WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED
COM. SUB. FOR
SENATE BILL NO. 44

(By Mr. ............................................................)

PASSED ............................................. 1963

In Effect From ................................. Passage

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of West Virginia 3-13-63

JOE F. BURDETT
SECRETARY OF STATE
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 44

[Passed March 9, 1963; in effect from passage.]

AN ACT to amend chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section three, article one thereof; and sections seven, thirteen and fifteen, article two-a thereof; by adding to article two-a thereof eight new sections, designated sections four-a, four-b, eight-a, eight-b, seventeen, eighteen, nineteen and twenty; by amending and reenacting section four, article three thereof; by adding to article three thereof a new section, designated section four-a; by amending and reenacting sections nine, ten, eleven, twenty-one, twenty-six, twenty-nine, thirty and thirty-one, article four thereof, all relating to the improvement, administration and supervision of the state system
of roads and highways; including, among other things, definitions of roads and highways, the purchase of materials for the state road program, the acquisition of property for the state road commission, advance payments into court by the state road commission in condemnation actions, the disposal of state road commission real property, payment of traveling expenses of prospective employees and moving expenses of new employees, educational training for present and prospective highway personnel, allowance to expert witnesses in eminent domain proceedings, emergency towing and fuel for stalled vehicles, assistance to persons dislocated by highway construction, elimination or avoidance of railway-highway crossings at grade, relocation of utility lines, and protest against, hearing on, and judicial review of order directing the separation or elimination of grades.

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

That chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section three, article one thereof; and sections seven, thirteen and fifteen, article two-a thereof;
by adding to article two-a thereof eight new sections, designated sections four-a, four-b, eight-a, eight-b, seventeen, eighteen, nineteen and twenty; by amending and reenacting section four, article three thereof; by adding to article three thereof a new section, designated section four-a; by amending and reenacting sections nine, ten, eleven, twenty-one, twenty-six, twenty-nine, thirty and thirty-one, article four thereof, all to read as follows:

Article 1. Definitions.

Section 3. Road; Public Road; Highway.—The words or terms "road," "public road," or "highway," shall be deemed to include, but shall not be limited to, the right of way, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities; and such public road or highway shall be taken to include any road to which the public has access and which it is not denied the right to use, or any road or way leading from any other public road over the land of another person, and
13 which shall have been established pursuant to law. Any
14 road shall be conclusively presumed to have been estab-
15 lished when it has been used by the public for a period
16 of ten years or more, and public moneys or labor have
17 been expended thereon, whether there be any record of
18 its conveyance, dedication or appropriation to public use
19 or not. In the absence of any other mark or record, the
20 center of the traveled way shall be taken as the center of
21 the road and the right of way shall be designated there-
22 from an equal distance on each side, but a road may be
23 constructed on any part of the located right of way when
24 it is deemed advisable so to do.

Article 2-a. State Road Commissioner.

Section 4-a. Payment of Traveling Expenses of Pros-
2 pective Employees and Moving Expenses of New Em-
3 ployees.—In addition to the other powers given and as-
4 signed to him in this chapter, the commissioner may au-
5 thorize the payment of the traveling expenses incurred
6 by any person he requests to visit his office to be inter-
7 viewed concerning the possible employment of such per-
8 son by the state road commission. When a person is first
employed by the commission, the commissioner may au-

 thorize the payment of all or part of the expense incurred
 by such person in moving his household effects to his
 place of employment. The expenditures for such pay-

 ments shall be made from the state road fund.

 Sec. 4-b. Scholarships for Training Highway Personnel;

 Notes for Money Advanced; Payment or Cancellation of

 Notes.—The Legislature hereby declares that there is a
 wide and continuing need for trained personnel in the
 state road commission of this state and that the scholar-
 ships herein provided will aid the state road commission
 in attracting and holding competent employees.

