

railroad and warehouse commission upon such reasonable notice as it may prescribe may from time to time upon its own motion, or upon the application of any corporation, partnership or person interested therein, revise change or add to any rule or regulation fixed hereunder and any such revised, changed or added rules and regulations shall be served in the same manner and have the same force and effect as the rules and regulations originally established.

Sec. 8. Purchaser to have same rights on all railroads affected.—Any such mileage book when presented for transportation, either to the railroad company issuing the same or to another railroad company pursuant to the rules and regulations fixed by the commission, shall entitle the purchaser thereof to the same rights and privileges in respect to the transportation of both person and property, to which the highest class ticket issued by the railroad company to which it is presented would entitle him.

Sec. 9. This act shall take effect and be in force from and after its passage.

Approved March 26, 1917.

CHAPTER 119—S. F. No. 609.

An act abolishing the state highway commission; creating the office of commissioner of highways; providing for the appointment of an incumbent of such office; prescribing his compensation; appropriating money for the payment thereof; prescribing his powers and duties and devolving upon such commissioner of highways the powers, privileges and duties heretofore vested in, granted to and imposed upon the state highway commission; providing that such office shall be, in effect, a continuation of such state highway commission; providing for the payment of the expenses of the highway department and salary of said commissioner from the state road and bridge fund; appropriating money therefrom for the payment of such expenses and salary; limiting the amount which may be so used for such expenses and salary and also amending sections 3, 7, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 30, 31, 40, 65, 70, 73, 75, 81, 87, 88 and 90 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, and chapter 160, Laws 1915, which said chapter 235 is entitled: "An act relating to public highways; the powers and duties of counties, towns, villages and cities in relation thereto; the creation of a state highway commission; prescribing its powers and duties, appropriating money therefor and providing for the payment of state aid for the construction

and improvement of roads and authorizing and directing the levy of taxes for highway purposes."

Be it enacted by the Legislature of the State of Minnesota :

Section 1. State highway commission abolished and appointment of commissioner of highways authorized with power of commissioner defined—office of deputy highway commissioner established.—That the state highway commission be and it is hereby abolished and the office of each of the persons constituting such commission is also hereby likewise abolished; that forthwith upon the passage of this act the Governor of the state is authorized and directed to appoint a commissioner of highways upon whom shall devolve all the powers, duties, rights, privileges and obligations heretofore imposed upon, granted to and vested in the state highway commission under the laws of this state, and especially chapter 235, Laws 1913, as amended by chapter 116, Laws 1915; it being the intention hereof to create the office of commissioner of highways; provide for the appointment of an incumbent thereof and that such person as such commissioner of highways shall hereafter exercise the powers and privileges and perform the duties heretofore devolved upon the state highway commission, and that except as hereinafter provided, that such commissioner of highways, shall hereafter continue and carry on the governmental work heretofore carried on by said state highway commission and that such officer shall be the successor of said state highway commission and shall take over the office equipment and organization thereof and continue the same, with power and authority, however, to make such changes therein and the personnel thereof, and the compensation of the present officers and employes thereof as to such commissioner of highways may seem desirable. Such organization shall be known and designated as the highway department.

The offices of "Secretary of the Highway Commission" and "State Engineer" are hereby abolished. The commissioner of highways shall preserve the records of the state highway commission as heretofore constituted and shall have the custody thereof. He shall cause a record of his official acts and determinations, which shall be denominated orders, to be made and preserved in his office. He shall appoint and may at pleasure remove, a deputy highway commissioner, which office is hereby created. The person so appointed shall be an experienced road builder and engineer. Such deputy shall have charge under the general supervision and control of the commissioner of highways, of the technical work of the assistant engineers. The compensation of such deputy commissioner shall be fixed and determined by the commissioner of highways and a certified copy of the order so fixing such compensation shall be

filed with the state auditor; provided, however, that the salary of said deputy commissioner shall not exceed four thousand dollars (\$4000.00) per annum.

All rules and regulations heretofore promulgated by the state highway commission and in force at the time of the passage of this act shall thereafter continue in full force and effect as rules and regulations of the commissioner of highways until such time as the same shall be revoked or altered by him.

Sec. 2. Salary of commissioner of highways to be \$4500 per year and commissioner to give bond in sum of \$25,000.—The office of the commissioner of highways, the incumbent whereof shall have the powers, duties and privileges herein declared, is hereby created; the term of such office shall be six years and the Governor of the state forthwith upon the passage of this act, shall appoint a suitable person thereto. The commissioner of highways may be removed from the office by the Governor for like cause and upon substantially the same proceedings as is prescribed by law with reference to the removal of county officers.

The commissioner of highways shall devote his entire time to the performance of his official duties and shall receive as compensation therefor a yearly salary of forty-five hundred dollars.

Such commissioner of highways shall before entering upon the performance of his official duties, give bond to the state, to be approved by the Governor, in the penal sum of \$25,000, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds appropriated for the payment of the expenses of the highway department; provided, however, that the amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said commissioner of highways in the performance of his official duties may maintain an action on such bond for the recovery of damages so sustained. The commissioner of highways shall have an official seal with which he shall authenticate his official acts. There shall be engraved on the margin thereof the words "COMMISSIONER OF HIGHWAYS—STATE OF MINNESOTA" and in the center thereof the same device as is engraved on the great seal of the state.

