

Emergency. SEC. 4. An emergency exists and this act shall take effect immediately.

Passed the House February 17, 1911.

Passed the Senate March 2, 1911.

Approved by the Governor March 7, 1911.

CHAPTER 35.

[H. B. 356.]

IMPROVING PUBLIC HIGHWAYS, AND MAKING APPROPRIATIONS.

AN ACT relating to the improvement of public highways, providing for the payment of the cost thereof, making appropriations therefor, repealing chapter 150 of the Session Laws of 1907, and declaring an emergency.

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

SECTION 1. The term "permanent highway," when used in this act, shall be construed to mean an improved public road constructed along a main line of travel, either beginning at some trade center or an extension of an existing road of like character beginning at some trade center. Every permanent highway shall be uniformly graded to a width of not less than sixteen feet, shall have proper bridges, drains and culverts, and shall be surfaced with macadam, stone, gravel or other material equally as permanent and durable not less than twelve feet in width. No such highway shall be constructed with a grade exceeding five per cent., except where, by reason of physical conditions, it is not feasible or practicable to obtain such grade, but in no case shall any such highway be constructed with a grade greater than ten per cent.

SEC. 2. The owners of two-thirds of the lineal feet fronting upon any public highway or section thereof in any county may present to the board of county commissioners a petition setting forth that the petitioners are such owners, and that they desire that such highway or

Defining permanent highway.

Owners petition.

section thereof be improved under the provisions of this act.

SEC. 3. The board of county commissioners in any county, upon the receipt of a petition as provided in the preceding section, or upon its own motion, may pass a resolution for the improvement of any public road or highway or section thereof described in such resolution, under the provisions of this act, and within ten days after the passage of any such resolution shall transmit a certified copy of the same to the state highway commissioner.

Resolution to improve.

Said board shall have no power to provide for the improvement of any portion of a highway within the corporate limits of any city or town.

SEC. 4. Such highway commissioner, 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 merit improvement under the provisions 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 his approval or disapproval of such resolution, and if he shall disapprove such resolution he shall state his reasons therefor.

Highway commissioner's duty.

All expenses incurred by the state highway commissioner under the provisions of this act shall be paid from the public highway fund.

SEC. 5. The board of county commissioners may require the county engineer to perform all engineering in connection with and to supervise any improvement work contemplated or prosecuted under the provisions of this act, or may in its discretion employ a construction engineer for that purpose and fix his compensation, such compensation to be paid by the county.

County engineer.

SEC. 6. Whenever the board of county commissioners shall have passed a resolution for the improvement of any public highway under the provisions of this act, and the same shall have received the approval of the state highway commissioner, a certified copy thereof shall be transmitted

to the county engineer, or construction engineer appointed as aforesaid, who shall thereupon make the necessary surveys and prepare profiles, maps, plans and specifications, and an estimate of the cost of construction or improvement of the highway or section thereof described in the resolution; making such recommendations concerning deviation from existing lines as he shall deem of advantage to obtain a shorter and more direct route, or to lessen gradients, or to otherwise improve such highway.

Make surveys.

Recommendation.

SEC. 7. Upon the completion of such profiles, maps, plans, specifications and estimate, a copy thereof shall be transmitted to the state highway commissioner, who shall thereupon examine the same and return them to the board of county commissioners, making such changes therein or recommendations with reference thereto as he may deem advisable, and certifying his approval thereof.

Permanent record.

Upon receipt of such profiles, maps, plans, specifications and estimate, the board of county commissioners may pass a resolution adopting the same, and that such highway or section thereof shall be improved under the provisions of this act. No resolution thereafter adopted by said board shall have the effect of rescinding or annulling the resolution so adopting such profiles, maps, plans, specifications and estimate. The profiles, maps, plans, specifications and estimate as finally adopted by the board of county commissioners shall be filed in its office and become a permanent record of the board, and certified copies thereof shall be transmitted to the state highway commissioner and to the county engineer.

