

the public highways and bridges shall, from time to time, upon the written request of the State Highway Commissioner furnish him with all available information in connection with the building and maintenance of the public highways and bridges in their respective localities.

Repeal. SEC. 13. Sections 1, 2, 3, 4, 5, 6, 7 and 8 of chapter 174, Session Laws 1905, are hereby repealed.

Emergency. SEC. 14. An emergency exists and this act shall take effect immediately.

Passed the Senate February 28th, 1907.

Passed the House March 6th, 1907.

Approved by the Governor March 12th, 1907.

CHAPTER 150.

[H. B. 469.]

PUBLIC HIGHWAYS.

AN ACT to provide for the improvement of the public highways, providing for the payment of cost thereof in part out of the Public Highway Fund of this state, and in part out of the General Road and Bridge Fund, District Road Fund and property benefitted, and making an appropriation therefor.

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

County
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when.

SECTION 1. The board of county commissioners in any county of the state may, and upon the presentation of a petition as provided in section two hereof, must pass a resolution that public interest demands the improvement of any public highway, or section thereof, situated within such county, and described in such resolution, but such description shall not include any portion of a highway within the boundaries of any city or incorporated town, and within ten days after the passage of such resolution, shall transmit a certified copy thereof to the State Highway Board.

Petition
of abutting
property
owners.

SEC. 2. The owners of two-thirds of the lineal feet fronting on any such public highway or section thereof in any county of the state may present to the board of county

commissioners of such county a petition setting forth that the petitioners are such owners and that they desire that such highway or section thereof be improved under the provisions of this act.

SEC. 3. Such State Highway Board upon receipt of such resolution shall investigate and determine whether the highway or section thereof sought to be improved is of sufficient public importance to come within the purposes of this act, taking into consideration the use, location and value of such highway or section thereof for the purpose of common traffic and travel, and after such investigation shall certify their approval or disapproval of such resolution. If they shall disapprove such resolution, they shall certify their reason therefor to such board of county commissioners.

SEC. 4. If they shall approve such resolution, the State Highway Commissioner shall cause the highway or section thereof therein described to be surveyed and mapped both in outline and profile. When in the judgment of the State Highway Board the public interest will be subserved, they may employ the county surveyor or engineer of the county in which such highway or section is located, to make the necessary surveys and superintend the construction of such highway or section thereof. The State Highway Commissioner shall indicate how much of such highway or section thereof may be improved by deviation from the existing lines whenever it shall be deemed of advantage to obtain a shorter or more direct road without lessening its usefulness, or wherever such deviation is of advantage by reason of lessened gradients. He shall also cause plans and specifications and an estimate of the cost of construction of said highway or section thereof to be thus improved to be made for telford, macadam or gravel roadway or other suitable construction, taking into consideration climate, soil and materials to be had in the vicinity thereof and the extent and nature of the traffic likely to be upon such highway, specifying in his judgment the kind of road a wise economy demands. The improved or permanent roadway of all highways so improved shall not be less than eight feet nor more than sixteen feet in width with

Highway Board to investigate.

Surveys and maps.

Estimate of cost.

shoulders of not less than two feet nor more than four feet in width, unless for special reasons to be stated by such Highway Commissioner it is required that it shall be of greater width.

Maps, plans, etc., to be transmitted to county commissioners.

SEC. 5. Upon the completion and approval by the State Highway Board of such maps, plans, specifications and estimate such Highway Commissioner shall transmit to the board of county commissioners of such county a certified copy of the same and the certificate of the State Highway Board of the approval of the highway or section thereof so designated as aforesaid.

County commissioners may adopt plans.

SEC. 6. After the receipt thereof, upon a majority vote of such board of county commissioners, it may adopt a resolution that such maps, plans, specifications and estimate are by them approved and that such highway or section thereof so approved shall be constructed under the provisions of this act, and directing the raising of the county's share of the expense, and thereupon shall transmit a certified copy of such resolution to the State Highway Board, and the State Highway Commissioner is hereby authorized, empowered and directed to proceed with the construction of said highway in the order provided in section eleven. When a board of county commissioners has once adopted the resolution approving the plans and specifications of the State Highway Commissioner and directing the raising of the county's share of the expense, no resolution thereafter adopted by such board shall have the effect of rescinding or annulling such prior resolution. In case of any highway which lies upon the line which divides two or more counties, such resolution must be adopted separately by each county within which a portion of such highway lies; and the date of the receipt by the State Highway Commissioner of a certified copy of the resolution passed by the board of county commissioners last approving such plans, shall determine its place upon the list of roads to be taken up for construction as provided by section eleven of this act.

