge if the same appears necessary to public traffic within the county. Such

petition shall set forth fully all the pertinent facts and shall be supported by the affidavit of five of said petitioners.]

Section 6. Section 2616 of the act is amended to read:

Section 2616. Acceptance of Bridge Donated to County.—

(a) The commissioners of any county may accept, take charge of and enter upon the records as a county bridge, any bridge within the county which has been built at the expense of private persons or by public subscriptions, and has been opened to free public travel, used by the public and become necessary and convenient for the use of the public, upon notice in writing of the persons who built it or of the subscribers to the original subscription on which the money was raised to build the same, or the heirs or assigns of such persons or subscribers, or of a duly authorized board of trustees representing such persons or subscribers, that they desire to give the bridge to the county in which it is located.

[(b) Before said bridge is accepted by the county commissioners, the question of its necessity shall be determined in the following manner. The county commissioners shall, at the next term of the court of quarter sessions after receiving said notice, present the question to said court and petition for the appointment of three viewers, in like manner and with like power, duties and procedures provided for in the case of public roads. If the report of said viewers shall state the necessity of such bridge, the court shall, upon approval thereof, direct that the commissioners enter the bridge upon the records as a county bridge.]

(c) All costs shall be paid out of the treasury of the county. The **[owner of said bridge shall pay into the county treasury such costs as the court by order may direct, and the]** county commissioners may require the owner of said bridge to file, together with their notice, a bond sufficient to secure payment of the costs.

Section 7. Sections 2634, 2650, 2651, 2652, 2653, 2654, 2656, 2657 and 2658 of the act are amended to read:

Section 2634. Closing, Vacating, Abandoning and Removing County Bridges.—Whenever it appears to the county commissioners that any county bridge including but not limiting to any destroyed or partially destroyed bridge has, from any cause, become burdensome and is no longer necessary for the accommodation of public travel, they may **[upon approval of the court of quarter sessions]** close, vacate, abandon and remove such bridge.

Section 2650. Procedure for Taking Over Bridge by County; Aid to Political Subdivisions in Construction and Maintenance of Bridge.

—(a) Whenever the construction of any new bridge, or of any bridge to replace any existing bridge, over a stream, or over or under a railroad, and forming part of any road in any city, borough, town or township, or between any two or more such political subdivisions is necessary, and requires more expense than it is reasonable that such political subdivision, or any two of them jointly, should bear, **[the**

court of quarter sessions shall, upon representation of the proper authorities of any such political subdivision, or on petition of any of the inhabitants thereof, order a view in like manner and with like powers, duties and procedure as provided for in the case of public roads. If on the report of the viewers] and if it shall appear [to the court and] to the commissioners of the county that such bridge is necessary, and would be too expensive for such political subdivision or adjoining political subdivisions to bear, it may, at the discretion of the county commissioners, be entered on record as a county bridge. Such bridge shall thereupon be erected, maintained and kept in repair in the same manner as other county bridges constructed under the provisions of subdivision (a) of this article.

(b) If the county commissioners refuse to have such bridge entered on record as a county bridge, the county may pay the entire cost or any part of the cost of constructing such bridge including damages. Such bridge shall thereupon be a municipal or township bridge to be maintained and kept in repair by such political subdivision. The county commissioners may, at their discretion, furnish such political subdivision the whole or any part of the money necessary to maintain such municipal or township bridge.

(c) Where the cost to the county will not exceed one thousand five hundred dollars (\$1500), the county commissioners may furnish such aid in the construction of such bridge without following the procedure herein stipulated.

Section 2651. Change in Location of Bridge and Roads.—When such bridge is to take the place of an existing bridge, the viewers may change the location thereof so that it may be located and built in the most suitable place, or at the least expense, or in the best manner, and, in the case of the change of location of such bridge, they shall also report what change in the course or bed of the road to be connected therewith will be necessary, and shall also report the vacation of the old or existing bridge, and the vacation of such portion of the road connecting therewith as they may deem proper. [The viewers shall cause every such variation to be accurately surveyed, and a plot thereof to be made and returned with the report. Upon the approval of their report, such roads shall be altered accordingly.]

Section 2652. Construction of Embankments and Causeways as County Improvements.—[(a)] Where a stream over which it may be necessary to build a bridge crosses a public road, and the building of such bridge requires the construction of an embankment or causeway leading to either end of such bridge, the erection of which embankment or causeway requires more expense than it is reasonable that one or more adjoining townships should bear, [the court having jurisdiction, upon the representation of the township commissioners or supervisors or on petition of any of the inhabitants of such township or townships, may order a view.]

(b) **If, on the report of the viewers,] and if** it shall appear **[to the court]** that for the use and enjoyment of said bridge by the public it is necessary to construct an embankment or causeway the construction of which would be too expensive for such township or townships to bear, it may, in the discretion of the county commissioners, be entered on record as a county improvement and constructed as county bridges are constructed.