 The state road commissioner is empowered to award
 scholarships to competent persons, whether presently
 employed by the state road commission or not, for the
 purpose of enabling and encouraging such persons to at-
 tend a college or university to pursue such course of study
 as may be approved by the state road commissioner, but
 the number of persons holding such scholarships at any
 one time shall not exceed twelve. Each scholarship shall
 carry a stipend in an amount fixed by the state road com-
missioner not in excess of four thousand dollars in the aggregate, such sum to be paid to the recipient in equal installments at the beginning of each quarter or semester for which the recipient has agreed to pursue his course of study. The necessary expenditures for such scholarships shall be made from the funds available to the state road commission. The recipient of a scholarship shall execute notes and shall deliver said notes to the state road commissioner. Each such note shall be in the amount of the sum received from the state road fund and shall be payable on demand to the state treasurer. The state road commissioner shall hold said notes and if, for any reason, except death or physical or mental disability, or being drafted into the armed services, the recipient of a scholarship fails successfully to complete the course of study for which the scholarship was granted or if after the completion of the prescribed course of study does not continue or become an employee of the state road commission, or ceases to be an employee before all such notes have been paid or cancelled, the state road commissioner shall make demand for payment of all of said unpaid and
uncancelled notes and shall transmit all such notes
promptly to the state treasurer who shall enforce collection thereon and shall deposit such sums so collected
thereon in the state road fund. The state road commiss-
ioner is authorized to credit the oldest outstanding note
in the sum of four hundred dollars every six months that
the recipient of the scholarship is employed by the state
road commission after having completed the course of
study for which the scholarship was granted. The state
road commissioner shall have the power and authority
to make all necessary rules and regulations to carry this
section into effect.

Sec. 7. Legal Services.—Notwithstanding any law to
the contrary, the commissioner:

(1) Shall select and employ a competent legal staff ade-
quate for the ordinary legal services required by him
and shall provide therefor such quarters, equipment,
facilities, services and stenographic and other personnel
as may be necessary;

(2) May call upon the attorney general and the prose-
cuting attorneys of the several counties, within their re-
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10 spective jurisdictions, for legal assistance and services as
11 provided by law;
12 (3) May employ such additional legal counsel as he
13 deems necessary upon a reasonable fee basis to perform
14 legal services in acquiring, by right of eminent domain
15 or otherwise, property, or an estate, right or interest
16 therein.

Sec. 8-a. Expert Witnesses in Eminent Domain Proceeding.—Notwithstanding any law to the contrary, the
3 commissioner may employ as witnesses to testify in
4 eminent domain proceedings such persons who are qualified to give competent testimony as to the value of the
5 property, or estate, right or interest therein, being con-
6 demned in an eminent domain proceeding, as he deems
7 necessary. Each such person so employed shall receive
8 for his services the sum agreed upon in a written con-
9 tract signed by the commissioner and such person. The
10 sum contracted to be paid, however, shall not be made
11 contingent upon the outcome of the action or hearing in
12 which the competent testimony is to be given.

Sec. 8-h. Emergency Road Service.—In addition to the
other powers given and assigned to him in this chapter, where an emergency exists, the commissioner may authorize the use of state road commission vehicles to provide towing service to vehicles stranded on any highway in this state, or may provide a sufficient quantity of gasoline or other fuel for the vehicle to propel it to a point where such fuel may be purchased.

Sec. 13. Purchase of Materials, Supplies and Equipment.—All materials, supplies and equipment required for the state road program and system shall be purchased and acquired by the commissioner through the department of purchases, except as otherwise provided by law. The director of purchases shall adopt rules and regulations governing and controlling acquisitions and purchases in accordance with accepted business practices so that no persons shall be precluded from participating and making sales thereof to the commission; shall establish and prescribe specifications, in all proper cases, for materials, supplies and equipment to be purchased; shall adopt and prescribe such purchase order, requisition or other forms as may be required; shall negotiate for and
make purchases and acquisitions in such quantities, at such times and under contract, in the open market or through other accepted business methods and practices, as may be practicable in accordance with general law; shall determine whether to advertise for bids, to purchase by means of sealed bids and competitive bidding or to effect advantageous purchases through other accepted methods and practices; and shall post in a public place in the offices of the commission and the department of purchases, available to the public during all business hours, notices of all acquisitions and purchases to be made, at least two weeks prior to making such purchases.

