

AUTHORIZING THE ACQUISITION OF TOLL BRIDGES

Act of Apr. 22, 1949, P.L. 715, No. 175

CL. 36

AN ACT

Empowering, authorizing and directing the Secretary of Highways to acquire toll bridges located wholly within Pennsylvania; providing the procedure therefor, and prescribing certain duties of the Governor, the Auditor General and the State Treasurer to be exercised in connection therewith; conferring jurisdiction in condemnation proceedings on certain courts of common pleas; authorizing the Secretary of Highways to enter into agreements with a state authority or agency for the acquisition of such toll bridges; providing for the operation of such bridges as toll bridges after acquisition, providing a plan for making such bridges free bridges under certain terms and conditions, and for their control and maintenance after acquisition; and making an appropriation.

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

Section 1. The words "toll bridge" or "bridge" as used in this act shall mean any bridge whereon toll is charged located wholly within the Commonwealth of Pennsylvania over any stream or river, or over a stream or river and the facilities of any public service company, and shall include the actual bridge, the approaches thereto, and all real and personal property, including the franchise belonging to the owner or owners of such bridge and used in the operation and maintenance of same.

Section 2. The Secretary of Highways is hereby authorized to acquire, on behalf of the Commonwealth, any toll bridge, as defined in this act. The acquisition of such toll bridges may be either by purchase or by condemnation proceedings, as the Secretary of Highways may deem expedient. The time or times when such toll bridge or bridges shall be acquired shall be determined by the Secretary of Highways, with the approval of the Governor, and the Secretary of Highways shall proceed with the acquisition of toll bridges at the earliest date he shall deem expedient. The cost of acquiring such toll bridges shall be paid as hereinafter provided.

Section 3. The Secretary of Highways shall, whenever he determines to acquire any such toll bridge, ascertain or estimate the value thereof and shall, in writing, give notice of such valuation to the owner or owners thereof. Such notice shall contain an offer to purchase such toll bridge at the valuation made by the Secretary of Highways.

Section 4. If the owner or owners of such bridge accept such offer, or whenever the Secretary of Highways and the owner or owners of such bridge shall agree on a purchase price after negotiation, the Secretary of Highways and said owner or owners shall enter into a written agreement by the terms of which the owner or owners shall transfer to the Commonwealth, at and for the price agreed upon, a good, sufficient and marketable title to such toll bridge, as herein defined, or transfer or procure the transfer to the Commonwealth of all of the outstanding stock of the owner corporation, as provided in section five of this act.

Section 5. Whenever the owner of any toll bridge is a corporation whose sole activity is the ownership and operation of a toll bridge, the agreement of sale may provide that the Commonwealth shall acquire title to the bridge by the purchase of all of the outstanding shares of stock of the corporation. To arrive at the price to be paid for such stock, the Secretary

of Highways shall ascertain or estimate the value of the toll bridge, as in other cases, and such valuation or the valuation which may be fixed after negotiations between the owners and the Secretary of Highways shall be the total price to be paid for such stock. Such valuation shall exclude all property and assets of the corporation not deemed by the Secretary of Highways to be essential in connection with the operation of the toll bridge and from the total amount of such valuation, all indebtedness of the corporation shall be deducted or arrangements made for payment thereof. In the event of such purchase, all of the stock of the corporation shall be transferred to the Secretary of Highways, to be held by him or his successor in office in his official capacity for the Commonwealth of Pennsylvania, and from the date of such transfer the bridge shall be deemed to be the property of the Commonwealth of Pennsylvania, to be operated or maintained in the same manner, as hereinafter provided, for the operation and maintenance of the bridge had it been acquired by condemnation. After the Secretary of Highways shall have received all of the shares of stock of a corporation whose toll bridge property, including the franchise, has been acquired by the purchase of stock, he shall have authority to vote such shares of stock for the purpose of procuring a conveyance of the toll bridge and all property and assets used in connection with the operation thereof to the Commonwealth of Pennsylvania, and for the purpose of procuring the dissolution of the corporation by proceedings to be promptly instituted by the Secretary of Highways, and for any other lawful purpose necessary to effect the acquisition of the bridge property by the Commonwealth.

Any agreement providing for the acquisition of a toll bridge by the purchase of all outstanding stock of the owner corporation shall be contingent upon payment of all debts and obligations of the corporation, or shall provide a plan for the payment of such outstanding debts or obligations by the deposit of funds, in escrow, for payment thereof.

If any bridge is to be acquired by purchase of the bridge property or by purchase of the stock of the corporation, as hereinbefore provided, the agreement for such purchase or transfer may provide for the payment of the purchase price in installments, in such amounts and at such times as mutually may be agreed upon by the owners and the Secretary of Highways.

Section 6. Whenever a toll bridge is acquired, as hereinbefore provided, the price to be paid therefor shall be paid from the Toll Bridge Fund by the State Treasurer on requisition of the Secretary of Highways, as provided by law, and if there are insufficient funds in the Toll Bridge Fund for such purpose, it shall be the mandatory duty of the Secretary of Highways to notify the Governor, the Auditor General and the State Treasurer to issue and sell bonds promptly to provide funds for payment of amounts due or to become due under the terms of any agreement providing for the acquisition of any toll bridge, as hereinbefore provided.