Sec. 3. Expenses and salaries to be paid from monies apportioned to state road and bridge fund and not to exceed 10 per cent of the total fund available—salaries and expenses of clerical force not to exceed \$25,000.00 per year.—The expense of the highway department, including the salary of the commissioner of highways and of the deputy commissioner of high-

ways, the salary of the several assistant engineers, the necessary clerical and technical assistants and employes, their necessary expenses and the expense of maintaining the office of said highway department shall be paid by the state treasurer from the moneys apportioned therefor from the state road and bridge fund upon vouchers approved by the commissioner of highways, after the same have been duly audited by the state auditor; provided, however, that the amount which may be so expended in any one year shall not exceed ten per cent of the total state road and bridge fund available for such year and so much of said state road and bridge fund as is necessary for said purpose, not exceeding said limitation, is hereby annually appropriated from said state road and bridge fund for said purpose; provided furthermore, that the expense of maintaining the office of, said highway department, including the salary of the commissioner of highways and that of the deputy commissioner of highways and the necessary clerical and technical assistants and employes employed in such office, but exclusive of the salaries and necessary expenses of the assistant engineers employed by the commission outside of said office, shall in no year exceed the sum of twenty-five thousand dollars (\$25,000.00).

Sec. 4. State roads under supervision of commissioner.—That section 3 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 3. All state roads shall be constructed, improved and maintained by the counties under rules and regulations to be made and promulgated by the commissioner of highways.

Sec. 5. Regulations for contracts for construction of bridges costing over \$500.—That Subdivision one of section 7 of chapter 235, Laws 1913, as amended by chapter 160, Laws 1915, be and the same is hereby amended so as to read as follows:

Section 7. Subdivision 1. No contract for the construction or erection of a bridge shall be entered into by any county, town, village or city of the fourth class where the contract price of such bridge exceeds the sum of five hundred dollars (\$500); unless plans and specifications for the proposed bridge shall be filed with the county auditor, in case of county contracts, or with the town, village or city clerk respectively, in case a contract is to be entered into by a town, village or city of the fourth class, at least three weeks prior to the time when such bids are to be considered and the contract entered into, nor shall any contract be let without first advertising for bids or proposals therefor in a legal newspaper, published in the county. Such advertisement shall be published once a week for three successive weeks, the last publication to be made at least ten

(10) days and not more than thirty (30) days before (preceding) the time fixed for receiving bids and letting the contract, and shall state the time and place of receiving bids and awarding the contract, and shall refer to the fact that plans and specifications are on file in the office hereinbefore specified.

At least three weeks before the time fixed for receiving bids, the county auditor, in case of a county contract, and the clerk of the town, village or city in case of a town, city or village contract, as the case may be, shall mail a copy of such printed notice, by registered mail, to the commissioner of highways. Such commissioner shall file all such notices so received by him, and the same shall be subject to inspection by all persons interested therein. The commissioner of highways shall, from time to time, cause printed lists of such notices to be made and shall, without charge therefor, furnish copies thereof to interested persons on application.

Sec. 6. Assistant engineers not to receive over \$2000 per year and expenses.—That section 10 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 10. The commissioner of highways shall appoint a suitable number of assistant engineers and employ such other persons as he may from time to time require and shall fix their compensation. Provided that the maximum amount to be paid to any assistant engineer, except the first assistant road engineer and chief bridge engineer, shall not exceed the sum of two thousand (\$2,000.00) dollars per annum. The deputy commissioner of highways and the assistant engineers shall, before entering upon the duties of their offices, give bond to the state in the penal sum of \$3,000, to be approved by the Governor and conditioned for the faithful performance of their official duties. The state, the several governmental subdivisions thereof or any person damaged by any wrongful act or omission of said deputy commissioner of highways, or any of said assistant engineers in the performance of his official duties, may maintain an action on his bond for the recovery of the damages so sustained.

It shall be the duty of said commissioner of highways, his deputy and the assistant engineers, to give advice, assistance and supervision with regard to road and bridge construction and improvement throughout the state, as may be required and as the rules and regulations of the commissioner of highways may prescribe and to render such other engineering and surveying services as may be required by the Governor for any of the state departments.

The commissioner of highways, his deputy, the assistant engineers and other persons employed by said commissioner

shall be allowed their necessary expenses incurred in the performance of their official duties outside of the State. Capitol or outside the county in which they reside.

All of the files and records of the highway department shall, under reasonable regulations, be open to public inspection, and copies thereof certified by the commissioner of highways as being true copies, shall be received in evidence in any court in this state with the same force and effect as the originals. The attorney general shall be ex-officio attorney for the commissioner and shall give him such legal counsel, advice and assistance as he may from time to time require.

All persons heretofore appointed to any office or employment by the state highway commission shall, after the passage of this act, unless the office to which such appointment was made is abolished by this act, continue in such office or employment and receive the compensation provided therefor until he or she shall be removed therefrom by the commissioner of highways and until his or her compensation shall be changed by order of the commissioner of highways.

Sec. 7. Commissioner to determine location of road material—annual report to Governor.—That section 11 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 11. Whenever practicable said commissioner shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, investigate the most approved laws in relation to roads in other states and hold public meetings throughout the state when deemed advisable. On or before March 1st of each year he shall make a printed report to the Governor stating among other things, deemed by him expedient and of general interest on the subject of road building, as near as possible, the number of miles of state roads built or improved during the preceding year and their cost; the general character and location of material suitable for road construction; the general character and needs of the roads of the state; and recommend such legislation as he deems advisable.

