

CHAPTER 136

HIGHWAY LAW

(H. B. No. 106, by Messrs. Bond, Vandemoer, Dailey, Gordon, Sackmann, McGinnis and Gothelf, Davis)

AN ACT

RELATING TO HIGHWAYS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF AND TO REPEAL CHAPTER 78, SESSION LAWS OF 1917, REGULAR SESSION, AND ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THIS ACT.

Be It Enacted by the General Assembly of the State of Colorado:

Title

Section 1. The short title of this Act shall be The Highway Law, and references herein to "this Act" shall be understood to mean The Highway Law, including all its provisions.

Public highways
or roads

Section 2. All roads and highways which are, at the time of the passage of this Act, by law open to public traffic shall be public highways, within the meaning of this Act, provided that no portion of a public highway within the limits of any incorporated city or town having a population of more than twenty-five hundred shall come under the provisions of this Act, except as specifically provided herein.

Highway de-
fined

Section 3. The term "highway" as used in this Act includes bridges on the roadway and culverts, sluices, drains, ditches, waterways, embankments,

retaining walls, trees, shrubs and fences along or upon the same and within the right of way.

Section 4. A "State Highway" within the meaning of this Act is a right of way or location, whether actually used as a highway or not, designated for the construction of a State highway upon it.

State highway
defined

Section 5. For convenience, the following short designations are used in this Act in referring to certain official bodies and offices: "The Department" for the State Highway Department created by this Act; "The Board" for the Highway Advisory Board created by this Act; and "The Highway Engineer" for the State Highway Engineer.

Short designa-
tions

Section 6. Public Highways are divided for the purpose of this Act, into two classes: "State Highways" and "County Highways." State Highways are those designated and accepted as such by the Commission, and are to be constructed and maintained by the State in accordance with the provisions of this Act. County Highways are those constructed and to be maintained by the counties.

State highways

County
highways

Section 7. There is hereby created a State Highway Department, which shall consist of the Governor, State Highway Engineer, Highway Advisory Board of seven members, and such assistants, clerks and other employees, as may be employed to carry out this Act.

State Highway
Department
created

Advisory board

Section 8. The Board of Capitol Managers shall provide for the State Highway Department suitable offices in the Capitol or other State Building at Denver. In addition to the offices maintained in Denver, the Board may maintain such additional offices in other cities of the State as it may find necessary for the prosecution of its work.

Offices

Districts

Section 9. One member of the Highway Advisory Board hereby created shall be appointed from each of the following districts: District No. 1, the City and County of Denver; District No. 2, the counties of Delta, Eagle, Garfield, Gunnison, Ouray, Mesa, Montrose, Pitkin, Rio Blanco, San Miguel and Summit; District No. 3, the counties of Alamosa, Archuleta, Conejos, Costilla, Dolores, Hinsdale, Huerfano, La Plata, Las Animas, Mineral, Montezuma, Rio Grande, Saguache and San Juan; District No. 4, the counties of Baca, Bent, Chaffee, Crowley, Custer, Fremont, Kiowa, Otero, Prowers and Pueblo; District No. 5, the counties of Cheyenne, Douglas, Elbert, El Paso, Kit Carson, Lake, Lincoln, Park and Teller; District No. 6, the counties of Boulder, Clear Creek, Gilpin, Grand, Jackson, Jefferson, Larimer, Moffat and Routt; District No. 7, the counties of Adams, Arapahoe, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma. Each member shall actually reside in the district he represents, and removal of his residence from the same shall constitute a resignation as a member of the Board.

Member must
be resident of
district

Advisory board
appointed

Removal

Expenses

Immediately upon this act taking effect the Governor shall appoint the seven members of the Board; one member in Districts 2, 4 and 7 for a term of one year; one member in Districts 5 and 6 for a term of two years; and one member in Districts 1 and 3 for a term of three years. As each member's term expires, the Governor shall appoint his successor for a term of three years. Members of the Board may be removed by the Governor for cause. Members of the Board shall serve without pay, but shall be allowed their actual traveling and other necessary expenses incurred in the performance of their official duties.