All agreements for the purchase of any toll bridge, as hereinbefore provided, shall be approved by the Governor and the Attorney General, and shall be recorded in the county or counties wherein any real estate used in connection therewith is located.

Section 7. In the event that the owner or owners of any such toll bridge refuse or neglect to accept the offer of the Secretary of Highways to purchase a toll bridge at and for the valuation made by him, or whenever an agreement cannot be reached on the purchase price, the Secretary of Highways may

condemn such toll bridge. Condemnation shall be effective at the time the Secretary of Highways shall file in the office of the prothonotary of the court of common pleas of the county in which such bridge is located, or in the case of a toll bridge on the boundary line between two or more counties then in the prothonotary's office of any one of such counties, a certificate of condemnation, signed by him and approved by the Governor, describing the property taken. At the same time, the Secretary of Highways shall make application, by petition to the court of common pleas of the same county in which such certificate of condemnation is filed, for the appointment of viewers, whereupon said court or any law judge thereof shall appoint three discreet and disinterested freeholders to view such bridge and estimate the value thereof. None of said freeholders shall be a resident of the county wherein such application shall be made. The said court shall fix a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the property and view the same. The said viewers shall cause at least ten days' personal notice of the time and place of such first meeting to be given to the Attorney General and to the owner or owners of such bridge, if resident within said county. If said owner is a corporation, such notice shall be given to the president, secretary or treasurer thereof, if such officer resides within said county. If neither said owner nor any of said officers reside within said county or cannot be found therein, notice of such first meeting shall be given as said court may direct.

Jurisdiction is hereby conferred upon the several courts of common pleas of this Commonwealth in counties where toll bridges are located, in whole or in part, for the purpose of filing condemnation certificates, as herein provided, and for determining any petition by the Secretary of Highways under the provisions of this act.

Section 8. The said viewers having been duly sworn or affirmed faithfully and impartially to perform the duties required of them under the provisions of this act shall, at the time fixed for said first meeting or at any adjourned meeting, proceed to ascertain as accurately as may be the value of such bridge and to that end may require the attendance of any person whose testimony may be pertinent thereto and the production of any such books and papers as said viewers may deem necessary. If any person shall refuse to appear and testify before such viewers or refuse to produce such books and papers when thereto required, the said court or any judge thereof shall, upon application of said viewers or a quorum thereof, make such order therein as may be necessary.

Section 9. Whenever said viewers shall have ascertained the value of said toll bridge, they shall prepare a full report of their labors. Said report shall include a plan showing the location of said bridge. Upon the completion of said report, the viewers shall fix a time when they shall meet and exhibit same. Ten days' written notice of the time and place of such meeting shall be given to the Secretary of Highways, to the Attorney General and to the owner or owners of said bridge. At the time and place mentioned in such notice, the said viewers shall meet and publicly exhibit said report and hear all exceptions thereto. After making any changes in such report as the viewers may deem necessary, the report shall be filed in said court.

Section 10. (10 repealed June 3, 1971, P.L.118, No.6)

Section 11. The costs of said condemnation proceedings, including the court costs, compensation of viewers and the cost

of any advertising which may be required hereunder, shall be paid by the county in which such proceedings are instituted, and on requisition of the Secretary of Highways, any county paying such costs shall be reimbursed therefor from the Toll Bridge Fund. Each of said viewers shall receive a sum not exceeding thirty-five dollars (\$35) for each day actually and necessarily employed in the performance of the duties herein prescribed.

Section 12. As soon as the Secretary of Highways and the owner or owners have agreed upon the purchase price of any such bridge, as evidenced by an agreement approved as provided in section six of this act, the Secretary of Highways shall take possession of such bridge in the name of the Commonwealth. Whenever the Secretary of Highways condemns any such toll bridge, as hereinbefore provided, he shall forthwith take possession of such bridge in the name of the Commonwealth. The amount of any award or verdict under the condemnation proceedings for the acquisition of any such bridge shall be paid out of moneys in the Toll Bridge Fund by the State Treasurer upon requisition by the Secretary of Highways.

It shall be the mandatory duty of the Secretary of Highways to notify the Governor, the Auditor General and the State Treasurer to issue and sell bonds promptly to provide funds for payment of any final award in condemnation proceedings instituted for the acquisition of any toll bridge. It shall be the mandatory duty of the Governor, the Auditor General and the State Treasurer to issue and sell bonds, as herein provided, in an amount not to exceed eight million five hundred thousand dollars (\$8,500,000) in the aggregate.