Sec. 8. Commissioner of highways to approve all vouchers for expenditures.—That section 13 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 13. The moneys allotted by the commissioner of highways, the state treasurer and the state auditor from the state road and bridge fund for the expenses of the highway department shall be expended under the direction and supervision of the commissioner of highways; all vouchers for such expenditures shall be approved by the commissioner of highways and

paid by the state treasurer upon warrants drawn by the state auditor.

Sec. 9. Commissioner and deputies prohibited from being interest in any contract.—That section 14 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 14. It shall be unlawful for the commissioner of highways, his deputy or any assistant engineer to be directly or indirectly interested in any contract for the construction or improvement of any road or bridge constructed or improved under the provisions of this act. Any such person violating this provision shall be deemed guilty of a gross misdemeanor.

Sec. 10. \$50,000 for reserve maintenance fund and balance to be apportioned among counties of state with limitations for each county.—That section 15 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, be and the same is hereby amended so as to read as follows:

Section 15. On or before the first Tuesday in April in the year 1917, and on or before the first Tuesday in January of subsequent years, the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue to the state road and bridge fund during the current year and after first setting aside therefrom an amount not exceeding \$50,000 for a reserve maintenance fund, to be expended as hereinafter provided, and also a sum not exceeding ten per cent of the sum it is estimated will accrue to the state road and bridge fund during the then current year, which sum shall constitute the expense fund of the highway department, shall apportion the balance of the state road and bridge fund among the different counties of the state as herein provided and shall immediately send a statement of such apportionment to the state auditor and to the county auditor of each county, showing the amount apportioned to each county for expenditure during such year.

Not less than one per cent nor more than three per cent of the state road and bridge fund available in any year and remaining after setting aside the two funds hereinbefore provided for, shall be apportioned to any county.

Any fund in excess of one-half of one per cent of the total state road and bridge fund available for allotment in any one year, which, for a period of two years after such allotment shall remain unused and unexpended by such county, or for work done in such county, shall revert to the unapportioned funds in the state road and bridge fund and be thereafter and during the next succeeding year apportioned the same as other funds added to such state road and bridge fund by taxation or otherwise.

Sec. 11. **Limitation of allotment for maintenance and county boards to provide for deficiency—exceptions as to apportionment for certain counties.**—That section 16 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, be and the same is hereby amended so as to read as follows:

Section 16. Not less than twenty per cent nor more than thirty per cent of the allotment so made to any county shall be used for maintenance of state roads and bridges thereon. Payment shall be made by the state to a county only for such proportion of the cost of maintenance of any road as is hereinafter specified with reference to the payment of state aid to such county for the construction or improvement of a state road therein.

It shall be the duty of the county board of each county in which state roads have heretofore or may hereafter be designated, to provide for the proper maintenance of the same in accordance with the rules and regulations of the commissioner of highways.

In the expenditure of the funds for maintenance preference shall be given to state roads improved as such and especially such state roads, to the cost of construction or improvement of which the United States has contributed.

The state's proportion of the cost of such maintenance shall be paid from the proportion of the allotment made to the county set aside for maintenance purposes, to an amount not exceeding the proportion so set aside for maintenance purposes. Such payments shall be made upon reports to the commissioner of highways, by the county auditor, after approval by the commissioner of highways, in substantially the same manner as is herein provided for the payment of the state's share of the cost of construction and improvement of state roads.

In case the county board of any county fails or neglects to maintain any state road as to which it is hereinbefore directed preference shall be given in the expenditure of the funds set aside for maintenance purposes in accordance with rules and regulations promulgated by the commissioner of highways. He may cause the same to be maintained and to pay the expense thereof from the "Reserve Maintenance Fund." He shall have power to enter into contracts, for the performance of work or he may purchase the necessary tools and materials and employ the necessary labor and cause the same to be done by day labor under the supervision of an assistant engineer; provided, however, that the amount so expended in any one county in any one year shall not, together with the funds allotted to such county during such year, exceed an amount equal to three per cent of the total state road and bridge fund available for allotment and expenditure during such year; and provided further,

that an amount equal to any sum so expended by the commissioner of highways in any county during any one year shall at the time of the next allotment of the state road and bridge fund be deducted from the allotment which would otherwise be made to such county and the amount so deducted shall be credited to the reserve maintenance fund; provided further, however, that no county shall by reason of any such deduction receive in any one year less than one-half of one per cent of the total state road and bridge fund provided and expended during such year.

The amount which shall be paid by the state out of the allotment of the road and bridge fund, to any county as state aid, in the construction or improvement of any road or bridge in any county in any year, shall be as follows:

In counties where the assessed value of the property for taxation purposes is less than five million (\$5,000,000) dollars, 80 per cent; in counties with a taxable valuation of five million (\$5,000,000) dollars and less than ten million (\$10,000,000) dollars, 70 per cent; in counties with a taxable valuation of ten million (\$10,000,000) dollars and not exceeding fifteen million (\$15,000,000) dollars, 60 per cent; in all other counties, 50 per cent. In determining the taxable valuation hereinbefore provided for, the assessed valuation of moneys and credits provided for in chapter 285, General Laws 1911, shall be excluded. The proportion of the cost of constructing any road or bridge above specified shall be paid by the state only in case the funds apportioned to any given county, over and above the amount set aside for maintenance, as herein provided, shall be sufficient therefor.