Section 10. Immediately upon this Act taking effect, the Governor shall employ a State Highway Engineer, to hold office during the pleasure of the Governor. All members of the Board before entering upon the duties of their office, shall take the oath prescribed by the Constitution of this State, for State Officers, and file same in the office of Secretary of State.

State Highway
Engineer

Oath of
members

Section 11. Within thirty days after the Highway Engineer shall have been appointed, the Board shall meet at the Capitol in Denver and organize by selecting one of their number as chairman and one as vice chairman. Five members shall constitute a quorum; and the affirmative vote of four members of the Board present at any meeting shall be necessary for any action taken by the Board.

Organization of
board

Quorum—
votes necessary
for action

Section 12. The Highway Advisory Board shall have the following powers and duties: 1. To hold regular semi-annual sessions at the office of the State Highway Department in Denver, at such times as it may determine, such regular meeting dates to be duly announced by the Board. 2. To hold such special or adjourned sessions for the transaction of business at such times and such places as the Governor may determine. 3. To formulate and adopt regulations governing the qualifications for the employment of all persons in the State Highway Department and with the approval of the Governor fix a schedule of salaries, and to inquire into the official conduct of any person in the Department. 4. On or before the 15th day of November in each year the members of the Highway Advisory Board shall furnish to the Highway Engineer figures, estimates, data and such other information as they deem advisable and thereupon the Highway Engineer shall

Powers and
duties of board

furnish to the Highway Advisory Board not later than December first a full and complete budget for all expenditures for the Highway Department for the ensuing year. The Highway Advisory Board shall meet and review said Budget and recommend such alterations, and amendments therein as it may deem advisable and submit the same to the Governor not later than December 15th in said year, and the Governor shall make up the final budget therefrom.

5. To require from the Highway Engineer complete information semi-annually concerning the work and expenditures of the Department. 6. To authorize and require the Highway Engineer to make such special investigations and compile such special data as the Board may deem to be of value for the work of the Department. 7. To send a member or other representative, with the approval of the Governor, to attend highway meetings outside the State of Colorado, as the Board deems will be of benefit to the work of the State Highway Department. 8. To prescribe standard guide boards and road signs or other devices for the guidance of traffic, to be erected upon all State Highways; and prohibit the use of all guide boards and road signs not conforming to such standard, and all billboards and bulletin boards on any State Highway.

Highway
engineer—
qualifications

Section 13. The State Highway Engineer shall be employed by the Governor. In making the appointment, particular consideration shall be given to executive ability and experience in highway work. The person appointed must be at least thirty-five years old and have at least five years' practical experience in the construction and maintenance of public highways, and shall be a graduate and licensed engineer of at least ten years' general ex-

perience in executive engineering. The State Highway Engineer shall within thirty days after assuming office, appoint an assistant engineer for the Department. The person so appointed shall have had five years' experience in the construction and improvement of highways, and shall be a graduate and licensed engineer of at least five years' general experience. The assistant engineer shall have charge of all the engineering work of the Department, and in the absence of the State Highway Engineer shall act for him. The Highway Engineer and his assistant shall take the same oath of office prescribed for members of the Board, and each of them shall execute a bond in the sum of twenty-five thousand dollars, conditioned upon the faithful performance of his duties, to be approved by the Board and filed with the Secretary of State. The salary of the State Highway Engineer shall be seven thousand five hundred dollars per year; and that of the assistant engineer, four thousand dollars per year; and both shall be paid in monthly installments by the State Treasurer from the State Highway Fund.