Section 2653. Contract for Parts of Municipal Bridges Where County Might Have Built Bridge.—(a) Where a city of the third class, a borough or a township of the first class is authorized to construct a bridge or viaduct over a stream or other place over which the county is authorized to build bridges and such political subdivision is authorized to contract with the county and with railroads, street railways and other companies or parties interested for the building and maintenance of such bridge or viaduct and for the payment of any damages caused by the location or building thereof, the county commissioners may**], with the approval of the court of quarter sessions,]** contract with such city, borough or township for that part or portion of the bridge which crosses any of the places hereinbefore mentioned, including the abutments and piers thereof. Such part shall thereafter be maintained as a county bridge.

(b) In lieu of the contract above provided for, the county commissioners may**], with the approval of said court,]** contract for any part or portion of the whole structure equal to or greater than the part or portion which the county might have built.

(c) The contracts provided for in this section may stipulate that the county shall pay a certain portion of the whole contract price or cost of the work, including damages, or may stipulate that the county shall construct or pay for the construction of a certain part of the work, and may otherwise provide for the payment of the damages. The amount to be paid by the county shall be paid directly to the contractor as may be provided by the contract.

Section 2654. Joining With City in Another County in Building or Rebuilding Bridge.—When any bridge or proposed bridge is on the dividing line between two counties which is also the dividing line between one county and a city in the other county and such city has authority to build or rebuild such bridge or to join with any county therein, said county may join with said city in the other county in building or rebuilding such bridge. **[In such case the approval of the court of quarter sessions of the county so joining with a city only shall be required.]** The cost of such bridge shall be paid in such proportions as shall be agreed upon by the county and city so joining.

Section 2656. Entry of Borough or Township Bridge on Record as County Bridge.—Whenever a public bridge has been built or maintained by any borough or township, or both, or by any two boroughs or two townships, or any of them, and it shall afterwards appear to the commissioners **[and to the court of quarter sessions]** that the care,

maintenance and responsibility of said bridge is greater than it is reasonable that the said political subdivisions should bear, the commissioners[, with the approval of the court,] may enter such bridge upon record as a county bridge, and it shall thereafter be a county bridge in the same manner as if it had originally been so entered on record, if the proper local authorities having the maintenance, supervision and control of such bridge shall tender the same to the said county commissioners free and without charge.

Section 2657. Acquisition of Toll Bridges by Purchase or Condemnation.—(a) **[Upon the approval of the court of quarter sessions, the] The** county may purchase or acquire any toll bridge situated within the county which is necessary for the accommodation of public travel and on which the payment of tolls is burdensome to the traveling public, together with the approaches and appurtenances thereto as herein provided.

[(b) The proceedings shall be commenced by petition to said court by at least twenty-five resident taxpayers of the county alleging the facts and praying that the bridge be taken over as a public bridge.]

(c) **[Upon approval of the petition by the court, the] The** commissioners of the county may purchase the bridge with the approaches and appurtenances thereto, at a price to be agreed upon by the commissioners and the owner of the bridge, or, upon failure to agree upon a purchase price, the county commissioners may take the bridge under eminent domain or condemnation proceedings as provided by law. Thereafter, the bridge shall be entered on record as a county bridge, and shall be controlled, maintained and used as a public bridge.

(d) Such bridge may be freed from tolls at any time thereafter, but in no event later than the time when all debt incurred as a result of the acquisition thereof is extinguished. The county shall at all times have authority to charge tolls or rentals for the use thereof from railway, telephone and telegraph companies and other persons or companies using such bridge for other than ordinary public foot and vehicular travel. Where contracts exist between such persons or companies and the owners of such bridge, such contract shall be preserved for the benefit of the county and shall be assigned thereto.

Section 2658. Contracts with Municipalities for Purchase or Condemnation of Toll Bridges.—Where a political subdivision may purchase, condemn and maintain any toll bridge crossing any stream within its limits and may enter into contracts with the county commissioners whereby the county shall pay a portion of the costs thereof, the county commissioners may[, upon petition of at least twenty taxpayers of the county to the court of quarter sessions and the approval thereof by the court,] enter into such contract upon such terms and conditions as may be agreed upon for the purchase, appropriation or condemnation of such bridge. The contract may stipulate that the political subdivision and the county shall each pay a certain

portion of the purchase price and of the damages allowed by any condemnation proceedings, and may also provide for the maintenance and repair of such bridge. The amount to be paid by the county shall be paid into the treasury of such subdivision, and shall be applied solely to the payment for such bridge.

Section 8. This act shall take effect immediately.

APPROVED—The 1st day of May, A. D. 1981.

DICK THORNBURGH