

No. 32

AN ACT

To amend section sixteen of an act, approved the thirty-first day of May, one thousand nine hundred and eleven (Pamphlet Laws, four hundred sixty-eight), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State highways of the Commonwealth; providing for the improvement, maintenance and repair of said State highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State highway, and procedure therein; providing for work of improvement of State highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act," as amended, by providing for payment by the Commonwealth, out of the Motor License Fund, of damages for land or property taken, injured or destroyed by the change of width, lines, and locations of State highways, and the cost of the removal of structures, where the county does not agree to such changes or removals; requiring approval of the court of quarter sessions to all agreements relating to damages made by the county commissioners with property owners; and fixing the time when the Secretary of Highways may begin work.

Section 1. Be it enacted, &c., That section sixteen of an act, approved the thirty-first day of May, one thou- Department
of Highways.

Section 16, act
of May 31, 1911
(P. L. 468),
as last amended
by act of
June 26, 1931
(P. L. 1388),
further amended.

sand nine hundred and eleven (Pamphlet Laws, four hundred sixty-eight), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State highways of the Commonwealth; providing for the improvement, maintenance and repair of said State highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State highway, and procedure therein; providing for work of improvement of State highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act,"

as last amended by section four of the act approved the twenty-sixth day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, one thousand three hundred eighty-eight), is hereby further amended to read as follows:

Section 16. Before the Secretary of Highways shall undertake the construction, reconstruction, or improvement of any State highway, on the plan of the State highways, wherein a change of width or of existing lines and location is necessary, and damage is likely to result to abutting property, he shall notify the county commissioners of the proper county in writing of the contemplated change in such existing width, lines, and location. [whereupon] *After the county commissioners have agreed to such changes or refused to agree thereto as hereinafter provided, the Secretary of Highways may proceed with the work of construction, reconstruction and improvement. After the receipt of the notice as above provided, the county commissioners, if they approve such change of width or of existing lines and location, and agree thereto in writing, shall, when possible, [shall] enter into an agreement with the owner or owners of said property as to amount of damage to be paid to the said owner or owners. [which damage, if agreed upon] Whenever the amount so agreed upon shall exceed the sum of three hundred dollars (\$300.00), the same shall not be paid by the county until the proposed agreement shall be presented by the county commissioners to the court of quarter sessions for its approval. The court shall fix a time for hearing the matter, at which time the parties to such agreement and any taxpayer interested therein and their witnesses shall be heard, and the court shall either approve or disapprove the agreement as it deems proper. If the court disapproves the agreement, it shall indicate a sum which it would approve for such case if the county commissioners and the property owner could agree thereon. In such cases, if the property owner and the county commissioners should agree on the amount of damages indicated by the court as acceptable to it, such agreement may be entered into and shall be final and binding on the said parties without any further approval by the court. Notice of the time and place of hearing in all such cases shall be given by one publication in one newspaper of general circulation throughout the county, which shall state that any taxpayer may appear at such hearing and be heard, together with his witnesses. Only such payments as have been approved by the court, as above provided, shall be paid by the county; or in case an agreement satisfactory to the county commissioners and said owner or owners cannot be made and the approval of the court thereto secured. [the Secretary of Highways may proceed with the work of construction, reconstruction, or improvement, and] the owner or owners of said*

Change of width, grade or existing lines.

Notice to county commissioners.

When work may commence.

Agreement by commissioners.

Payment of damages by county.

Hearing.

Approval or disapproval by court.

Notice.

Petition for
appointment
of viewers.

Appeals.

When
commissioners
do not
consent.

Agreement
by Secretary
of Highways.

Payment
of damages
by State.

Petition for
appointment
of viewers.

Damages by
change of lines
of intersecting
roads.