Assistant
engineer

Duties

Oath of engineer
and assistant—
bonds

Salaries

Powers and
duties of state
highway
engineer

Section 14. The State Highway engineer shall be the chief executive officer of the State Highway Department and shall have complete control of all work done by the State on State Highways. He shall attend all meetings of the Highway Advisory Board and shall have the following powers and duties: 1. Act as chief executive and administrative officer of the State Highway Department. 2. Have charge of all employes of the Department and issue rules and regulations for their guidance. 3. Appoint all persons to positions in the department. 4. Furnish plans for all bridge construction of twenty feet or more span on county highways; and also plans for

county highway construction, when requested. 5. Acquire by purchase or condemnation stone or gravel beds and any other material suitable for highway construction. 6. Employ county engineers or road supervisors, or hire county road equipment or contract with any county for the construction or maintenance of State highways. 7. Make agreements, subject to the approval of the Governor on behalf of the State with the United States government, or any department of the same, for the construction or maintenance of the State Highways. 8. Make agreements on behalf of the State with the approval of the Governor with any county, city, town, or city and county, of the State for the construction or maintenance of any part of the State Highways at the joint expense of the State and the county, city, town, or city and county. 9. Prepare all plans and specifications and advertise and, with the approval of the Governor, let all contracts for work for the State on State Highways. 10. Have supervision of all work on State Highways. Nothing in this Act shall interfere with the discipline or custody of the warden of the State Penitentiary, of convicts employed in highway construction, maintenance and improvement. 11. Approve all payments for work done by the State on, or in connection with, State Highways; and no payment shall be made by the State Treasurer for such work without the written approval of the Engineer or his assistant. 12. Make a semi-annual report to the Board and publish a quarterly bulletin of all expenditures by the Department, together with a statement of work accomplished under his direction. 13. Attend such meetings, conferences and conventions within or without the State of Colorado as the Governor shall consider for the benefit of the Department. 14. Give County

No interference
with convicts

Boards and other officials charged with the highway work such information and advice as he may have at hand and as he may be requested. 15. Exercise such other powers as may be necessary to carry on the work of the State Highway Department.

Section 15. All employees of the State Highway Department not otherwise provided for in this Act shall be employed and discharged by the Highway Engineer at his pleasure. The duties of all employees in the Department shall be such as are assigned them by the Engineer.

Employees

Duties

Section 16. The Attorney General of the State shall be, ex-officio, attorney and legal advisor for the State Highway Department and shall give it such legal counsel, advice and service as it may from time to time require, and shall bring and prosecute in the name of the State Highway Department such suits and proceedings as may be required for carrying out the provisions of this Act.

Attorney
general to be
legal advisor

Section 17. The State Highways shall consist in the first instance of the highways heretofore constituting or declared to be State Highways under authority of previous legislation, but the Highway Engineer with the approval of the Highway Advisory Board hereby created shall have full power to abandon or change any part of the same, or to add thereto. No highway or part of the same that has not been designated and accepted under the provisions of this Act as a State Highway shall become such until by a proper resolution it shall have been specifically designated and accepted by the Board as a State Highway. All Highways not so designated and accepted shall be County Highways and be constructed, improved and maintained as such, except as otherwise provided in this Act.

State highways

County
highways

Joint
maintenance by
state and county

Section 18. State Highways shall be maintained by the State Highway Department at the joint expense of the State and the county in which the same is situated, in such proportions as the Board shall prescribe; provided, however, that the county shall not in any case be required to pay more than one-half of such expense of maintenance. If any county shall fail to pay its proportion of the cost of maintenance of any State Highway as herein provided, in accordance with the provisions of any agreement between the State Highway Department and the county, within thirty days after it is requested by the State Highway Engineer to pay the same, the State Highway Engineer shall pay the same and deduct the amount from any future credit of State funds to said County.

When any
county fails to
pay its propor-
tion of expenses

Request for ac-
ceptance of
state highway

Section 19. If a County Board desires to have the Board accept as a State Highway any section of road in the County, the County Board may by resolution, so request the Board, and the Engineer shall then examine the section of road referred to and report to the Board as to whether it is of such construction and in such state of repair as will make it proper to accept it as a State Highway. The Board may, in its discretion, accept such section as a State Highway.