Sec. 12. Commissioner to print and distribute rules and regulations for road material and road and bridge construction.—That section 17 of chapter 235, Laws 1913 be and the same is hereby amended so as to read as follows:

Section 17. As soon as the commissioner of highways shall have ascertained the location of the available road material throughout the state, and the best methods of road and bridge construction, as far as the same may be practicable, he shall prepare and adopt such rules and regulations for the construction, maintenance and improvement of state roads as shall be most suitable to the requirements of, and bring the most practicable results to, the several parts of the state.

Such rules and regulations shall be printed and copies shall be forwarded to the county auditor of each county in the state for general distribution. Such rules and regulations may be amended from time to time, but such amendments must be printed and distributed not later than April 1st of each year.

Sec. 13. Designation of roads and streets as state highways and duty of county auditor and commissioner of highways in connection with the same.—That section 18 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, be and the same is hereby amended so as to read as follows:

Section 18. The county board of any county may, with the consent of the commissioner of highways, designate any established road, or specified portion thereof, in its county, not within the corporate limits of any borough, village or city, as a state road, and construct or improve the same in accordance with the regulations of the commissioner of highways relative to state roads.

Any such board may also, with the consent of the commissioner of highways, designate as a state road, any street or road not less than sixty feet in width and lying within the corporate limits of any village, borough or city of the fourth class and constituting a direct connecting line with the parts of a state road leading to and out of any such borough, city or village.

When any county board has designated any road as a state road as herein provided, the county auditor shall transmit a copy of the resolution to the commissioner of highways, together with a description of the road so designated. It shall be the duty of the commissioner of highways to thereupon determine whether sufficient funds will be available from the state road and bridge fund for the improvement of said road as a state road and also determine the desirability of such designation with reference to the relation of such road to other state roads, or its relation to other roads and traffic conditions in such county and if he determines such question in the affirmative, then and in such case, the commissioner of highways may, by his order in writing, to be filed with the county auditor, consent to the designation of such road as a state road.

Any street or road within the corporate limits of any borough, village or city of the fourth class designated as a state road, as hereinbefore provided, may be improved by the county as other state roads are improved and state aid paid therefor in the same manner and to the same extent as other state roads lying within the county wherein such borough, village or city is situate: provided, however, that the grade of any such street shall not be changed without the consent of the governing body of any such borough, city or village: and provided further, that the plans and specifications for any improvement thereof shall be approved by such governing body before such work is commenced.

Whenever it shall be made to appear to the commissioner of highways that the board of county commissioners of any county has refused to grant an application to it made by at least

ten freeholders, residents of such county, to designate any established road or part thereof as a state road, the commissioner of highways may consider such application *de novo* and if in his opinion, sufficient funds will be available for the improvement of such road, and its designation and improvement as a state road is desirable because of the relation of such road to other state roads or traffic conditions in such county, the commissioner of highways may by his written order designate such road or part thereof as a state road without a prior designation thereof by the county board or its concurrence in such designation. A copy of such order shall be filed with the county auditor.

Any roads which may have been at any time designated as state roads may, by joint action of the county board and the commissioner of highways, be abandoned or changed as such.

The commissioner of highways shall make or cause to be made all necessary surveys, establish grades and prepare plans and specifications for all state roads, except roads in counties which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines, and shall cause to be superintended all work done on such designated state roads. Such work may be done under contract or by day labor, as the county board and the commissioner of highways may direct, and a report thereof shall be made by the engineer in charge thereof in duplicate, as may be required by the commissioner of highways, one copy of which shall be delivered to the county auditor and one to the commissioner of highways.

Sec. 14. State highway between two counties.—That section 19 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 19. Whenever the county boards of adjoining counties make application to the commissioner of highways for the designation of an established road running on or near the boundary line between two counties, as a state road, said commissioner of highways shall investigate the desirability of such designation and if he shall decide that it is desirable so to do, shall so designate such road and determine and fix the part of the cost of the improvement and maintenance thereof to be paid by each county.

Sec. 15. Appointment of assistant engineers by commissioner and work to be performed by such assistants—provisions for expenses of assistant engineers.—That section 20 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, be and the same is hereby amended so as to read as follows:

Section 20. The commissioner of highways shall appoint as many assistant engineers throughout the state as he may deem

necessary for the purpose of properly superintending all work done on state roads. Such assistant engineers shall devote their entire time to their official duties; may be assigned by the commissioner of highways to one or more counties as deemed advisable and shall act under the instruction of the commissioner of highways and the rules and regulations promulgated by him. The commissioner of highways shall cause all necessary surveys, estimates, plans and specifications for work to be done on state roads to be made and prepared by the highway department. It shall be the duty of the assistant engineers upon request of the board of county commissioners of the county to which such assistant engineers are assigned, or any town board of supervisors in such county, to advise and consult with such county or town board in the construction or improvement of county or town roads, to make plans and specifications when so required; to exercise supervision over such construction or improvement when requested so to do by the county board or town board, as the case may be, and lend every possible assistance to the local road authorities in building and improving the public highways. All persons appointed by the commissioner of highways to any office or position shall be appointed solely on his or her merits and qualifications.

The commissioner of highways shall pay from the funds appropriated for the expenses of the highway department, all the expenses of the assistant engineers and all expenses incidental to the making by them of surveys, estimates, plans and specifications for work to be done on the public roads, including the expenses of such engineers incidental to the supervision by them of the construction or improvement of any public road. It shall be lawful, however, for a county board of any county to furnish a suitable office and office furniture and equipment at the county seat of its county for the use of an assistant engineer assigned to such county.