Removal
of structures.

property damaged thereby or the commissioners of the proper county may present their petition to the court of quarter sessions for the appointment of viewers to ascertain and assess such damages. The proceedings upon said petition and by the viewers shall be governed by existing laws relating to the ascertainment and assessment of damages for opening public highways. The county commissioners, or any other party to such proceedings, may appeal from the award of the viewers to the court of common pleas, and shall be entitled to a trial by jury. From the judgment of the court of common pleas, an appeal may be had to the Supreme or Superior Court as in other cases. Such damages, when ascertained, shall be paid by the county in which the State highway is located. *Whenever the county commissioners do not consent to or approve any such change of width or of existing lines and location, and the Secretary of Highways determines such change to be necessary, he shall, when possible, enter into an agreement with the owner or owners of said property as to the amount of damages to be paid therefor, and if agreed upon, such damages shall be paid by the Commonwealth out of moneys in the Motor License Fund; or if such agreement cannot be made, the owner or owners of said property damaged thereby or the Commonwealth may present their or its petition to the court of quarter sessions for the appointment of viewers to ascertain and assess such damage in the same manner and with the same right of appeal to the owner or owners and to the Commonwealth as is hereinbefore provided in cases where the county agreed to such change, but the damages, when ascertained, shall be paid by the Commonwealth out of moneys in the Motor License Fund.* The county shall also be liable for any damages sustained by abutting property owners for a change of the width or lines of roads intersecting State highways, where such damages are made necessary as a result of the changing, *with their consent and approval*, of the width, lines, or location for the construction of a State highway; such damages to be ascertained in the same manner as herein provided for damages occasioned as a result of the change, *with their consent and approval*, of width or of existing lines and location of State highways, *and, in case the commissioners shall not have consented to and approved such change of width or of existing lines or location, then such damage shall be paid by the Commonwealth and shall be ascertained in the same manner as herein provided for damages for land taken as a result of the change of width or of existing lines and location of State highways without the consent and approval of the county commissioners, and such damages shall also be paid from the Motor License Fund.* The county or Commonwealth shall also provide for the removal of all structures within the lines of the highway, as thus

established, [unless otherwise] as may be provided by agreement between said county and the Secretary of Highways, and, in case the same is to be done by the Commonwealth, the cost thereof shall also be paid out of the Motor License Fund. Any moneys in the Motor License Fund necessary to make the payments required by this section are hereby specifically appropriated to the Department of Highways.

Moneys appropriated.

Nothing contained in this act shall be construed as placing on the Commonwealth the payment of any damages or costs incident to the change of width, lines, or location of any State highway where such highway was widened or the lines or location changed prior to the date this act takes effect, but all such damages and costs shall be paid by the county, in the manner provided by this act, as if the county had agreed thereto as herein provided.

Construction of act.

Section 2. This act shall take effect on the first day of June, one thousand nine hundred and thirty-three.

Effective date.

APPROVED—The 13th day of April, A. D. 1933.

GIFFORD PINCHOT

No. 33

AN ACT

To further amend section one of an act, approved the thirty-first day of May, one thousand eight hundred ninety-three (Pamphlet Laws, one hundred eighty-eight), entitled "An act designating the days and half days to be observed as legal holidays, and for the payment, acceptance, and protesting of bills, notes, drafts, checks, and other negotiable paper on such days," by authorizing bank holidays during State and National financial crises.

Section 1. Be it enacted, &c., That section one of an act, approved the thirty-first day of May, one thousand eight hundred ninety-three (Pamphlet Laws, one hundred eighty-eight), entitled "An act designating the days and half days to be observed as legal holidays, and for the payment, acceptance, and protesting of bills, notes, drafts, checks, and other negotiable paper on such days," as last amended by the act, approved the thirty-first day of March, one thousand nine hundred and twenty-one (Pamphlet Laws, seventy-three), entitled "An act to amend section one of an act, approved the thirty-first day of May, one thousand eight hundred and ninety-three (Pamphlet Laws, one hundred eighty-eight), entitled 'An act designating the days and half days to be observed as legal holidays, and for the payment, acceptance, and protesting of bills, notes, drafts, checks, and other negotiable paper on such days,' as

Legal holidays.

Section 1. act of May 31, 1893 (P. L. 188) as last amended by act of March 31, 1921 (P. L. 73), further amended.