Right-of-way.

SEC. 7. In case the boundaries of such proposed highway shall deviate from the existing highway, the board of county commissioners must make provision for securing

the requisite right-of-way prior to the execution of the contract or contracts for the improvement. The county commissioners are hereby authorized to acquire such right-of-way by purchase or condemnation, in the manner now provided by law for acquiring right-of-way for the county roads. The cost of such right-of-way shall be deemed a part of the cost of such highway.

SEC. 8. Upon receipt of the certified copy of the resolution provided in section six, the State Highway Board shall advertise for bids for three successive weeks in a newspaper published at the county seat of such county and in such other newspapers as shall be deemed of advantage for the construction of such highway or section thereof, according to such plans and specifications, and award such contract to the lowest responsible bidder, except that no contract shall be awarded at a greater sum than the estimate provided in section four. The board of county commissioners of a county in which any portion of such highway lies may offer bids and be awarded such contracts for and on behalf of their respective counties. But if no bid otherwise acceptable be made within such estimate, such State Highway Commissioner may amend his estimate, certifying the same to the board of commissioners, and upon the adoption by it of a resolution as provided in section six, based on such amended estimate, proceed anew to obtain bids and award the contract as herein provided. The Highway Board may reject any or all bids, and before entering into any contract for such construction, they shall require a corporate surety bond, conditioned that if the proposal shall be accepted the party thereto will perform the work upon the terms proposed and within the time prescribed and in accordance with the plans and specifications; and as a bond of indemnity against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the construction of such road and until the same is accepted. The State of Washington shall in no case be liable for any damages suffered. Partial payments may be provided for in the contract, and paid in the manner herein provided when certified to by such State

Advertisement for bids.

Contract.

Board may reject bids.

Bond of contractor.

Highway Commissioner to an amount not to exceed eighty per centum of the value of the work done; twenty per centum of the contract price shall be retained until the entire work has been accepted.

Payment.

SEC. 9. One-half of the expense of the construction thereof shall be paid by the State Treasurer upon the warrant of the State Auditor, issued upon the voucher of such Highway Commissioner out of the state highway fund. And one-half of the expense thereof shall be paid by the county treasurer of the county in which such highway or section thereof is, upon the warrant of the county auditor issued upon the voucher of such Highway Commissioner, but the amount so paid shall be apportioned by the board of county commissioners, so that if the same has been built upon a resolution of said board without petition, thirty-five per centum of the cost of construction shall be a general county charge to be paid from the general road and bridge fund of the county, and fifteen per centum shall be a charge upon the district road fund of the road district or districts in which the improved highway or section thereof is located, and if the same has been built upon a resolution of said board after petition as provided in section two, thirty-five per centum shall be a general county charge and fifteen per centum shall be assessed upon and paid by the owners of the lands benefited in the proportion of the benefits accruing to said owners as provided by the next section hereof.

Assessment
of property
benefited.

SEC. 10. The county assessor of any county in which any highway or section thereof has been improved or constructed pursuant to petition as provided in section two of this act, shall have the power and it shall be his duty upon receiving notice from the board of commissioners of the county in which said highway is located, of the cost of construction or improvement of such highway or section thereof, to assess, upon lands benefited thereby, and situated within the boundaries of an improvement district to be established, fifteen per cent of said total cost. Such improvement district shall be constituted, and the boundaries thereof fixed, as follows: The highway coterminous with the improvement shall be the central line through the

Fifteen
per cent. of
total cost.

Assessment.