All purchases and acquisitions shall be made in consideration and within limits of available appropriations and funds and in accordance with applicable provisions of article two, chapter five-a of this code, relating to expenditure schedules and quarterly allotments of funds.

The director of purchases shall make available the facilities and services of his department to the commissioner in the purchase and acquisition of materials, supplies and equipment and shall cooperate with the com-
missioner in all such purchases and acquisitions upon request of the commissioner. The actual expenses incurred by the director of purchases in all such cases shall be paid by the commissioner.

Sec. 15. Other Laws Not Controlling.—The provisions of article three, chapter five-a of this code shall not control or govern the purchase, acquisition or disposition of any equipment, materials or supplies by the commissioner, except as provided in sections thirteen and fourteen of this article. The commissioner may, in his discretion, resort to applicable provisions of said chapter five-a and to rules, regulations and practices of the director of purchases in purchasing, acquiring or disposing of equipment, supplies and materials.

Sec. 17. Acquisition of Property for State Road Purposes.—In addition to all other powers given and assigned to the commissioner in this chapter, the commissioner may acquire, either temporarily or permanently, in the name of the state road commission, all real or personal property, public or private, or any interests or rights therein, including any easement, riparian right, or right
8 of access, deemed by the commissioner to be necessary for
9 present or presently foreseeable future state road pur-
10 poses by gift, lease, grant, bequest, devise, agreement,
11 purchase, exchange, right of eminent domain, or other
12 lawful means. Such real property may be acquired in
13 fee simple or in any lesser estate or interest therein, ex-
14 cept in the case of a public road the right of way only
15 shall be acquired. Acquisition of such personal property
16 shall be subject to the provisions of sections thirteen and
17 fifteen of this article. Nothing in this section shall be
18 deemed to restrict or relinquish any right the state or
19 any agency thereof now or hereafter possesses or may
20 exercise by virtue of the police power or other lawful
21 authority.
22 As used in this article, "state road purposes" shall in-
23 clude provision for, but shall not be limited to, the fol-
24 lowing:
25 (a) Constructing, establishing, laying out, widening,
26 enlarging, extending, straightening, reconstructing, re-
27 locating, grading, altering, improving, and maintaining
28 state roads;
(b) Rights of way for state roads, including those needed for such roads within municipalities, such rights of way to be as wide as deemed necessary by the commissioner;

(c) Adequate drainage of state roads;

(d) Controlled-access facilities, as defined in section thirty-nine, article four, of this chapter, including existing and vested rights of access, air, view and light, whether privately or publicly owned, and local service roads to controlled-access facilities;

(e) Broadcasting stations, weighing stations, shops, equipment sheds, office buildings, storage buildings and yards, snow fences, and road maintenance or construction sites;

(f) Road-building material storage sites, quarry sites, gravel pits, sites for the acquisition or manufacture of road building materials including borrow pits, stock pile sites, waste-material sites and access roads to any such sites or places;

(g) The culture and support of trees which benefit any
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49 state road by aiding in the maintenance and preservation
50 of the road;
51 (h) Preservation of scenic places and other objects of
52 attraction or scenic value adjacent to or near any state
53 road, or which may be conveniently reached from or by
54 a state road;
55 (i) Development and maintenance of parking places,
56 auto camps, camp sites, roadside parks, forest or timbered
57 areas or other places of attraction and scenic value which
58 are adjacent to or near any state road and which in the
59 judgment of the commissioner are necessary for the con-
60 venience of the public and will contribute to the general
61 welfare and pleasure of the motoring public or road
62 users;
63 (j) Maintenance of an unobstructed view of any por-
64 tion of any state road in order to provide for the safety
65 of the traveling public;
66 (k) Erection and maintenance of markers, warning
67 signs and traffic signals;
68 (l) Construction and maintenance on state roads of
69 sidewalks and highway illumination;
Elimination or prevention of hazardous or undesirable points of entry to state roads from adjacent property;