Engineer report
recommendations in
writing

Section 20. The State Highway Engineer shall, when he deems it desirable to establish, open, re-locate, widen or alter a portion of a State Highway, or when so required by the Board, make written report to the Board describing the portion of the Highway to be established, opened or changed, and the portions of land of each land owner to be taken for the purpose, and accompanying his report with a map showing the present and proposed boundaries of the por-

tion of the highway to be established, opened, or changed, together with an estimate of the damages and benefits accruing to each land owner, whose land may be affected thereby. If, upon receipt of such report, the Board shall decide that public interest or convenience will be subserved by the proposed change, it shall enter a resolution upon its minutes, approving the same, and authorizing the Engineer to tender each land owner, the amount of damages, as estimated by him, and approved by the Board. In estimating the amount of damages to be tendered a land owner, due account shall be taken of any benefits which will accrue to such land owner by the proposed action, provided, however, that the amount of benefit shall not in any case exceed the amount of damages awarded. Any person or persons owning land or having an interest in any land over which any proposed State Highway extends, who shall be of the opinion that the tender made to him or them by the Highway Advisory Board is inadequate, may personally or by agent or attorney, on or before ten days from the date of such tender, file a written request addressed to the Highway Advisory Board for a jury to ascertain the compensation which he or they may be entitled to by reason of damages sustained by altering, widening, changing or laying out such State Highway. Thereupon the Highway Advisory Board shall proceed in the acquisition of such premises, under the Act of the General Assembly of the State of Colorado, entitled, "An Act to provide for the exercise of the right of eminent domain," approved February 12, 1877, and amendments thereof. The Highway Advisory Board also shall have the power, and it is hereby authorized, to proceed in the acquisition of the lands of private persons, for State Highway purposes, under and

Board pass
resolution
approving

Damages

Adjustment of
claims for
damages

Procedure

Eminent domain

according to said eminent domain Act in the first instance, without tender or other proceedings under this Act.

Abandoned
highways
revert to
owner of land

Section 21. When a portion of a State Highway is re-located, and because of such re-location a portion of the route as it existed before such re-location is, in the opinion of the Board, no longer necessary as a public highway, such portion shall be considered as abandoned, and title to it shall revert to the owner or owners of the land through which such abandoned portion may lie. If it shall appear that such abandoned portion is necessary for use as a public highway, then such abandoned portion shall become a County Highway, upon the adoption of a resolution to that effect by the County Board of Commissioners within ninety days after such abandonment by the Board. If it shall appear to the Board that any land owner suffers damages because of the abandonment of any portion of a State Highway such damages shall be determined, tendered and paid in the same manner as other damages referred to in this article.

May become
county
highway

Damages be-
cause of
abandonment

Notices and
tender may be
sent by mail

Section 22. All notices to land owners, referred to in this Act may be given by mailing the same to such land owners, and all tenders of payment of damages to land owners, referred to herein, may be made by mailing to each land owner to whom such tender is to be made a written or printed statement reciting the action of the State Highway Engineer and of the Board relating to the award of damages to such land owner, specifying the amount of damages awarded to him, and stating where and by whom payment of the sum so awarded will be made upon demand of such land owner. Depositing in the general post office in the City of Denver, or at the

Sufficiency of
mailing

county seat of the county in which the land in controversy is located, a written or printed copy of any notice herein referred to, or any statement tendering payment of damages, signed by the proper officer, enclosed in a sealed envelope with proper postage prepaid, and properly addressed to the land owner at his last known place of residence or address, shall be deemed sufficient mailing of the same for the purpose of this Act.

Section 23. Streets within the limits of incorporated cities or towns having a population of less than twenty-five hundred,* as shown by the last Federal census, may, for all the purposes of this Act, be included in State Highways, or County Highways, by agreement between such town or city and the Highway Engineer (for) State Highways, or the County Boards for County Highways, when such streets form necessary or convenient connecting links for carrying such highways through such cities or towns; but otherwise streets and other public ways in incorporated cities and towns shall not be subject to the provisions of this Act in regard to establishing, changing, constructing or maintaining public highways.

Streets in incorporated cities and towns

Section 24. The provisions of this Act shall apply to State lands and school lands, as well as other lands.