Sec. 16. Procedure of county board for building or improving state roads.—That section 21 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 21. Whenever the county board of any county shall determine to build or improve any state road for which aid is to be claimed, they shall proceed as follows:

If the estimated cost of such work does not exceed five hundred dollars (\$500) the said board shall cause surveys, when necessary, to be made therefor, by an assistant engineer, and shall thereupon receive bids for all or part of said work and let the contract to the lowest responsible bidder, or may cause the same to be done by day labor under the supervision of said engineer. In case the estimated cost exceeds five hundred dol-

lars (\$500) the said county shall cause surveys, plans and specifications therefor to be made by an assistant engineer and submit the same to the commissioner of highways for approval, and when such plans and specifications are approved, the said county board shall proceed to do said work by contract or day labor. The work shall be done under the supervision of an assistant engineer, who shall in all matters pertaining to such work act under the rules and regulations of the commissioner of highways.

The provisions of this section shall not apply to any county which now has or which may hereafter have a population of one hundred fifty thousand (150,000) inhabitants and over and a county superintendent of highways or other county officer to superintend the construction or improvement of roads within its confines.

Sec. 17. Provision for sale of state's share for work on state road after county board has completed same.—That section 22 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 22. After any county board shall have completed any work on a state road for which state aid is claimed, the auditor of such county shall make a statement to the commissioner of highways showing the location, nature and cost of such work and shall also submit a detailed report from the assistant engineer in charge showing all such details concerning the same as may be required by the commissioner of highways. On receipt thereof the said commissioner of highways shall proceed to examine such reports and if he finds the same satisfactory and that the work has been done in substantial compliance with the plans and specifications therefor, and the contract therefor, if any, he shall certify the same to the state auditor who shall issue a warrant for the state's share thereof as shown by said report, payable to the treasurer of such county, but in no case shall said warrant with all other warrants exceed the amounts allotted to such county, and it shall be the duty of the assistant engineer to report such work in duplicate to the county auditor with details and cost within thirty days after the completion thereof, one copy of which shall be sent to the commissioner of highways with the auditor's report.

The detailed report of the assistant engineer mentioned herein shall contain, among other things, a statement showing the municipal subdivision performing the work or expending the money on such highway, and if more than one such municipal subdivision has performed work or expended money on such highway, then the names of such municipal subdivisions and the portion of the work performed or money expended by each. The county auditor upon receipt of the money from the state

shall pay or credit the same to the municipal subdivision entitled thereto, and if more than one such municipal subdivision has performed work and expended money upon such highway as shown by the assistant engineer's report, then to each of such municipal subdivisions in the proportion shown by such assistant engineer's report.

Sec. 18. Procedure for calling an election to vote upon proposition for bond issue for purpose of macadamizing established county roads with regulation as to issuance of bonds.—That subdivision (5) of section 30 of chapter 235, Laws, 1913, be and the same is hereby amended so as to read as follows:

Subdivision (5). When authorized by the voters as hereinafter provided, the county board of any county is authorized to issue bonds for the purpose of macadamizing any established county road or roads therein, or surfacing the same with any hard material or in any other way making a permanent improvement thereon, when the expense of so doing exceeds the amount of any appropriation the county board is authorized to make therefor.

Whenever fifty or more voters of the county who are also freeholders, petition for such improvement, and file such petition with the county auditor, he shall lay the same before the county board at its next regular, special or adjourned meeting.

It shall be the duty of the county commissioners to consider such petition and if they find it contains the requisite number of signatures, they shall request an estimate of the cost of such improvement to be made by an assistant engineer.

If such estimate is furnished more than six months prior to the time of holding the next general election, the county board may, if it deems it desirable, order the holding of a special election in the county for the purpose of voting on the question of making such improvement and issuing bonds therefor. No special election shall be ordered when a general election will be held within six months after the estimate of the assistant engineer is filed with the county auditor. If a special election is ordered, the county auditor shall cause ballots to be prepared, setting forth a statement of the proposed improvement and description of the road or roads to be improved, with the words "yes" and "no" thereafter, with appropriate spaces for voting.

Persons voting in favor of the proposition shall put a cross (X) after the word "yes" and those opposed after the word "no." If not submitted at a special election the auditor shall cause the same to be submitted at the next general election. In either event the votes on such question shall be returned and canvassed as is provided by law with reference to other questions submitted to the voters. If a special election shall be ordered the same shall be held substantially in the manner pro-

vided by law for the holding of general elections, and the auditor shall cause published notice thereof to be given in the official paper of the county for three successive weeks prior thereto, giving a description of the road or roads to be improved and a statement of the improvement proposed and the estimated cost thereof. If a majority of the voters voting at the election vote in favor of the improvement, then the county board shall issue the bonds of the county as hereinafter provided and cause the improvement to be made.

The bonds so issued shall bear interest, evidenced by coupons, at a rate not exceeding six per cent per annum, payable annually; such bonds may be made payable in equal installments, the first of which shall become due and payable not less than five years after the date thereof and the last of which installments shall become due and payable not more than twenty years after the date thereof. Said bonds shall not be sold for less than par and accrued interest and the proceeds thereof shall be used by the county only for making the improvements specified in the proposition as submitted to the voters; such bond shall not be valid until registered by the county auditor and his certificate of registration endorsed thereon. The county auditor shall thereafter levy a sufficient tax to pay the interest and principal of said bonds as the same shall accrue, which tax shall be collected as other taxes are collected; provided, however, that no such bonds shall be issued by any county when the issuance of the same would make the entire indebtedness of the county exceed fifteen per cent of the assessed valuation of the taxable real property of the county; provided, that in computing the indebtedness of any county, any indebtedness created by the issue of bonds of such county for the construction of drainage ditches the cost of which is assessed against the benefited property, shall not be included.