district, and the bordering lands on each side, and within a distance of half a mile from the margin of said highway and coterminous with the construction work or improvement shall be included in and constitute the body of the improvement district, and shall be subject to assessment to the extent above provided. For the purpose of making an equitable apportionment of the assessment, such improvement district shall be divided longitudinally into three parts as follows: All the land on both sides of the highway, and within a distance of eight hundred and eighty feet from the margins thereof shall constitute the first sub-division; all the land outside of said first division, and within eight hundred and eighty feet from the exterior margins thereof, shall constitute the second subdivision; and all the land outside of said second sub-division and within eight hundred and eighty feet from the exterior margins thereof shall constitute the third sub-division. Each separate tract or parcel of land in said first sub-division shall be assessed and be subject to a charge for a proportional part of seven per cent of the whole cost of the construction work, or improvement of said highway, and it shall be subject to a lien therefor until it shall be paid; each separate tract or parcel of land in said second sub-division shall be assessed and subject to a charge for a proportional part of five per cent of the whole cost of such construction work, or improvement, and be subject to a lien therefor until it shall be paid; each separate tract or parcel of land in said third subdivision shall be assessed and subject to a charge for a proportional part of three per cent of the whole cost of such construction work, or improvement, and be subject to a lien therefor until it shall be paid. The charge upon the several separate tracts or parcels of land in each sub-division shall be assessed ratably according to the front foot plan; that is to say, one foot of longitude measured along the highway constituting the center of such improvement district, and extending latitudinally across the sub-division shall be taken as the unit by which to determine the proportion of the assessment, so that a unit in each sub-division will be seventeen hundred and sixty square feet of superficial area. A list of

Manner of
assessment.

Board of
equalization
to correct
assessment.

Collection.

the several tracts or parcels of land in such improvement district shall be made and verified by the assessor in the same form as the general list of real estate is required to be made for state and county taxation, and the same shall be filed with the auditor of the county at least thirty days prior to the date prescribed by law for the first annual meeting of the county board of equalization after such list shall have been completed, and at said meeting, or an adjourned meeting, said board shall hear all objections to the assessments and determine the same, and correct all errors which may be found in such list; and after the same shall have been examined, compared and corrected by the county board of equalization, the assessments shall be by the county auditor extended upon the tax roll for the then current year, and shall be collected in the same manner as the general taxes of such county are collected, and shall become delinquent at the same time as general taxes, and after becoming delinquent shall be increased by the same percentage of penalty as other delinquent state and county taxes. A notice, directed to all owners of property affected by such assessment, whether known or unknown, to appear before said county board of equalization on a day to be therein specified to make their objections, if they have any, to such assessments, shall be published by the county auditor in a newspaper of general circulation in the county in at least three issues on different days of said newspaper, the first of which shall be at least twenty days prior to the specified date for appearances, and said notice shall contain a description of the highway, for the construction or improvement of which the assessment is made, and enumerate the several sections of land, according to the United States surveys, which shall be wholly or partially included within the special improvement district. If any such assessment shall be deemed invalid by the county board of equalization or adjudged to be invalid by any court of competent jurisdiction, a re-assessment of the land within an improvement district with proper boundaries shall be made and collected in the manner herein prescribed. The county boards of equalization may hold adjourned or special ses-

sions whenever it may be necessary to do so for the purpose of hearing objections to, and completing assessment lists required by this act.

SEC. 11. The construction and improvement of highways and sections thereof, under the provisions of this act, shall be taken up and carried forward in the order in which they are finally designated, as determined by the date of the receipt in each case of the certified copy of the resolution provided in section six by the highway board as hereinbefore provided. But no highway shall be placed upon the list of highways to be constructed nor receive a consecutive number on such list unless the resolution provided by section six shall also appropriate and make immediately available for the State Highway Board, for the construction of such highways, as provided by section nine, the county's half of the cost of the improvement of such highway. There is hereby appropriated out of the public highway fund of this State, the sum of one hundred and thirty-five thousand dollars, or so much thereof as may be necessary, for the purposes of this act, to be expended upon vouchers approved by the State Highway Commissioner: *Provided, however,* That each county shall be entitled to the full benefit under the provisions of this act of one-half of the public highway fund of this State and any other amount thereof not specifically appropriated to any State road or roads or bridges, if any, to the extent of taxes payable each year by each county into the said public highway fund, if the resolutions and approval provided in sections one, three and six are passed and made prior to the first day of September of each year; otherwise the amount available in said highway fund to be expended under the provisions of this act shall be applied in the construction of highways wheresoever situated in the order in which they are finally designated.

Order of
improve-
ments.

Appropriation \$135,000.

SEC. 12. Whenever a contract has been let for the construction of any such highway in accordance with the provisions of this act, the contractors may and are hereby authorized to, whenever the engineer in charge of the work on behalf of the State Highway Commissioner shall cer-

Contractor
may close
highway,
when.

tify to the necessity therefor in writing, close any such highway or section thereof to the public by putting up a sufficient obstruction and notice to the effect that such highway is so closed. When such highway shall have been so closed to the public any person disregarding such obstruction and driving, riding or walking over any portion of such highways so enclosed shall be deemed guilty of a misdemeanor and shall upon conviction thereof be subject to a fine of five dollars. Nothing herein contained, however, shall relieve the contractors of the burden of keeping highways under construction at all times open to the public until the engineer in charge of the work under the State Highway Commissioner shall have certified to the necessity for closing such highway and shall have filed such certificate in the office of the county auditor of the county within which such highway or section thereof is located.