(12 amended June 7, 1980, P.L.209, No.61)

Section 13. (13 repealed June 3, 1971, P.L.118, No.6)

Section 14. In the event the Secretary of Highways determines to acquire any toll bridge by condemnation proceedings and is prevented by order of court or for any other reason from taking possession of the bridge, as herein provided, or from continuing possession once obtained, the owner or owners of such bridge shall keep and render to the Secretary of Highways an accurate account of all tolls or income collected or paid for the use, occupancy or crossing of such bridge, from and after the date and hour when the Secretary of Highways was prevented from taking possession of such bridge or from continuing possession thereof, and the amount of the tolls and revenues so collected together with lawful interest thereon, less costs of collection, shall constitute a credit against, and be deducted from, the amount which the owner or owners shall be entitled to receive for such toll bridge as finally determined in the condemnation proceedings.

Section 15. The Secretary of Highways, upon acquiring any such toll bridge, is hereby directed to continue the collection of tolls and charges on such bridge or bridges or reconstructed bridges until the Commonwealth has been reimbursed to the full extent of the original cost of acquiring such bridge, together with such interest thereon as shall have been expended by the Commonwealth and the cost of compensation of toll collectors and the cost of any insurance procured for such bridge. All tolls and charges collected by the Secretary of Highways shall be paid into the Toll Bridge Fund and the salaries of toll collectors and any insurance premiums shall be paid therefrom, on requisition of the Secretary of Highways. Whenever the tolls collected from such bridge, after deduction of all moneys expended for the cost of compensation of toll collectors and costs of insurance, shall have become sufficient to reimburse

the Commonwealth in full for the cost of acquiring such bridge with interest thereon, as aforesaid, then such bridge shall become and be thereafter a free bridge: Provided, however, That any such bridge shall be maintained as a free bridge and the collection of tolls thereon shall cease if at any time the legislature shall provide for the payment out of the General Fund or from the Motor License Fund, if authorized by constitutional amendment, of all interest and sinking fund charges of any bonds issued for the acquisition of such bridge. The Secretary of Highways is hereby authorized to adjust, readjust and fix, from time to time, the amount of tolls and charges on such bridge as may be acquired under the provisions of this act, for the purpose of paying the interest and sinking fund charges on bonds issued for the purpose of acquisition.

(15 amended May 29, 1951, P.L.503, No.123)

Section 16. Should the Secretary of Highways so elect, he may enter into an agreement or agreements with any State authority or agency so authorized to act, whereby such authority or agency can acquire, for the use of the Commonwealth, any toll bridge located wholly within Pennsylvania. The terms of any agreement entered into pursuant to this section shall include provisions whereby any bridge so acquired shall become a free bridge whenever the tolls collected therefrom, less the expense of toll collection, shall be sufficient to retire all bonds issued by the authority or agency for such acquisition, or whenever sufficient funds shall be provided for such purpose, either by the sale of bonds pursuant to the provisions of the constitutional amendment authorizing the issuance of bonds for the acquisition of toll bridges within Pennsylvania, or by statutory appropriation as duly authorized by law.

Section 17. Whenever any such bridge is acquired by the Commonwealth, as hereinbefore provided, it shall be a part of the system of State highways and be designated by a number to be assigned by the Secretary of Highways and shall be under the control of the Department of Highways, and shall be thereafter maintained, kept in repair and rebuilt by the Department of Highways in accordance with the law relating to State highways and bridges. The Secretary of Highways, in his discretion, may procure insurance upon such bridge for protection against destruction of or damage to such bridge, in such amounts not exceeding actual value of such bridge, as he shall deem necessary, until such bridge becomes a free bridge. The Department of Highways shall take over and succeed to all agreements with public service companies or other persons for the use and occupancy of such bridges by the facilities of such companies, such use and occupancy to be governed by the law relating to the issuance of occupancy permits on bridges under the jurisdiction of the Department of Highways.

The Department of Highways may take over and succeed to any agreement in effect at the time of the acquisition of any toll bridge providing for easements and licenses in respect of such bridge which, in the opinion of the Secretary of Highways, will not materially interfere with the use and operation of such bridge as a thoroughfare.

(17 amended May 29, 1951, P.L.503, No.123)

Section 18. So much of the money in the Toll Bridge Fund is hereby specifically appropriated for such purposes. Political subdivisions of the Commonwealth may enter into agreements with the Secretary of Highways to pay out of funds available to them for road and bridge purposes, all or any part of the cost of acquiring toll bridges, as herein provided. The Secretary of

Highways is authorized to accept Federal grants for the purpose of acquiring toll bridges.

Section 19. The following acts and parts of acts, their amendments and supplements, are hereby specifically repealed.

The act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1139), entitled "An act empowering, authorizing and directing the Secretary of Highways to acquire toll bridges located wholly within Pennsylvania; providing the procedure therefor; providing for the operation of such bridges as free bridges after acquisition; and making an appropriation."

The act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1144), entitled "An act to further amend the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws, one thousand forty-six), entitled 'An act appropriating the moneys in the Motor License Fund,' as reenacted and amended, by adding to section five a new clause making the moneys in the Motor License Fund available for the acquisition of toll bridges, located wholly within Pennsylvania."

All other acts and part of act inconsistent herewith are hereby repealed.

Section 20. This act shall become effective immediately upon final enactment.