

No. 233

AN ACT

To re-enact and further amend the title and the act, approved the first day of June, one thousand nine hundred and thirty-three (Pamphlet Laws, one thousand four hundred nine), entitled "An act authorizing the Secretary of Highways to enter into agreements relating to support for State highway right of ways underlaid by coal, and for the ascertainment and assessment of damages sustained by reason of the obligation to furnish such support whether the damages are payable by the Commonwealth or a county," by extending said act, as amended, to all counties of this Commonwealth; and further clarifying the provisions of the act.

Section 1. Be it enacted, &c., That the title and the act, approved the first day of June, one thousand nine hundred and thirty-three (Pamphlet Laws, one thousand four hundred nine), entitled "An act authorizing the Secretary of Highways to enter into agreements relating to support for State highway right of ways underlaid by coal, and for the ascertainment and assessment of damages sustained by reason of the obligation to furnish such support whether the damages are payable by the Commonwealth or a county," as amended by the act, approved the eighteenth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws, one thousand three hundred six), are hereby re-enacted and further amended to read as follows:

Title and act of June 1, 1933 (P. L. 1409), as amended by act of July 18, 1935 (P. L. 1306), further amended.

AN ACT

Creating the Highway Mining Commission, with judicial powers, to have exclusive jurisdiction over the mining of coal within or under the right of ways of State highways; and the assessment and award of benefits, improvements, and damages for coal required to be left in place by reason of the obligation to furnish support for State highway routes, whether payable by the Commonwealth or a county; authorizing counties to enter into agreements to indemnify or reimburse the Commonwealth for damages to highways caused by the removal of coal under or adjacent thereto.

Section 1. Be it enacted, &c., That whenever the Commonwealth has heretofore acquired or may hereafter acquire an easement for highway purposes upon lands underlaid by mineable coal, the Highway Mining Commission hereinafter created, upon application of the Secretary of Highways, the county, or the owner of the coal underlying such lands, or the person entitled to remove the same in case the assessment of damages is desired, or of the owner or person entitled to remove the coal only if the removal of the coal is desired in lieu of damages, is hereby empowered to determine, authorize, and direct the underlying or adjacent coal, if any, to be

State highways underlaid by mineable coal.

Highway Mining
Commission
created.

Powers.

Easement not to
include coal
removed.

left in place for the purpose of furnishing vertical or lateral support to said highway, the underlying or adjacent coal, if any, which may be removed, and the material, if any, to be substituted for the coal so removed, together with the method and manner of placing such material in the mine workings, for the purpose of furnishing both vertical and lateral support to such highway, and the party or parties by whom the expense thereof shall be paid. The president judge of the court of common pleas of the county in which the highway is situated, who shall be the chairman thereof, one member of the Public [Service] *Utility* Commission or an engineer designated by it, the Secretary of Mines or his designated representative, the Secretary of Highways or his designated representative, and an engineer designated by the owner or person entitled to remove the coal, are hereby constituted a special commission to be known as the Highway Mining Commission. This commission shall have exclusive jurisdiction of the mining of coal under highways, and judicial powers to hear and determine all evidence which may be presented; to compel the attendance of witnesses and the production of books, records, and other information by subpoena; to conduct such investigations as it may deem necessary; to make and enforce such orders, decrees and rules of procedure as it may deem advisable; to determine and assess damages, if any, for coal required to be left in place and benefits, if any, for improvements or betterments; to allocate among the parties in interest the cost of its proceedings as well as any work which it may order performed; and to enforce its orders and decrees through the court of common pleas of the county in which the highway is situated. A majority of the commission, of which the chairman must be one, may act for and exercise the powers of the commission. All parties in interest shall have the same right of appeal from decisions, orders and decrees of the Highway Mining Commission to the Superior and Supreme Courts, as now or hereafter provided for appeals from the decisions, orders and decrees of courts of common pleas.

Section 2. The condemnation or acquisition of any easement for highway purposes, as hereinabove provided, shall not be considered as including the condemnation or acquisition of any coal which may be removed under the terms of any agreement, *decision, order or decree* authorized by this act.

Section 3. Any damages sustained by the owner of the coal, or the person entitled to remove the same, as a result of any obligation to furnish vertical and lateral support arising because of the acquisition of such easement for highway purposes, which obligation did not exist prior to the date of such acquisition, shall be deter-

mined and paid in accordance with the provisions of this act. Any county which may be liable for damages for coal required to be left in place for the support and safety of highways, as herein set forth, shall have authority to enter into agreements to indemnify the Commonwealth for any damages, or reimburse it for the replacement of any highway which may be injured or destroyed by the removal of coal under or adjacent to such highway. This act shall not be construed to create any new right of action for damages or any right of action or procedure, not existing or available at the time of the original acquisition of such easement.

Section [3] 4. This act shall [not] apply in *all* counties of the [second class] *Commonwealth*.

Section 2. This act shall become effective immediately upon its final enactment. When effective.

APPROVED—The 26th day of May, A. D. 1937.

GEORGE H. EARLE

No. 234

AN ACT

Abating certain tax penalties and interest on city and school taxes in cities of the first class and school districts of the first class.

Section 1. Be it enacted, &c., That all penalties, interest, and costs imposed, but not actually paid out, on delinquent city or school taxes in cities of the first class and in school districts of the first class for the tax year one thousand nine hundred and thirty-four, and for all previous tax years, and the penalties and costs imposed, but not actually paid out, on such taxes for the tax year one thousand nine hundred thirty-five on any parcel or parcels of real estate, shall be abated without the necessity of further action on the part of the council of such city or by the board of public education of such school district, as the case may be, if the following provisions are complied with:

Abatement of penalties, interest, and costs on city and school taxes in cities of the first class and school districts of the first class.

(a) That all of the said respective delinquent taxes are paid in four equal installments as follows: one fourth, on or before the first day of November, one thousand nine hundred and thirty-seven; one fourth, on or before the first day of November, one thousand nine hundred and thirty-eight; one fourth, on or before the first day of May, one thousand nine hundred and thirty-nine; and the final one fourth, on or before the first day of November, one thousand nine hundred and thirty-nine.

Installments.

(b) The respective current taxes for the years during such installment period shall be paid before they become delinquent.

Current taxes.