State lands included

Section 25. There is hereby created a fund to be known as the State Highway Fund. All moneys paid into the State Highway Fund shall be available immediately, without further appropriation, for the purposes of such fund as provided by law. Any sums paid into the State Treasury, which by law belong to the Highway Fund, shall be immediately placed by the State Treasurer to the credit of such fund.

State highway fund

State treasurer
report on
request

How expended

Sources of
state highway
fund

Tax levies

Appropriations

Moneys paid
into internal
improvement
funds

Revenue from
licenses, etc.

Receipts from
bonds

Public dona-
tions

Upon request of the Board or the Highway Engineer, it shall be the duty of the State Treasurer to report to the Board or the Highway Engineer the amount of the State Highway Fund on hand and the amounts derived from each source from which such fund accumulated. All accounts and expenditures from the State Highway Fund shall be certified by the State Highway Engineer and audited by the State Auditing Board and paid by the State Treasurer upon warrants drawn by the State Auditor; and the State Auditor is hereby authorized as directed to draw warrants payable out of the State Highway Fund upon such vouchers properly certified and audited.

Section 26. All receipts from the following sources shall be paid into and credited to the State Highway Fund as soon as received: 1. From the half-mill tax levied under the Act adopted by the people of the State, November 3, 1914, and from the one-half mill levy authorized by Chapter 129, Session Laws of 1919, approved April 4, 1919. 2. From such appropriations as may, from time to time, be made by the legislature to the State Highway Fund. 3. From all moneys now in or that may hereafter be paid into the Internal Improvement Permanent Fund and the Internal Improvement Income Fund. 4. From all revenue accruing to the State Highway Fund under the provisions of existing legislation from the registration of motor vehicles and from chauffeurs' licenses, and from fines and penalties and from receipts from the tax on gasoline levied under the Act, Chapter 168, Session Laws of 1919, approved April 9, 1919. 5. From all receipts from the sale of bonds that may be authorized by the people of the State for State Highway purposes. 6. From all public donations, including receipts

from any allotments or payments made to the State by the Federal Government or any department of the same, made toward the construction, improvement or maintenance of State Highways. All such donations shall be paid to the State Treasurer and by him deposited to the credit of the State Highway Fund for such particular purpose as may be indicated by the donor; provided, however, that the State Treasurer shall not receive any gift for such purposes without the approval of the Board. 7. Any balance remaining at the time when this Act takes effect in the State Road fund created by previous legislation, and all receipts accruing to such Road Fund.

Balance and
receipts

The Highway Department hereby created shall be deemed to have assumed all lawful financial obligations of the State Highway Commission, created by Chapter 78, Session Laws of 1917, approved April 20, 1917.

Department
assume
obligations

Section 27. The State Highway Fund shall be available to pay for '1. All salaries, wages and necessary traveling and other expenses of all persons connected with the State Highway Department. 2. All equipment, furniture and supplies for offices, division offices and laboratories as may be established by the Highway Engineer. 3. All incidental office expenses, including telegraph, telephone, postal, express charges and expenses for printing, stationery and advertising and for the publication of the quarterly Bulletin. 4. All machines, tools or other equipment necessary for the furtherance of the work of the Department. 5. The construction and maintenance of State Highways. 6. All land damages incurred by reason of establishing, opening, altering, re-locating, widening or abandoning portions of any State Highway.

Purposes for
which fund is
available

Proceeds from
sale of bonds

Section 28. The proceeds from the sale of any bonds that may be authorized for state highways shall be expended only for such purposes as are specified in the Act authorizing the issue of the bonds and not more than ten per cent. of any bond issue for administrative and engineering purposes.

