

AUTHORITY OVER AND USE OF TOLL BRIDGES BY MUNICIPALITIES

Act of Mar. 24, 1909, P.L. 69, No. 41

Cl. 53

AN ACT

Authorizing municipalities to purchase, condemn, maintain, and use public toll-bridges crossing rivers or streams within the limits thereof, and to enter into a contract with the county commissioners of the proper county,--when said commissioners are duly authorized thereto by the court of quarter sessions, on petition of twenty or more tax-payers of such county,--whereby the said county shall pay a portion of the cost thereof; and giving power to the municipalities to charge and collect tolls or rentals, for the use of any such bridge, from railway, telephone, and telegraph companies and other persons making a use thereof for other than ordinary public foot and vehicle travel; and providing for the preservation of existing contracts with such persons, and their assignment to such municipality.

Compiler's Note: Section 4701 of Act 317 of 1931 provided that Act 41 is repealed insofar as it relates to third class cities.

Compiler's Note: Section 1301(c) of Act 192 of 1915 provided that Act 41 is repealed insofar as it confers powers or imposes any duties on boroughs.

Section 1. Be it enacted, &c., That the several municipalities of this Commonwealth are authorized to purchase, condemn, maintain, and use any public toll-bridge crossing any river or stream within the limits of such municipality; and to enter into contracts as hereinafter provided, with the county commissioners of the proper county whereby said county shall pay a portion of the cost thereof.

Compiler's Note: Section 1501 of Act 447 of 1929 provided that section 1 is repealed except insofar as it confers any powers or imposes any duties on counties other than counties of the first class.

Section 2. In case the municipality desires to obtain any such bridge, and is unable to agree with the owner or owners of the bridge upon the price to be paid therefor, any court of common pleas of the county wherein said bridge is located, or any law judge thereof in vacation, on application therefor by petition of said municipality, shall appoint three discreet and disinterested persons as viewers; and appoint a time, not less than ten nor more than twenty days thereafter, when said viewers shall meet and inspect the said bridge and view the same, together with the approaches and appurtenances thereto.

Section 3. The said viewers, having been duly sworn or affirmed justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire, in pursuance of the provisions of this act, and having viewed the said bridge, together with the approaches and appurtenances thereto, shall hear all parties interested and their witnesses;

and shall estimate and determine the damages for the property taken, and to whom the same is payable; and prepare a schedule thereof, and give notice to all parties interested of a time, not less than ten days thereafter, and of a place where they will meet and exhibit said schedule, and hear all objections thereto and evidence. Notice of the time and place of said meeting shall be given by personal service upon all parties in interest, or their attorneys of record. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages allowed and to whom the same is payable, and file therewith a plan showing the bridge, together with the approaches and appurtenances thereto.

Section 4. The viewers provided for in the foregoing sections may be appointed before, or at any time after, the entry, taking, or appropriation of the said bridge, together with the approaches and appurtenances thereto. The costs incurred in the proceedings aforesaid shall be defrayed by the municipality, and each of the viewers shall receive such compensation as may be fixed by the court.

Section 5. If the compensation to be paid for any bridge, which the municipality desires to obtain, cannot be agreed upon between the owners thereof and such municipality, and if the municipality desires to take possession of such bridge, it shall be lawful for it to tender its bond as security to the owner or owners of such bridge,--the condition of which shall be that the said municipality shall pay or cause to be paid such amount of damages as the owner or owners thereof shall be entitled to receive, after the same shall have been agreed upon by the parties, or awarded in the manner provided for by this act. In case the owner or owners of such bridge refuse or do not accept the said bond, the said municipality shall give the owner or owners thereof written notice of the time when the same will be presented for approval; and may present said bond to a court of common pleas of the county wherein said bridge is located; and, when approved, the said bond shall be filed in court for the benefit of said owner or owners, and upon the approval of said bond said municipal corporation may enter upon, appropriate, take, hold, use, and control such bridge.

Section 6. Upon the report of said viewers, or any two of them being filed in said court, either party may within thirty days thereafter file exceptions to the same; and the court shall have power to confirm said report, or to modify, change, or otherwise correct the same, or refer the same back to the same or new viewers, with like power as to their report; or, within thirty days from the filing of any report in court, or the final confirmation thereof, either party may appeal and demand a trial by jury; and either party may, within thirty days after final decree, have an appeal. Upon final confirmation, in any of the cases provided in this section, the award shall be a good and valid judgment against the said municipality. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings, and may make all such orders as it may deem requisite.

(6 repealed in part Jun. 3, 1971, P.L.118, No.6)

Section 7. In case any municipality shall discontinue any

proceeding taken, providing for the appropriation or condemnation of any bridge, prior to the entry upon, taking, or appropriation thereof, and before judgment therein, the said municipality shall not thereafter be liable to pay any damages which have been or might have been allowed; but all costs upon any proceeding had thereon shall be paid by it, together with any actual damage, loss, or injury sustained by reason of such proceedings; and such damage, loss, or injury shall be determined and fixed by the court in which the proceedings are pending.

Section 8. Said municipality may enter into and unite in a contract with the county commissioners of the county in which said bridge is located, upon such terms and conditions as may be agreed upon, for the purchase, appropriation, or condemnation of said bridge. The contract may stipulate that the respective municipality and county shall pay a certain part or portion of the whole purchase price or damages allowed by condemnation proceedings. The amounts to be paid by the county shall be paid into the municipal treasury; and, upon said payment, the municipal treasurer shall be liable therefor, and it shall be held and applied solely for the said purpose or purposes. The said agreements may also provide for and include provisions for the maintenance, repair, and building of the said bridge, after its purchase or condemnation by the said municipality.

Before any county shall enter into any contract with any municipality, as aforesaid, a petition of at least twenty taxpayers of the county, where such bridge is situated, shall have been presented to the court of quarter sessions of said county,--representing that the said bridge is necessary to the accommodation of public travel, and that the payment of tolls over such bridge is burdensome to the traveling public, and that a municipality in said county is desirous of purchasing or condemning, maintaining, and using said bridge, and of entering into a contract with said county whereby the said county shall pay a portion of the cost thereof, and praying the said court for an order authorizing and empowering the commissioners of said county to enter into such a contract with said municipality, upon the terms and conditions set forth in said petition,--and the said court shall have granted the prayer of said petition.

Compiler's Note: Section 1501 of Act 447 of 1929 provided that section 8 is repealed except insofar as it confers any powers or imposes any duties on counties other than counties of the first class.

Section 9. Whenever any bridge shall be purchased or condemned under this act, the municipality shall control, maintain, and use the said bridge as a public bridge; but it shall have power to charge tolls or rentals, for the use thereof, from railway, telephone, and telegraph companies, and other persons making a use thereof for other than ordinary public foot and vehicle travel: Provided, That where contracts exist between such persons and the owners of the bridge, such contracts shall be preserved for the benefit of the municipality and shall be assigned thereto.