

## No. 168

## AN ACT

## HB 1145

Amending the act of May 31, 1911 (P.L.468, No.193), 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," further providing for retainages.

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

Section 1. Subsection (f) of section 33, act of May 31, 1911 (P.L.468, No.193), 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," amended May 25, 1961 (P.L.231, No.131), is amended to read:

Section 33. \* \* \*

(f) The Secretary of [**Highways may**] *Transportation may* make partial payments to any contractor performing any highway improvement, under this act, *at semi-monthly intervals, or more frequently from time to time*, as the same progresses, upon estimate made by the Department of [**Highways**] *Transportation, beginning on the first estimate date established by the department following the date set forth in the notice to proceed or indicated in the special provisions. [Ten per centum (10%)] Five per centum (5%)* of the amount due on partial payments or current estimates representing fifty per centum (50%) of the total contract price shall be withheld from the contractor pending completion: *Provided, That the secretary may waive the withholding or reduce the amount of retainage*

*if he is otherwise assured that the contract will be completed.* Thereafter, no per centum of the amount due on partial payments or current estimates shall be withheld from the contractor pending completion: Provided, That the Secretary of **[Highways] Transportation** may, in his discretion, make payments in excess of the percentages withheld when at least ninety-five per centum (95%) of the work contracted has been completed. **[The] If any amount is required by the secretary to be retained under this section, the amount retained under said contract for the work done and performed shall in all cases be sufficient to cover [double] the contract price or estimated cost of the work remaining to be done to satisfactorily complete the contract.**

\* \* \*

Section 2. This act shall take effect immediately.

APPROVED—The 9th day of July, A. D. 1976.

MILTON J. SHAPP