

No. 1985-43

AN ACT

HB 626

Amending the act of September 18, 1961 (P.L.1389, No.615), entitled "An act establishing and taking over as State highways certain county highways, or sections thereof, tunnels, bridges, viaducts and approaches thereto, in counties, and certain streets and bridges in cities of the first class and in cities of the second class, and certain streets in cities of the second class A and third class, and certain township roads and certain streets in boroughs and incorporated towns; authorizing under certain terms and conditions their construction, maintenance, repair, reconstruction and improvement by the Commonwealth; conferring certain powers upon Department of Highways and local authorities, persons, associations and corporations for sharing the cost of the maintenance and construction of such highways; and deleting certain State highways," further providing for the Commonwealth's maintenance obligations; providing that the powers of the Pennsylvania Public Utility Commission shall not be affected; and making a repeal.

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

Section 1. Sections 101 and 103 of the act of September 18, 1961 (P.L.1389, No.615), referred to as the County and Municipal State Highway Law, are amended to read:

Section 101. All or part of the following various public highways, or sections thereof, bridges, tunnels, viaducts and approaches thereto, in counties, shall, if and when the county commissioners consent thereto by resolution a copy of which shall be filed in the office of the clerk of the courts of the proper county and with the Department of [Highways] Transportation, be adopted by the Commonwealth as a State highway[, and shall thereafter be maintained, repaired and constructed in the same manner with like power and authority as provided by the laws of the Commonwealth applicable to State highways]; however, no highway bridge, viaduct or approach thereto shall be taken over by the Commonwealth under the provisions of this act if a contract for the improvement thereof has been entered into between a contractor and the Commonwealth or local authorities, or both, until such contract shall have been completed.

Section 103. Upon the taking over for construction and maintenance by the Commonwealth of any of the highways or sections thereof, bridges, tunnels, viaducts or approaches thereto specified in this act, the Commonwealth shall thereafter assume all rights, obligations and liabilities of the county, except for any outstanding construction or reconstruction obligations and liabilities in effect at the time of such transfer relating to said highways or sections thereof, bridges, tunnels, viaducts or approaches thereto, whether the same arise by virtue of any order of the Public Service Commission, the Pennsylvania Public Utility Commission, by contract or otherwise, with respect to those highways, bridges, tunnels, viaducts and approaches

thereto designated in section 101, which are located in cities of the second class and third class. This article is not intended and shall not be construed:

- (1) To place upon the Commonwealth any duty to regulate traffic upon or police such highways, bridges, tunnels, viaducts and approaches.
- (2) To place upon the Commonwealth any obligation for maintenance, construction, reconstruction or resurfacing *of any highway* other than the base or surface courses. The maintenance authorized by this article shall not include snow removal [or], street cleaning *or maintenance or replacement of guide rail or drainage facilities* and shall be limited to the portions [between existing curb lines] available to vehicular traffic *regardless of whether there are existing curbs.*
- (3) To place upon the Commonwealth any obligation under any franchise or franchises heretofore granted to any public utility company.
- (4) To place upon the Department of [Highways] *Transportation* any authority to regulate traffic, parking or the general use by the traveling public of such highways, bridges, tunnels, viaducts and approaches: Provided, however, That the Department of [Highways] *Transportation* shall be authorized to close to traffic all of such highways, bridges, tunnels, viaducts and approaches during such time as improvements are being made thereon, and in such case the political subdivision in which the same is located shall establish and maintain a suitable detour.

The rights, powers, duties, obligations and responsibilities set forth in this section which are not placed upon or transferred to the Commonwealth and which will or would be placed upon or transferred to cities of the second and third class by existing law shall become and/or remain the rights, powers, duties, obligations and responsibilities of said cities: Provided, however, That said cities may contract with counties of the second class for an assumption by said counties of any or all said duties, obligations and responsibilities.

Section 2. The act is amended by adding an article to read:

ARTICLE V-A.
ALTERATION OF RESPONSIBILITY.

Section 550. Notwithstanding the provisions of Articles I through V, pertaining to construction, reconstruction, maintenance and resurfacing of the highways and bridges enumerated therein, the Secretary of Transportation shall have authority to enter into agreements with any political subdivision to alter the respective responsibilities of the Department of Transportation and the municipality for construction, reconstruction, maintenance and resurfacing.

Section 3. Nothing contained in this act shall impair, suspend, contract, enlarge or extend or affect in any manner the powers and duties of the Pennsylvania Public Utility Commission.

Section 4. (a) The act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, is repealed insofar as it is inconsistent with this act.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5. This act shall take effect in 60 days.

APPROVED—The 3rd day of July, A. D. 1985.

DICK THORNBURGH