Board may condemn.

SEC. 8. Whenever the board of county commissioners shall find it necessary for the purpose of straightening any permanent highway, lessening the gradients thereof, or otherwise improving the same, to acquire or appropriate lands, real estate, or other property, and are unable to agree with the owners thereof, upon the reasonable and fair value of such lands, real estate, or other property, such board is hereby authorized to acquire the same by condemnation proceedings in the manner provided by law for

the appropriation of lands, real estate or other property by private corporations authorized to exercise the right of eminent domain.

SEC. 9. When the board of county commissioners shall have finally adopted the profiles, maps, plans and specifications for the improvement of any permanent highway under the provisions of this act, said board shall advertise for bids for three successive weeks in a newspaper published at the county seat of such county, and in such other newspaper as shall be deemed of advantage, for the construction and improvement of such permanent highway or section thereof according to such profiles, maps, plans and specifications, and shall award the contract to the lowest responsible bidder, save that the board shall have the right to reject any and all bids. Before entering into any contract for such construction or improvement, it shall require a corporate surety bond in the full amount of the contract, conditioned that the party thereto will perform the work upon the terms, within the time, and in accordance with the contract, profiles, maps, plans and specifications, and that such party will indemnify the county against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the construction and improvement of such highway and until the same is accepted. Each bid shall be accompanied by a certified check in a sum equal to one-tenth of the amount of such bid, payable to the county, which shall be forfeited to the county upon the failure of the party, for a period of twenty days after any contract is awarded to any such party, to enter into a proper contract and furnish satisfactory bonds as required by this act. Monthly partial payments shall be provided for in the contract and paid in the manner therein provided, when certified by the county engineer or construction engineer employed, as the case may be, to an amount equal to eighty per centum of the value of the work done during the preceding month. Twenty per centum of the contract price shall be retained until the entire work has been accepted, and no final payment shall

Advertise
for bids.

Surety bond.

Certified
check.

Final pay-
ment.

be made until the state highway commissioner shall have examined the work or caused the same to be examined and certify to the state auditor that such work has been fully completed in accordance with the contract and the profiles, maps, plans and specifications governing such work. All payments upon contracts entered into in accordance with the provisions of this act shall be made by the state treasurer from the permanent highway fund hereinafter created, upon the warrant of the state auditor issued upon the presentation of proper vouchers by the person entitled thereto, said vouchers to be approved by the board of county commissioners, and, in the case of final payment, to be accompanied by the certificate of the state highway commissioner as aforesaid. The state auditor shall issue no warrant for any purpose against the permanent highway fund hereinafter provided for unless there be sufficient money to pay such warrant in such fund to the credit of the county affected. No payment shall be made for any incidental changes during the progress of the work, unless the same shall have been approved by the board of county commissioners by resolution, and a copy of said resolution shall have been transmitted to the state highway commissioner. The board of county commissioners shall let no contract for the improvement of any permanent highway or section thereof less than one mile in length. Whenever any permanent highway shall be improved or constructed pursuant to a petition as provided for in section two of this act, the proportion of the cost of such improvement chargeable to the property within the improvement district shall be paid out of the general road and bridge fund of the county, and all taxes assessed against abutting property under the provisions of the following section shall, when collected, be paid into said general road and bridge fund.

Changes
approved.

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 county commis-

sioners 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. or such greater per cent. as may be stated in such petition, 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 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 subdivision; all the land outside of said first subdivision 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 subdivision and within eight hundred and eighty feet from the exterior margins thereof shall constitute the third subdivision. In case the petition shall call for the payment of fifteen per cent., each separate tract or parcel of land in said first subdivision 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 subdivision 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

Fifteen per cent. tax.

Three divisions.

Per cent. of tax.