Sec. 19. Five mill tax levy authorized.—That section 31 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 31. The county board at its July meeting may include in its annual tax levy an amount not exceeding five mills on the dollar of the taxable valuation for the county road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for other county purposes.

Sec. 20. Taxable property for road purposes defined and townships authorized to levy tax of 15 mills for road and bridge purposes.—That section 40 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 40. Subdivision (1). All real and personal property in each town liable to taxation, other than "moneys and credits" taxed under chapter 285, Laws 1911, shall be taxed

for road purposes, and except as provided in subdivision 2 of this section all road taxes hereafter levied shall be paid in cash. The electors of each town shall have power at their annual town meeting to determine the amount of money which shall be raised by taxation for road and bridge purposes, not exceeding, however, fifteen (15) mills per dollar on the taxable property of the town. The tax so voted shall be extended, collected and payment thereof enforced in the same manner and at the same time as is provided by law for the extension, collection and enforcement of other town taxes.

After the annual town meeting, in case of emergency, the town board may levy a tax on the property in its town for road and bridge purposes in addition to the tax, if any, voted at the annual town meeting for road and bridge purposes, in an amount not to exceed five (5) mills on the dollar of the assessed value of the property in the town, and any tax so levied by the town board shall forthwith be certified to the county auditor for extension and collection.

The town board may thereafter pledge the credit of the town by issuing town orders not exceeding, however, the amount of the additional tax so levied by the town board for road and bridge purposes, in payment for work done or material used on the roads within the town.

Sec. 21. Ten mills special road tax authorized—submission to township electors—duties of town board and township clerk and overseers.—Further amend said section 40 of chapter 235, Laws 1913 by adding thereto a new and additional subdivision to be known as subdivision (2) and which shall be in words and figures as follows:

Subdivision (2). (a) In any town wherein the voters shall at the annual town meeting vote, as hereinafter provided, to authorize the town board so to do, the town board may levy and assess on the property subject to taxation under the provisions of subdivision (1) of this section, an additional tax for road and bridge purposes, not exceeding in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the optional road tax and which may be paid by the person whose property is so taxed in labor or by furnishing the use of a team for road work at the following rates, to-wit: for each day of work actually performed in labor on the roads of the town under the supervision of the road overseer, two dollars, for the furnishing of a team, two dollars and fifty cents per day. Provided that no optional road tax shall be levied in any year unless there is also levied in such year at least a three mills tax payable in cash, as provided in subdivision one of this section.

(b) When a petition signed by ten or more freeholders and

voters of a town shall be presented to the town clerk at least twenty (20) days before the time of the holding of the annual town meeting, praying that the question of authorizing the town-board to levy and assess an optional road tax be submitted to the voters of such town, the town clerk shall include in his notice of such annual meeting a notice that such question will be voted on at such meeting. Such question shall be voted on by ballot and it shall be the duty of the clerk to provide, at the expense of the town, a suitable number of ballots which may be printed or written or partly printed and partly written in substantially the following form, to-wit:

Shall the Town Board be authorized to levy) No.....
and assess an "Optional Road Tax?") Yes.....

If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to levy a tax as provided in paragraph (a) of this subdivision, until such time as the electors at an annual town meeting, upon like procedure, shall have voted by a majority vote of those voting on the question to withdraw from the town board authority to levy an optional road tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers.

(c) Forthwith upon the granting of authority to levy the optional road tax the town clerk shall make application to the county auditor for a certified copy of the assessment list of the real and personal property taxable by the town, and it shall be the duty of the county auditor to thereupon and annually thereafter furnish the town clerk upon request with such list. Such list so furnished by the auditor shall set forth in tabular form the name of each person taxable in the town, the description of the real property owned by such person and the assessed value thereof and the value of the personal property owned by each person as shown by the assessment list last theretofore corrected and equalized.

(d) Within twenty (20) days after the annual town meeting, the town board shall meet and levy a tax on the property taxable in the town as shown by such list so furnished by the auditor, not exceeding ten mills on the dollar of the assessed value thereof, and extend the amount of the tax so levied and assessed opposite the name of each owner thereof. It shall be the duty of the clerk to forthwith make and deliver to each road overseer in the town a list in book form of the names of the taxpayers as shown by such list and resident in his district, together with the amount of the tax so levied and assessed against such taxpayer.

(e) It shall be the duty of each overseer to give notice in writing to each taxpayer named in his list of the time and

place when and where such taxpayer can appear, either by himself or an able-bodied substitute, and perform labor on the roads of the town, or furnish a team for such purpose, in payment of such tax at the rates hereinbefore specified. Any taxpayer unable to appear at the time and place specified in the notice of the overseer may thereafter and prior to October 15th of such year, with the consent of the overseer, perform road labor or furnish a team for road work in payment of such tax.