Acquisition of property, or any interest or right therein, for the purpose of exchanging it for other property, or any interest or right therein, which the commission is authorized to acquire by the other provisions of this section: Provided, That such substitute property, or any interest or right therein, may be acquired by the commissioner by condemnation only if the following conditions are satisfied: (1) money compensation would be substantially inadequate for the property, or interest or right therein, which the commissioner is authorized to acquire by the other provisions of this section, and (2) the commission has entered into a written agreement to exchange the substitute property, or the right or interest therein, for the property, or right or interest therein, which is needed for state road purposes, regardless of whether the person who has agreed to accept the exchange has the right to condemn the substitute property, or the right or interest therein.
(o) Acquisition of real property, not needed as such for a state road, for the purpose of moving and relocating thereon a building or other structure or appurtenance which is situated on a lot or tract of land all or a portion of which is needed for a state road and which, after relocation, will be suitable for the purpose for which it was used prior to its being relocated: Provided, however, That such additional real property may be acquired by the commissioner by condemnation only if the following conditions are satisfied: (1) the building or other structure or appurtenance is of substantial value, (2) the real property on which it is to be relocated is not substantially improved and is adjacent to or near the location from which it is to be removed, (3) the owner of the real property needed for the state road has entered into a written agreement with the commission to accept in exchange the additional property with the relocated building or structure or appurtenance thereon, (4) substantial savings in expenditure of state road funds will result from condemning the additional property and relocating the building or structure or appurtenance rather than
condemning the lot or tract, or the portion thereof, on which the building or other structure or appurtenance may be located; and (5) the real property with the relocated building or structure or appurtenance thereon will be relatively equal in value to the real property needed for the state road.

Sec. 18. Acquisition of Real Property Not Needed for Road Purposes.—In connection with the acquisition of real property, or any interest or right therein, for state road purposes, the commissioner may acquire, by any lawful means other than by eminent domain or condemnation, an entire lot, block, or tract of real property, or any portion thereof, even though it is not needed for present or presently foreseeable future state road purposes, if uneconomic remnants would be left the owner or if severance or consequential damages to the remainder make acquisition of the additional property more economical to the state.

Sec. 19. Sale, Exchange, or Lease of Real Property.—The state road commission, subject to the conditions here-
When the real property, or any interest or right therein, is being held for future road purposes, it may be leased. When the real property, or any part thereof, or any interest or right therein, is deemed by the commissioner not necessary, or desirable for present or presently foreseeable future state road purposes, it may be exchanged for other real property, or any interest or right therein, deemed by the commissioner to be necessary or desirable for present or presently foreseeable future state road purposes, or it may be sold. In addition the commission may exchange real property, or any part thereof, or any interest or right therein, even though it may be necessary or desirable for present or presently foreseeable future state road purposes, if the exchange is made for other real property, or any interest or right therein, in close proximity thereto which the commissioner deems of equal or superior useful value for present or presently foreseeable future state road purposes. In making exchanges the commission may make allowances for differences in the value
of the properties being exchanged and may move or pay
the cost of moving buildings, structures, or appurtenances
in connection with the exchange.

Every such sale of real property, or any interest or right
therein or structure thereon, shall be at public auction in
the county in which the real property, or the greater part
thereof in value, is located, and the commission shall ad-
vertise, by publication or otherwise, the time, place, and
terms of such sale at least twenty days prior thereto. The
property shall be sold in the manner which will bring the
highest and best price therefor. The commission may
reject any or all bids received at the sale. The commis-
sioner shall keep a record, open to public inspection, indi-
cating the manner in which such real property, or any in-
terest or right therein or structure thereon, was publicly
advertised for sale, the highest bid received therefor and
from whom, the person to whom sold, and payment re-
ceived therefor. Such record shall be kept for a period
of five years and may thereafter be destroyed.

