

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1145

Session of
1975

INTRODUCED BY MESSRS. BONETTO, KOLTER, STOUT, ANDERSON AND
GEESEY, APRIL 29, 1975

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 26, 1976

AN ACT

1 Amending the act of May 31, 1911 (P.L.468, No.193), entitled "An
2 act providing for the establishment of a State Highway
3 Department, by the appointment of a State Highway
4 Commissioner, two Deputy State Highway Commissioners, chief
5 engineer, chief draughtsman, superintendents of highways, and
6 a staff of assistants and employes; defining their duties and
7 the jurisdiction of the State Highway Department, and fixing
8 salaries of commissioner and deputies and other appointees;
9 providing for taking over from the counties or townships of
10 the Commonwealth certain existing public roads connecting
11 county-seats, principal cities, and towns and extending to
12 the State line; describing and defining same by route numbers
13 as the State Highways of the Commonwealth; providing for the
14 improvement, maintenance and repair of said State Highways
15 solely at the expense of the Commonwealth, and relieving the
16 several townships or counties from any further obligation and
17 expense to improve or maintain the same, and relieving said
18 townships or counties of authority over same; requiring
19 boroughs and incorporated towns to maintain certain State
20 Highways wholly and in part; requiring the State Highway
21 Commissioner to make maps to be complete records thereof;
22 conferring authority on the State Highway Commissioner;
23 providing for the payment of damages in taking of property,
24 or otherwise, in the improvement thereof; providing for
25 purchase or acquiring of turnpikes or toll-roads forming all
26 or part of any State Highway, and procedure therein;
27 providing for work of improvement of State Highways to be
28 done by contract, except where the State Highway Commissioner
29 decides the work be done by the State; providing aid by the
30 State to counties and townships desiring the same in the
31 improvement of township or county roads; defining highways
32 and State-aid highways; providing method of application for
33 State aid in the improvement, maintenance and repair of

1 township or county roads and prescribing the contents of
2 township, county, borough, or incorporated town petitions;
3 providing for percentage of cost of improvement or repairs to
4 be paid by State, county, township, borough, or incorporated
5 town, and requiring contracts by counties, townships,
6 boroughs, and incorporated towns with Commonwealth governing
7 same; providing for the minimum width of State Highways and
8 State-aid highways, and kind of materials to be used in the
9 improvement; providing for payment of cost of improvement and
10 repairs; providing penalty for injuring or destroying State
11 Highways; making appropriations to carry out the provisions
12 of the act; and providing for the repeal of certain acts
13 relating to Highway Department and improvement of roads, and
14 of all acts or parts of acts inconsistent herewith; and
15 providing that existing contracts are not affected by
16 provisions of this act," further providing for retainages.

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

19 Section 1. Subsection (f) of section 33, act of May 31, 1911
20 (P.L.468, No.193), entitled "An act providing for the
21 establishment of a State Highway Department, by the appointment
22 of a State Highway Commissioner, two Deputy State Highway
23 Commissioners, chief engineer, chief draughtsman,
24 superintendents of highways, and a staff of assistants and
25 employes; defining their duties and the jurisdiction of the
26 State Highway Department, and fixing salaries of commissioner
27 and deputies and other appointees; providing for taking over
28 from the counties or townships of the Commonwealth certain
29 existing public roads connecting county-seats, principal cities,
30 and towns and extending to the State line; describing and
31 defining same by route numbers as the State Highways of the
32 Commonwealth; providing for the improvement, maintenance and
33 repair of said State Highways solely at the expense of the
34 Commonwealth, and relieving the several townships or counties
35 from any further obligation and expense to improve or maintain
36 the same, and relieving said townships or counties of authority
37 over same; requiring boroughs and incorporated towns to maintain

1 certain State Highways wholly and in part; requiring the State
2 Highway Commissioner to make maps to be complete records
3 thereof; conferring authority on the State Highway Commissioner;
4 providing for the payment of damages in taking of property, or
5 otherwise, in the improvement thereof; providing for purchase or
6 acquiring of turnpikes or toll-roads forming all or part of any
7 State Highway, and procedure therein; providing for work of
8 improvement of State Highways to be done by contract, except
9 where the State Highway Commissioner decides the work be done by
10 the State; providing aid by the State to counties and townships
11 desiring the same in the improvement of township or county
12 roads; defining highways and State-aid highways; providing
13 method of application for State aid in the improvement,
14 maintenance and repair of township or county roads and
15 prescribing the contents of township, county, borough, or
16 incorporated town petitions; providing for percentage of cost of
17 improvement or repairs to be paid by State, county, township,
18 borough, or incorporated town, and requiring contracts by
19 counties, townships, boroughs, and incorporated towns with
20 Commonwealth governing same; providing for the minimum width of
21 State Highways and State-aid highways, and kind of materials to
22 be used in the improvement; providing for payment of cost of
23 improvement and repairs; providing penalty for injuring or
24 destroying State Highways; making appropriations to carry out
25 the provisions of the act; and providing for the repeal of
26 certain acts relating to Highway Department and improvement of
27 roads, and of all acts or parts of acts inconsistent herewith;
28 and providing that existing contracts are not affected by
29 provisions of this act," amended May 25, 1961 (P.L.231, No.131),
30 is amended to read:

1 Section 33. * * *

2 (f) The Secretary of [Highways may] Transportation shall MAY <—
3 make partial payments to any contractor performing any highway
4 improvement, under this act, at semi-monthly intervals, or more
5 frequently from time to time, as the same progresses, upon
6 estimates made by the Department of [Highways] Transportation,
7 beginning on the first estimate date established by the
8 department following the date set forth in the notice to proceed
9 or indicated in the special provisions. [Ten per centum (10%)] <—
10 FIVE PER CENTUM (5%) of the amount due on partial payments or <—
11 current estimates representing fifty per centum (50%) of the
12 total contract price, shall be withheld from the contractor
13 pending completion: Provided, That the secretary may waive the
14 withholding or reduce the amount of retainage if he is otherwise
15 assured that the contract will be completed. Thereafter, no per
16 centum of the amount due on partial payments or current
17 estimates shall be withheld from the contractor pending
18 completion: Provided, That the Secretary of [Highways]
19 Transportation may, in his discretion, make payments in excess
20 of the percentages withheld when at least ninety-five per centum
21 (95%) of the work contracted has been completed. [The] If any
22 amount is required by the secretary to be retained under this
23 section, the amount retained under said contract for the work
24 done and performed shall in all cases be sufficient to cover
25 [double] the contract price or estimated cost of the work
26 remaining to be done to satisfactorily complete the contract.

27 * * *

28 Section 2. This act shall take effect immediately.