(f) On or before the 15th day of October in each year each overseer shall return to the town clerk such list so theretofore delivered to him with the word "Paid" marked opposite the name of each person therein named who has performed labor or furnished a team for road work, to an amount sufficient to pay such tax, and if only in part, then the words "Delinquent to the extent of \$....." He shall also mark the word "Delinquent" opposite the name of each person who has not done any work, or furnished a team as herein provided. On or before the first of November in each year the town clerk of each such town shall transcribe all such entries from the lists so returned by the overseers on to the list theretofore furnished to him by the county auditor and transmit the said list to the county auditor, and shall append thereto a certificate to be signed by him, reciting that the same contains a correct list of the optional road taxes delinquent for the year therein stated. The auditor shall thereupon extend such delinquent optional road tax upon the tax list of the current year and the same shall be collected and the payment thereof enforced with and in the same manner and subject to the same penalties and interest as other town taxes. Such tax when collected shall be paid to the town treasurer and credited to the town road and bridge fund.

Sec. 22. Requirements for vehicles operated on highways.—That section 65 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 65. Subdivision (1). When persons meet on any road or bridge, traveling with vehicles, each shall seasonably drive to the right of the middle of the traveled part of such road or bridge, so that the vehicles may pass without interference.

The driver of any vehicle passing another vehicle traveling in the same direction shall drive to the left of the middle of the traveled part of the road, and if such road be of sufficient width to permit such passing, the driver of the leading vehicle shall not obstruct the same.

Subdivision (2). The driver of any vehicle approaching or crossing a street or highway intersection shall give the right of way to any other vehicle approaching from his right on the intersecting street or highway, and shall have the right of way

at such crossing over any vehicle approaching from his left on such intersecting street or highway. The provisions of this subdivision shall be applicable in boroughs, villages and cities, except at such street intersections therein where and when a police officer shall be in actual charge of the regulation of traffic at any such intersection of streets.

Sec. 23. Removal of fences for established road.—That section 70 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 70. Whenever a town or county board has established a road through inclosed, cultivated or improved lands, under any of the provisions of this act, and its decision has not been appealed from, or, if appealed from, its order has been sustained, it shall give each owner or occupant of land through which such road is established twenty days' notice, in writing, to remove his fences, and if he does not remove them within such time, it shall cause them to be removed and the road to be opened and worked.

Sec. 24. Rights of town and county boards in cutting down hedges and trees and notice to be given to owners.—That subdivisions (1) and (2) of section 73 of chapter 235, Laws 1913, as amended by chapter 116, Laws 1915, be and the same are hereby amended so as to read as follows:

Section 73. Subdivision (1). The town boards of supervisors, as to town and county roads, and the county board as to state roads, are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within the road limits. Provided, that trees, other than willow trees, shall not be so cut down unless the center of such trees is more than six (6) feet inside the limits of any road established by statutory proceedings or dedicated specifically to public use; provided such trees or hedges, or either of them interfere with keeping the surface of the road in good order, or cause the snow to drift on to or accumulate upon said road in quantities that materially obstructs travel.

Subdivision (2). When a board shall determine that such cutting down of hedges or trees within the limits of such roads is necessary or that the same would aid materially in keeping such roads in repair or free from snow, it shall notify the owner or owners of the abutting lands of such decision and order the trees or hedges cut down within thirty days after such notice. If the said owner or owners fail or refuse to comply with such notice and order within the time specified, the said board shall have the power to cause such trees or hedges to be cut down at the expense of the town or county. The timber and wood of such trees shall belong to the said owner or owners of the abutting land, provided they pay the expense of cutting down said

trees or hedges and remove the same from the roadside within thirty days. If such timber or wood is not removed within said time, the board shall sell the same or destroy it if it cannot be sold at a profit, and if sold, pay the proceeds thereof into the road and bridge fund of said town or county as the case may be.

Sec. 25. Regulations for change of road crossing mineral lands.—That section 75 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 75. Whenever a public road crosses mineral land or other lands outside the limits of any city, village or borough, which the owner or lessee desires to mine in such way as to remove the supports of the road or to improve said land by building any structure or building thereon, he may, at his own expense, change such road to other land, and make a new road thereon suitable for public travel; provided that no such change of road on lands other than mineral lands shall be made unless the same be first approved by the town board and the commissioner of highways, and the new road be first constructed and approved by said town board and said commissioner of highways, and, if he cannot obtain such land upon reasonable terms, the county or town board or the city or village council, as the case may be, upon requisite petition, shall make such change under the provisions of law for establishing roads. Provided, however, that before any such road is changed a sixty days notice of the intention of the owner or lessee thereof to change the same shall be served upon the board of the municipality in which the road is situate, by filing with the clerk thereof a declaration of such intention in the form of said notice; and provided, however, that the said owner or lessee shall be liable to the owner or occupant of any land abutting upon said road or any affected by such change to the extent of the damage sustained by reason of such change, and for the recovery of which an action may be brought after such change is made. In case such board or council desire to establish a road over mineral lands, it may agree with the owner or lessee of the land that, in case he shall consent to its establishment, its location shall be changed upon his request. Provided, however, that before such road will be changed by any such board or council, ninety days notice thereof shall be posted in three conspicuous places along said road, which said notice shall state the time when said road shall be changed.

Sec. 26. Condemnation of land containing gravel stone, clay or sand authorized.—That section 81 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 81. Whenever any county or town board or common council of any village or city shall deem it necessary for the purpose of building or repairing public roads or streets with-

in its jurisdiction, it may procure by purchase or condemnation, in the manner provided by law (the procedure in such condemnation proceeding shall, as near as practicable, be that provided in chapter 41 of the Revised Laws of Minnesota for 1905 and such procedure shall apply to condemnation proceedings under this section), any plot of ground, not exceeding twenty acres, containing gravel or stone, or clay, or sand or one or more of such road materials, suitable for road purposes, together with the right of way to the same of sufficient width to allow teams to pass, and on the most practicable route to the nearest public road.