Annual budget

Section 29. The State Highway Fund shall be expended by the State Highway Department, subject to the following provisions: There shall be prepared a budget which shall show the amount of the State Highway Fund on hand, the amount of outstanding obligations against such Fund, the estimated amount of receipts from all sources that will become available for such fund during the ensuing year, and the estimated amount to be expended for the various activities and projects for the forthcoming year. The total estimated expenditures contemplated for all purposes of the State Highway Department for a given year shall not exceed the total estimated available fund. It shall be the duty of the State Treasurer and the Highway Engineer to give, on request, such information as the Highway Advisory Board may need for the preparation of such budget. The budget shall be so prepared that it may be readily understood how much it is proposed to expend for administrative purposes, which shall not exceed four per cent. of the estimated funds available—how much for construction, with an allowance of not more than ten per cent. of the amount to be expended on any construction work for engineering and supervision of the same; in general where such construction is to be located, how much for maintenance and the extent of highway it is proposed to maintain, together with such other essential facts as the Board may deem necessary in order that the

Distribution of
expenditures

people of the State may have full knowledge as to how much money there may be available in a given year for the work of the Department and how it is proposed to spend the money. In adjusting the expenditures for a given year, the Board shall give full consideration to the recommendation of the Chairmen of the Boards of County Commissioners, of all the counties of the State of Colorado, who shall submit to the Board the necessary reports and recommendations, on or before the fifteenth day of November of each year. The budget in its final form so prepared, shall be issued in printed form and sent free of charge to any citizen of the State who may apply for the same.

County commissioners' recommendations

Budget printed

Section 30. When a budget has been finally approved the Highway Engineer shall proceed in accordance therewith, and administer the work of the State Highway Department accordingly, provided that the ratio of actual expenditures for the various projects to such estimated expenditures shall be the same as that of the actual receipts, except that with the approval of the Governor actual expenditures as herein provided may vary therefrom by ten per cent.

Engineer proceed according to budget

Section 31. In order that the Engineer may make immediate cash payment, to laborers and in other instances where, in his judgment, it is advantageous or necessary for the conducting of the work of the State Highway Department to make such payments, there shall be deposited by the State Treasurer in some bank in the City and County of Denver, Colorado, from the State Highway Fund, the sum of Twenty-five Thousand Dollars (\$25,000), which shall be made payable upon order of the State Highway Engineer in the form of a voucher check, the

Cash available for payments

Engineer may issue voucher checks

voucher to show to whom and for what payment is made. A duplicate of all such vouchers shall be retained in the office of the State Highway Department. The voucher checks issued shall be audited by the State Auditor from time to time, said audit to be made not less than two times in each year, and an amount equal to the checks returned and found in proper form shall thereupon be deposited by the State Treasurer to the credit of such special fund from the State Highway Fund. Voucher checks drawn upon the special fund shall not be used to pay salaries of officers or regular employes of the Department.

In case of
agreement
with U. S.

Section 32. If, as the result of any agreement made by the State Highway Department, on behalf of the State, and any branch of the Federal Government, there shall be undertaken actual construction or improvement of highways in the State, the letting of contracts, preparation and approval of specifications and plans, together with supervision of construction, shall on behalf of the State, be under the direct control of the State Highway Engineer, subject to the terms of the agreement so made, provided that no agreement or contract shall be made which shall require the expenditures of funds greater than that included in the budget for the current fiscal year.

Co-operation
with federal
departments

Section 33. The State Highway Department is further authorized and empowered to co-operate in such manner as it may consider for the public benefit, with any department of the Federal Government in undertaking any experiments or collecting any data that has to do with public highways.

Section 34. The State Highway Commission and

State Highway Commissioner, upon the request of the State Highway Department, created by this Act, shall transfer and deliver to said State Highway Department all the files, records, books, maps, papers and other documents belonging to their office and kept by them.

Highway commission deliver books, etc.

Section 35. Chapter Seventy-eight (78) of the Session Laws of 1917 be and the same is hereby repealed.

Act repealed

Section 36. The General Assembly hereby finds, determines and declares that this act and every section, sub-section, sentence, clause and phrase thereof is necessary for the immediate preservation of the public peace, health and safety.

Safety clause

Section 37. In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect and be in full force from and after its passage.

Emergency

Approved May 4, 1921.