

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1937**



**ENROLLED**

**SENATE BILL No.** 138

(By Mr. Hodges )



PASSED March 5<sup>th</sup> 1937

In Effect 90 days from Passage

181

**ENROLLED**

**Senate Bill No. 138**

(BY MR. HODGES) (MR. PRESIDENT) (by request)

[Passed March 5, 1937; in effect 90 days from passage.]

AN ACT to amend and reenact section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to roads and highways.

*Be it enacted by the Legislature of West Virginia:*

That section eight, article two-a; section four, article four; and section nineteen, article four, all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, are hereby amended and reenacted to read as follows:

Filed in the office of the Secretary of State  
of West Virginia, **MAR 10 1937**  
Wm. S. O'BRIEN,  
Secretary of State

**ARTICLE II-A.**

Section 8. The commissioner shall employ such assistants  
2 and employees as may be necessary for the efficient oper-  
3 ation of his department, who shall possess all of the qualifi-  
4 cations which may from time to time be prescribed for such  
5 positions by the road commissioner. The duties and salaries  
6 of such assistants and employees shall be fixed by the road  
7 commissioner, who shall have authority to remove the same  
8 at his will and pleasure.

9 The commissioner shall require every employee who  
10 collects fees or handles funds or who has custody of equip-  
11 ment and supplies belonging to the state to take the con-  
12 stitutional oath and give an official bond properly condi-  
13 tioned and signed by sufficient sureties in a sum to be fixed  
14 by the commissioner, which bond shall be approved by him  
15 and filed in the office of the secretary of state.

16 The commissioner shall fix their compensation, but the  
17 total compensation paid to assistants and employees shall not  
18 exceed in any one year the appropriation made by the legis-  
19 lature for that purpose.

**ARTICLE IV.**

Section 4. The authority and control over the state roads  
2 vested in the state road commissioner shall include the  
3 power to:

4 (1) Locate and relocate any primary or secondary road;  
5 and upon the petition of any interested party or upon his  
6 own initiative create, extend or establish any new road  
7 that shall be necessary;

8 (2) Upon petition and hearing, or after due investiga-  
9 tion, upon his own initiative, discontinue any road no longer  
10 necessary;

11 (3) Construct, reconstruct, repair and maintain the state  
12 roads;

13 (4) Allocate the cost of retaining walls for the protec-  
14 tion of a state road or its right-of-way to the cost of con-  
15 struction, reconstruction, improvement or maintenance;

16 (5) Close any state road while under construction or  
17 repair and provide for a temporary road during the course  
18 of construction or repair;

19 (6) Adjust damages occasioned by the construction, re-

20 construction or repair of any state road or the establish-  
21 ment of any temporary road;

22 (7) Fix standard widths for rights-of-way, bridges and  
23 approaches; fix the grades on all state roads; and pro-  
24 vide for the acquisition of land necessary for cuts and  
25 fills;

26 (8) Make emergency purchases of materials, supplies,  
27 repair parts for road equipment and emergency equipment  
28 rentals, such emergency purchase or rental in no event to  
29 exceed two hundred dollars in value; to purchase or lease  
30 all necessary ground and buildings for the storage of road  
31 equipment or road building materials, including necessary  
32 rights-of-way for the construction of public roads; to pur-  
33 chase and negotiate for the use of waste sites, gravel or  
34 sand banks, cinders, red dog or other road building materials;

35 (9) Purchase, produce and sell road materials as pro-  
36 vided by section twenty-five of this article;

37 (10) Test and standardize materials used in the con-  
38 struction and maintenance of state roads;

39 (11) Establish a uniform system of road signs and  
40 markers;

41 (12) Classify and designate by number the routes within  
42 the primary and secondary road system;

43 (13) Institute complaints before the public service com-  
44 mission concerning interstate freight rates, car service, and  
45 movement of road materials and machinery;

46 (14) Make such administrative rules and regulations as  
47 are necessary to give effect to the powers granted by this  
48 chapter.

Sec. 19. All work of construction and reconstruction of  
2 state roads and bridges, and the furnishing of all materials  
3 and supplies therefor, and for the repair thereof, unless  
4 manufactured or assembled by the commissioner, shall be  
5 done and furnished pursuant to contract except that the  
6 commissioner shall not be required to award any contract  
7 for work or for materials or supplies for an amount less  
8 than three thousand dollars. When the commissioner is  
9 about to construct, reconstruct, or improve any road or high-  
10 way, he shall file with the clerk of the county court, or of  
11 the municipality, as the case may be, in which such road  
12 lies, a certified copy of the plans and specifications there-  
13 for, and a notice that the commissioner is about to enter

14 upon and proceed with the work in question. If the work  
15 is to be done, or the materials therefor are to be furnished  
16 by contract, the commissioner shall thereupon advertise once  
17 each week for at least two successive weeks in two news-  
18 papers of opposite politics, if there be such, but if not,  
19 then in one newspaper published in each county or munici-  
20 pality in which the road lies, and once in at least one daily  
21 newspaper published in the city of Charleston, and in such  
22 other journals or magazines as may to the commissioner  
23 seem advisable, for sealed proposals for the construction or  
24 other improvement of such road, and for the furnishing of  
25 materials therefor, accurately describing the same, and stat-  
26 ing the time and place for opening such proposals and re-  
27 serving the right to reject any and all proposals. The com-  
28 missioner shall have the power to prescribe proper pre-  
29 qualifications of contractors bidding on state road construc-  
30 tion work. To all sealed proposals there shall be attached  
31 the certified check of the bidder or bidder's bond acceptable  
32 to the commissioner, in such amount as the commissioner  
33 shall specify in the advertisement, but not to exceed five per  
34 cent of the aggregate amount of the bid; but such amount

35 shall never be less than five hundred dollars. Such pro-  
36 posals shall be publicly opened and read at the time and  
37 place specified in the advertisement, and the contract for  
38 such work, or for the supplies or materials required there-  
39 for shall, if let, be awarded by the commissioner to the  
40 lowest responsible bidder for the type of construction  
41 selected. In case the commissioner shall reject all bids, he  
42 may thereafter do the work with his own forces or with  
43 prison labor, or may readvertise in the same manner as  
44 before and let a contract for such work pursuant thereto.  
45 But nothing in this section shall be so construed as to pre-  
46 vent the commissioner from building, constructing, recon-  
47 structing or repairing a road to any extent with prison labor  
48 without first advertising and rejecting bids therefor.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Carl B. Galbraith*

Chairman Senate Committee

*Peck B. Baker*

Chairman House Committee

Originated in the.....

Takes effect..... passage.

*Thomas H. Inley*

Clerk of the Senate

*Geo. S. Hall*

Clerk of the House of Delegates

*Chas. E. Hoyle*

President of the Senate

*James Kay Thomas*

Speaker House of Delegates

The within *Approved* this the *10<sup>th</sup>*

day of *March*, 1937.

*Thomas A. Holt*

Governor

Filed in the office of the Secretary of State of West Virginia. **MAR 10 1937**

Wm. S. O'BRIEN, Secretary of State