The commission shall adopt and promulgate rules and
regulations governing and controlling the making of any
46 leases or sales pursuant to the provisions of this section,
47 which rules and regulations may provide for the giving
48 of preferential treatment in making leases to the persons
49 from whom the properties or rights or interests therein
50 were acquired, or their heirs or assigns.
51 The commission may insert in any deed or conveyance,
52 whether it involves an exchange, lease, or sale, such con-
53 ditions as are in the public interest and have been ap-
54 proved in advance by the governor.
55 All monies received from the exchange, sale, or lease
56 of real property, or any right or interest therein, shall
57 be paid into the state treasury and credited to the state
58 road fund.

Sec. 20. Relocation Assistance; Limits on Payments;
2 Rules and Regulations.—The payment of relocation costs
3 to persons dislocated by highway construction is hereby
4 declared to be a cost of highway construction and may be
5 paid from the state road fund, subject to the provisions
6 of this section. The state road commissioner shall make
7 the payments authorized by this section to reduce hard-
8 ships to persons so dislocated. In addition, the commis-
sioner shall render advisory assistance to persons affected
and shall call upon and coordinate the services of such
other agencies of state and local government as may be
capable of rendering such assistance to reduce hardships
to persons affected and to reduce delays in highway con-
struction. In rendering such advisory assistance, the com-
missoner may accumulate and maintain lists of various
kinds of properties available to which persons affected
may be relocated, and acquire and file such other infor-
mation and take such other action as may be necessary
to render such advisory assistance.

Any individual, family, business concern (including the
operation of a farm) or nonprofit organization to be dis-
placed by a highway construction project shall be com-
pensated consistent with the provisions and limitations of
this section for reasonable and necessary costs to be in-
curred in consequence of being so displaced. When a
family is displaced, no additional payments shall be made
to individuals who are members of such family; but, if two
or more displaced families occupy the same dwelling or
comprise a single household, each family within such
A dwelling or household may receive relocation costs as provided in this section. Payments under this section are subject to the following limitations and to any rules and regulations made by the commissioner as herein authorized:

1. Payments shall not exceed two hundred dollars in the case of a family or an individual, or three thousand dollars in the case of a business concern (including the operation of a farm) or nonprofit organization;

2. In the case of a business concern (including the operation of a farm) and in the case of a nonprofit organization, the allowable expense for transportation under this section shall not exceed the reasonable and necessary cost of moving fifty miles from the point from which such business or organization is being displaced and no expenses shall be allowed if a substantial portion of such business or organization is to be relocated outside the state.

The commissioner shall establish by rules and regulations a procedure for the payment of relocation costs within the limits of and consistent with the policies of this section. Such rules and regulations may authorize lump
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sum payments to individuals or families, in lieu of their respective provable costs (not to exceed two hundred dollars in any case), based upon the size of the dwelling being vacated or the number of persons being affected or any other reasonable basis. The commissioner may authorize the obligation of or payment of relocation costs in advance of expenditure for relocation by any person, firm or organization eligible to receive such payment where such advance obligation or payment would speed the clearance of highway construction sites or reduce hardships.

Article 3. State Road Fund.

Section 4. Method of Disbursing Road Fund.—The commissioner shall certify monthly to the state auditor the amount due to each member of the commission, himself and each employee of the commission for services rendered as such members, commissioner and employees and the auditor shall issue his warrant therefor on the state treasurer, payable out of the state road fund appropriated for such purpose.

Any claim of a contractor or others, not otherwise pro-
vided for, for labor done or for materials, services or supplies furnished to the state road commission, pursuant to the provisions of any article of this chapter, shall be audited by the commissioner, and, if found correct, the commissioner shall issue the commission's requisition upon the auditor of the state therefor, showing the nature of such claim and whether it is for labor done or materials, services or supplies furnished for construction of state roads, or for other purposes, and the auditor shall issue his warrant upon the state treasurer therefor, and the treasurer shall pay the same to the person, firm or corporation entitled thereto, out of the funds in the treasury provided for that purpose.