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. If the per cent. of the cost to be paid by such owners shall be greater than fifteen per cent., the excess shall be assessed to the property in each subdivision upon the same ratio as such fifteen per cent. The charge upon the several separate tracts or parcels of land in each subdivision 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 subdivision shall be taken as the unit by which to determine the proportion of the assessment, so that a unit in each subdivision will be seventeen hundred and sixty square feet of superficial area. A list of 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 assessor extended upon the tax-roll for the 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

Tract list.

Extended on
tax roll.

Manner of
collecting.

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

Re-assessment.

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

SEC. 11. Whenever a contract has been let for the improvement or 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 shall certify 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 inclosed, shall be deemed guilty of a misdemeanor. Nothing herein contained, however, shall relieve the contractors of the burden of keeping highways under construction at all

Building highway.

Closing highway.

times open to the public until the engineer in charge of the work 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.

Maintenance. SEC. 12. Whenever the improvement of any permanent highway shall have been completed and accepted under the provisions of this act, the same shall be maintained in the same manner as is provided by law for the maintenance of other public highways and roads.

Draining. SEC. 13. 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.

Providing revenue. SEC. 14. For the purpose of raising revenues for the improvement of permanent highways under the provisions of this act, the proper state officers shall levy and collect a tax of one mill upon all property in the state subject

to taxation for the fiscal year commencing March first, 1911, and for each fiscal year thereafter. All moneys derived from such tax shall be paid into the state treasury and credited to a fund to be known as the "Permanent Highway Fund." The amounts received from each county shall be credited to the county paying the same until such time as the same shall be expended on contracts for permanent highways for such county under the provisions of this act.

SEC. 15. Upon the taking effect of this act, the state treasurer shall transfer from the public highway fund to the permanent highway fund hereby created, and placed to the credit of each county, a sum equal to one-half of all taxes levied in such county for said public highway fund for the years 1907, 1908, 1909 and 1910, first deducting therefrom all sums expended from the public highway fund for state aid road purposes in such county under the provisions of chapter 150 of the Session Laws of 1907 prior to such transfer. All payments on contracts executed prior to the passage of this act for state aid roads shall, from and after the date of its passage, be paid out of the permanent highway fund and charged to the county in which such state aid road is situated: *Provided*, That if any county shall not have sufficient money to its credit in the permanent highway fund to carry out any such contract or contracts, then and in that event the state treasurer shall transfer to the credit of such county from the public highway fund to the permanent highway fund sufficient money to complete the existing contracts for state aid roads. For the purpose of making the transfers from the public highway fund to the permanent highway fund, as provided in this section, there is hereby appropriated out of the public highway fund the sum of five hundred and eighty thousand dollars, or so much thereof as may be necessary.

Transfer
fund.

Insufficient
funds.

Appropriat-
ing \$580,000.

SEC. 16. No railroad or street railroad, by whatsoever power operated, shall be constructed upon any permanent highway or section thereof which may be improved under

No railroads
thereon.

the provisions of this act, and the acts amendatory thereof and supplemental thereto, nor shall any such railroad or street railroad be constructed upon any public highway or section thereof of which such permanent highway is a continuation.

§§ 5879-5896,
Rem.-Bal.,
repealed.

SEC. 17. That chapter 150 of the Session Laws of 1907 be, and the same is hereby, repealed, but this section shall not be construed to affect any contract for state aid roads entered into prior to the taking effect of this act, save that payments on such contracts shall be made as herein provided.

Appropriat-
ing \$1,230,-
000.00.

SEC. 18. For the purpose of making payments on contracts for permanent highways and outstanding contracts for state aid roads under the provisions of this act, and otherwise carrying out the provisions thereof, there is hereby appropriated out of the permanent highway fund the sum of one million, two hundred and thirty thousand dollars, or so much thereof as may be necessary.

Emergency.

SEC. 19. An emergency exists, and this act shall take effect immediately.

Passed the House February 20, 1911.

Passed the Senate March 2, 1911.

Approved by the Governor March 8, 1911.