Sec. 27. Bridges exceeding 30 feet in length to be inspected and reported on annually.—That section 87 of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 87. The commissioner of highways shall each year, so far as time and conditions permit, cause an inspection of all bridges exceeding thirty (30) feet in length, to be made by an assistant engineer. The assistant engineer shall report to the commissioner the conditions found to exist affecting the safety of the bridge and such other matters as to him shall seem important, together with his recommendations in reference thereto. The commissioner shall cause a copy of such report and recommendations to be transmitted to the county auditor of the county in which the bridge is situate.

Sec. 28. Complaints as to a macadamized road and action of county board in connection with same.—That section 88 of chapter 235, Laws 1913, be and the same is hereby amended by adding thereto at the end thereof a new subdivision in words and figures as follows:

Subdivision (3). Whenever five or more freeholders and voters of a town present a complaint in writing to the county board of the county reciting that a described road therein is neglected by the town and that by reason of such neglect such road is impassable, the county board shall by resolution fix a time and place when and where it will consider such complaint and thereupon the county auditor shall mail a copy of the complaint, together with a notice of the time and place when and where the county board will meet to consider the complaint, to the town clerk of the town, and shall also notify the persons signing the complaint of the time and place of such meeting. At the designated time and place the county board shall consider such complaint and hear and consider such testimony as may be offered by the officers of the town, or the persons filing the complaint, relative to the truth of the matters therein set forth. The chairman of the board or the presiding officer thereof may administer oaths to witnesses and require them to testify under oath.

If upon such hearing the county board shall be of the opinion that the complaint is well founded, it shall by resolution direct the town board to do such work or make such improvements as it shall deem necessary to put such road in a passable condition. Such resolution shall specify generally the work which it is so deemed necessary to do. The county auditor shall cause a copy of such resolution to be mailed to the town clerk of the town complained of, and if such town for a period of thirty days after the mailing of such notice shall fail or neglect to do the work or make the improvements set forth in such resolution, the county board may cause such work to be done or improvement made and pay therefor from the county road and bridge fund; provided, however, that the amount annually spent by any county board in any town under the provisions of subdivision three, section 28 of this act shall not exceed one mill on the dollar of the taxable valuation of said town.

When any county board shall have performed any work or made any improvement on any such road it shall cause to be prepared in duplicate an itemized statement of the cost of such work or improvement. One of such statements shall be filed with the county auditor and the other copy thereof shall be by the county auditor mailed to the town clerk of said town. The town clerk shall forthwith notify the several members of the town board that such a statement has been filed and that a meeting of the town board to act thereon will be held at a time to be specified in such notice, not later than ten days after the receipt of such notice from the county auditor. The town board shall meet at the time and place specified in the notice so given by the clerk and levy a special tax upon all the taxable property in the town in an amount sufficient to pay the amount expended by the county in performing such work or making the improvement. Such tax so levied shall be certified to the county auditor on or before October 15 next succeeding, and the county auditor shall extend the same with other town taxes upon the tax list of such town. Such tax shall be collected and the payment thereof enforced in the same manner and subject to the same penalties and interest as other town taxes. When collected such tax shall be paid into the county treasury to the credit of the county road and bridge fund and in making his settlements with the town, the county treasurer is hereby authorized to withhold from payment to the town the amount of such special tax theretofore collected.

Performance by the town board and the town clerk of the respective duties hereby imposed on them may be enforced by mandamus.

Sec. 29. Town and county boards to keep town, county and state roads in passable condition at all times.—That section 90

of chapter 235, Laws 1913, be and the same is hereby amended so as to read as follows:

Section 90. It shall be the duty of the town board of each town, so far as funds are available for the expense thereof, to keep all town, county and judicial roads therein in a passable condition by the removal of snow therefrom; and for that purpose the road overseer is authorized to employ, by and with the consent of the town board, such men and teams as may be necessary for the purpose. The town board may also provide for the erection of snow fences when deemed advisable.

It shall be the duty of the county board, so far as funds are available for the expense thereof, to keep all state roads and state rural highways therein in a passable condition by the removal of snow therefrom.

Sec. 30. Inconsistent acts repealed.—All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

Sec. 31. This act shall take effect and be in force from and after its passage.

Approved March 29, 1917.

CHAPTER 120—S. F. No. 999.

An act to amend Section 1 of Chapter 68 of the Session Laws of 1917 relating to absent voters voting on general election days.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Absent voters law amended so as to include cities of the first class operating under a home rule charter.—That section 1 of chapter 68 of the Session Laws 1917 be and the same hereby is amended so as to read as follows:

Section 1. Any person entitled to vote at any general election who is absent on the day such general election is held, from the election district in which he is entitled to vote, may vote therein by having his ballot delivered by mail to the election judges of such district on the day of such general election, by complying with the provisions of this act, provided, however, that no person residing in a city of the first, second or third class shall be permitted to so vote, unless he has duly registered in said district prior to such election day. The words "general election" as used in this act shall be construed to include the election held in the several election districts on the first Tuesday after the first Monday in November in each even numbered year and also any city election, including cities of the first class operating under home rule charters, and any county option election, so-called, held under the provisions of chapter