Sec. 4-a. Advancement of Compensation for Property Immediately Needed.—When the state road commissioner has commenced an action for condemnation of any real or personal property, or estate, right, or interest therein, and immediate entry upon, possession of, appropriation or use thereof, is deemed necessary by the commissioner, he may certify to the state auditor such facts, and issue the commission's requisition upon the auditor for ad-
vancement of the sum the commissioner estimates to be the fair value of the property, or estate, right, or interest therein, sought to be condemned, and the damages, if any, to the residue beyond the benefits, if any, to such residue, by reason of the taking. Upon receipt of such certificate and requisition, the auditor shall issue his warrant upon the state treasurer in favor of the clerk of the court where-in the action was commenced, for the sum requisitioned by the commission, to the use of the defendants in that action, and the treasurer shall pay the same to the clerk of that court out of the funds in the treasury provided for this purpose.

**Article 4. State Road System.**

**Section 9. Requiring Railways to Eliminate or Avoid Railway-Highway Crossing at Grade.**—Whenever in his judgment it is necessary for the safety of the traveling public or to comply with the safety, design or construction standards for a federal aid highway project, the state road commissioner may require any railroad company, owning, controlling or operating a railroad in this state, to eliminate railway-highway crossings at grade on exist-
ing highways and to avoid railway-highway crossings at grade on new highways, relocated highways and extensions of existing highways by separating the grades or by relocating an existing highway. The commissioner may determine the location, design and grade for any project or structure for the elimination or avoidance of railway-highway crossings at grade, and may determine whether a new, relocated or extended highway shall pass over or under the railroad right of way or tracks. The railroad company shall not be required to bear any part of the cost of construction or maintenance of such grade separation, except where the separation structure eliminates an existing grade crossing.

Sec. 10. Order Eliminating or Avoiding Railway-Highway Crossings at Grade; Amendment to Order.—(a) Whenever, in the judgment of the state road commission-er, it is necessary for the safety of the traveling public, or to comply with the safety, design or construction standards for a federal aid highway project, that a railway-highway crossing at grade be eliminated on an existing highway or avoided on a new highway, relocated
27 highway or extension of an existing highway by separ-
ating the grades or relocating an existing highway, the
state road commissioner shall make an order to that effect
and furnish a copy thereof by registered mail to the state
auditor or attorney of record of the railroad affected by
the order.
(b) The commissioner's order shall include at least
the following:
(1) A statement describing and locating the railway-
highway crossing at grade to be eliminated or avoided;
and
(2) A statement of the general plan to be followed in
effecting the elimination or avoidance of the specified
railway-highway crossing at grade, including general de-
tails concerning the following matters:
(A) Whether a new, relocated or extended highway
shall pass over or under the railroad right of way or
tracks; and
(B) The location, grade and width of the grade sepa-
ration structure or crossing to be constructed and the
angle at which the structure or crossing shall meet and
30 converge into the highway bed on either side of the railroad tracks or right of way.

32 (c) Whenever a railroad company affected by the order specified in subsection (a) refuses to enter into a written agreement with the state road commissioner respecting a federal-aid railway-highway project for elimination or avoidance of railway-highway crossings at grade, the commissioner may amend the order made under subsection (a) to incorporate therein insofar as practicable all the details required by the regulations, policies and procedures of the Bureau of Public Roads, United States Department of Commerce, to be included in written agreements between a railroad and a state respecting federal-aid railway-highway projects. The amended order shall be furnished by registered mail to the state auditor or attorney of record of the railroad affected thereby.

Sec. 11. Protest Against Order; Hearing; Judicial Review.—Any railroad company dissatisfied with the order of the state road commissioner directing the separation or elimination of grades at any point, may, within thirty
days after the receipt by the state auditor or attorney of
record of such railroad company of a copy of the order
directing the separation or elimination at such grades,
file with the state road commissioner a protest giving the
reasons of said railroad why such order should not be en-
forced. On the filing of such protest, the state road com-
missioner shall set down for hearing the matter in issue.
On the hearing of the protest the state road commissioner
shall hear all evidence which may be offered by any party
upon the reasonableness of the separation or elimination
of the grades, and if the commissioner, from the evidence,
shall find that the construction of the work is necessary,
he shall enter an order to that effect, and direct that the
work shall be proceeded with in accordance with this
article.