Acceptance
of work.

SEC. 13. Upon completion of such highways or sections thereof so constructed by such Highway Commissioner, and his acceptance of the same, and after payment has been made as herein provided, such Highway Commissioner shall inform the board of commissioners of such county that the highways or sections thereof designated have been constructed as herein provided; and he may serve notice on said board to accept such highway thus constructed which notice shall be filed in the office of the auditor of said county; and twenty days after the serving and filing of said notice, such highway or section thereof shall be deemed accepted by said board of commissioners of such county; and thereafter they shall maintain the same as a county road, and may apportion the expense thereof upon the road district or districts benefited thereby; and the road supervisors of the district or districts respectively, wherein such improved highway lies, shall care for and keep the same in repair, under the direction and supervision of the State Highway Commissioner and such rules and regulations as he may prescribe.

Road shall
be main-
tained by
county.

Drainage of
highways.

SEC. 14. Whenever during the construction of any such highway, or after its completion, it may be necessary for the proper construction or maintenance thereof to open

or maintain ditches or drains for the purpose of properly draining such highway, the county commissioners of the county within which such highway or section thereof is situated, shall have the right to enter upon the lands adjacent thereto and to open any existing ditch or drain or dig a new ditch or drain for the free passage of water for the purpose of draining such highway. Said county commissioners shall also be empowered to agree with the owner of any such lands upon the amount of damages, if any, sustained by him in consequence of such entry upon his lands and performance of the work hereby authorized, and the amount of damages so agreed upon shall be the road district charge and shall be audited and paid the same as other road district charges. If the county commissioners are unable to agree with such owner upon the amount of damages thus sustained, the amount thereof shall be ascertained and determined and paid in the same manner as damages are so ascertained, determined and paid where new highways are laid out and opened and the county commissioners and land owners are unable to agree upon the amount thereof. If, however, the county commissioners fail to properly drain or ditch any such highway or to exercise any of the powers herein conferred upon them then the State Highway Commissioner may, upon giving to said county commissioners at least ten days' notice of his intentions so to do, begin any proceedings hereby authorized to be begun by such county commissioners, and is hereby vested with full powers to do all that the county commissioners might have done under this section, after the time named in the notice above prescribed shall have elapsed.

SEC. 15. All persons owning property abutting on such road so improved, or residing thereon shall thereafter pay all highway taxes assessed against them in money, and in the manner now provided by law.

Payment of
highway
taxes.

SEC. 16. Whenever any county has had aid in building any such highway and it seems advantageous to such Highway Commissioner that a section or sections of highway, not exceeding one mile in length should be constructed under this act to connect these roads together, and would

Connecting
highways.

be of great public utility and general convenience, he may serve notice on the board of county commissioners of such county, and shall file one in the county auditor's office, designating the highways already constructed and the existing termini and the section or sections, in his opinion, necessary to be constructed and his reasons therefor, and it shall be the duty of the board of county commissioners to provide for the construction of such connecting highway or section thereof, within one year after the service and filing of such notice under this act.

Construction of
railroads
upon roads.

SEC. 17. No street surface railroad shall be constructed upon a portion of a highway, which portion has or may be hereafter improved under the provisions of this act and the acts amendatory thereof and supplemental thereto, except upon the consent of, and under such conditions and regulations as may be prescribed by the State Highway Commissioner, and by and with the consent of the board of county commissioners of the county wherein such road may be located.

Passed the House March 1st, 1907.

Passed the Senate March 6th, 1907.

Approved by the Governor March 13th, 1907.

CHAPTER 151.

[H. B. 467.]

PROVIDING FOR THE ESTABLISHMENT, CONSTRUCTION AND MAINTENANCE OF STATE ROADS AND MAKING APPROPRIATIONS FOR CERTAIN STATE ROADS.

AN ACT providing for the establishment, construction and maintenance of state roads and making appropriations for state roads heretofore established.

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

Terms
defined.

SECTION 1. The term State Aid Roads shall be construed to mean improved roads constructed along the main lines of travel, the cost of which is distributed between the state and any county. The term State Roads shall be construed to mean roads constructed in the sparsely settled and