Any order entered by the state road commission pur-
suant to the provisions of this section shall be subject to
judicial review by the circuit court of the county in which
the grades to be separated or eliminated are located, or
the circuit court of Kanawha county, upon the filing in
such court or with the judge thereof in vacation, of a pe-
petition for appeal by the party or parties aggrieved by
such order, within thirty days from the date of the giving
of written notice of such order by the state road commis-
sioner to the party or parties to the hearing of the pro-
test by certified or registered mail.

The party or parties making such appeal shall forth-
with send a copy of such petition for appeal, by certified
or registered mail, to the state road commissioner. Upon
receipt of such copy of such petition for appeal the state
road commissioner shall promptly certify and file in such
court a complete transcript of the record upon which the
order complained of was entered. The costs of such
transcript shall be recovered by the party substantially
prevailing on appeal.

The court sitting in lieu of the jury, or judge thereof in
vacation, shall, after due notice, conduct a hearing on the
issues presented by such appeal and shall permit argu-
ment, oral or written or both, by the parties. The court
shall permit such pleadings, in addition to the pleadings
before the state road commissioner, as it deems to be re-
quired. Evidence relating to the making of the order
complained of and relating to the questions raised by the
allegations of the pleadings or other questions pertinent in the proceeding may be offered by the parties to the proceeding.

Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, any circuit court to which an appeal has been made as provided in this section, may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of order of the state road commissioner complained of or to grant such other relief as may be appropriate pending final determination.

A circuit court to which an appeal has been made as provided in this section, may affirm, annul or revise the order of the state road commissioner complained of, or it may remand the proceeding to the state road commissioner for such further action as it directs.

The decision of the circuit court on an appeal from the state road commissioner shall be final, subject only to review by the supreme court of appeals of West Virginia.
upon a petition for certiorari filed in such court within
sixty days from the entry of the order and decision of the
circuit court upon such appeal from the state road com-
missioner.

Sec. 21. Form of Deeds and Contracts; Signing.—Every
deed and contract made by the state road commissioner
shall be made in the name of the state road commission
and shall be signed by the commissioner, and every con-
tract shall also be signed by the contractor.

Sec. 26. Designation of Streets or Bridges as Connecting
Parts of State Road System; Bridges as Part of State Road
System; Maintenance by State.—The state road commis-
sioner may, at any time, after due consultation with and
notice to the governing body of the municipal corporation,
locate and designate or relocate and redesignate, as a con-
necting part of the state road system, any bridge or street
within a municipal corporation. The commissioner may
construct, reconstruct, improve and maintain the desig-
nated or redesignated connecting part at the cost and
expense of the state.

Any existing free bridge forming a connecting link
between two counties or two state routes is hereby adopted as part of the state road system and shall hereafter be maintained by the state, and any existing free bridge forming a connecting link between this and another state is hereby adopted as part of such system, and shall, as to that part of the bridge within the boundary of this state, be maintained by the state.

Sec. 29. Taking over Streets not to Affect Franchise.—The taking over of streets as provided in section twenty-six shall not affect the rights owned or held by any person under any franchise now existing or hereafter granted.

Sec. 30. Taking over Streets not to Affect Existing Contracts.—The taking over of any street as a connecting part of the state road system shall not affect any existing contract for construction, reconstruction or improvement.

Sec. 31. Rules and Regulations of Commissioner to Govern Streets Taken as Connecting Parts of the State Road System.—The state road commissioner may, by reasonable rules and regulations, govern the widths and grades of streets designated as connecting parts of the state road system. He may regulate the opening of pave-
ment for the construction or repair of service lines or sub-
structures, and may require adequate bond to secure the
proper replacement of the pavement. He may also make
other reasonable regulations concerning the construction
and maintenance of the streets.
In the absence of regulations by the commissioner, the
municipal authorities may continue to exercise the same
authority that they have over other streets within their
jurisdiction.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect FROM passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approval this the 14th day of March, 1963.

Governor