
HIGHWAYS

CHAPTER 145

S. B. No. 69—(Committee on Appropriations)

AUTO TRANSPORTATION FUND TRANSFER

An Act to provide for the transfer of a part of the un-appropriated surplus now in the "Auto Transportation Fund" to the credit of the "Highway Operating Fund" in the State Treasury and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. There is hereby transferred out of the unappropriated surplus now in the "Auto Transportation Fund" the sum of \$30,000 to the credit of the "Highway Operating Fund" in the State Treasury.

§ 2. The State Auditor and State Treasurer shall make the transfer of the funds authorized hereby upon the records in their respective offices within a reasonable time after the effective date of this act.

§ 3. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 5, 1943.

CHAPTER 146

S. B. No. 184—(Thatcher, Brant, Blank, Young, Rue, Kehoe, Bridston, Morgan of Richland)

DRIVERS' LICENSE, HIGHWAY SAFETY & PATROL
AMENDMENT

An Act to amend and Re-enact Section 12 of Chapter 139 of the Session Laws of North Dakota for the year 1937, as amended and re-enacted by Section 3 of Chapter 175 of the Session Laws of North Dakota for 1941, relating to revocation or suspension of drivers' licenses, and to amend and re-enact Section 13 of Chapter 139 of the Session Laws of North Dakota for 1937, relating to court review of action of the State Highway Commissioner, and to amend and re-enact Subsection (d) of Section 18 of Chapter 139 of the Session Laws of North Dakota for 1937 as amended and re-enacted by Section 4 of Chapter 175 of the Session Laws of North Dakota for the year 1941, relating to salaries and wages of officers of the Division of Highway Safety and Patrol, and to repeal Section 14 of Chapter 139 of the Session Laws of North Dakota for 1937.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 12 of Chapter 139 of the Session Laws of North Dakota for the year 1937 as amended by Section 3 of Chapter 175 of the Session Laws of North Dakota for 1941, be and the same is hereby amended and re-enacted to read as follows:

§ 12. REVOCATION OR SUSPENSION OF DRIVERS' LICENSES. Upon the conviction of any person of any of the following offenses:

- (a) Manslaughter or homicide in any degree arising out of the operation of a motor vehicle;
- (b) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;
- (c) Any crime punishable as a felony under the motor vehicle laws of this State, or any other felony in the commission of which a motor vehicle was used;
- (d) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding twelve months;
- (e) Conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident;
- (f) Any person who shall have been convicted of three misdemeanors for violation of this act or of any law of this State relating to highways during the two-year period covered by any single license; the judge of the court in which such person has been convicted of any of the crimes above enumerated, shall order the

revocation, or, in his discretion, the suspension of license of said person for not less than thirty (30) days or more than two (2) years, and shall thereupon cause a certified copy of such order to be sent to the State Highway Commissioner, who shall immediately revoke or suspend the license as directed by such order and shall give notice thereof to such person by mail, and shall require such person to forthwith surrender and return his certificate of license to the State Highway Commissioner. When the period of revocation or suspension has expired, the certificate of license shall be returned to such person on request, unless it has in the meantime expired. The court may at any time before the period of revocation or suspension has expired, order the reinstatement of such license, or the extension of the period of revocation or suspension within the above specified limits, and the State Highway Commissioner shall reinstate or extend the period of revocation or suspension accordingly. Any person who drives a motor vehicle upon the highways of this State while his license to operate a motor vehicle is revoked or suspended shall be guilty of a misdemeanor.

§ 2. AMENDMENT.] That Section 13 of Chapter 139 of the Session Laws of North Dakota for 1937 be and the same hereby is amended and re-enacted to read as follows:

§ 13. COURT REVIEW OF ACTION OF STATE HIGHWAY COMMISSIONER.] The action of the State Highway Commissioner in refusing to issue a license to any person under the provisions of this act shall be subject to review in the District Court of the county in which the applicant is a resident by a proceeding in the nature of an order to show cause directed to the State Highway Commissioner, and if it shall appear that the refusal of the State Highway Commissioner to issue such license is unlawful or unreasonable, the court shall order the issuance of such license, and the State Highway Commissioner shall thereupon comply with such order. In case of an adverse decision by the District Court in such proceeding, the applicant shall be entitled to take an appeal therefrom to the Supreme Court.

§ 3. AMENDMENT.] That Subsection (d) of Section 18 of Chapter 139 of the Session Laws of North Dakota for 1937 as amended and re-enacted by Section 4 of Chapter 175 of the Session Laws of North Dakota for 1941 be and the same is hereby amended and re-enacted to read as follows:

Subsection (d). SALARIES AND WAGES.] All salaries, wages and other expenses of the Division of Highway Safety and Patrol shall be paid out of the "Motor Patrol Fund" herein provided, upon vouchers duly approved by the State Highway Commissioner and the Superintendent. The salary of the Superintendent of the Division of Highway Safety and Patrol shall not exceed two thousand four hundred dollars (\$2,400.00) per annum, the salary of

the Assistant Superintendent shall not exceed two thousand one hundred dollars (\$2,100.00) per annum, and the salary of each patrolman shall be fixed by the Superintendent at a sum not to exceed one hundred sixty dollars (\$160.00) per month, all of which salaries shall be paid monthly out of the funds in the "Motor Patrol Fund".

§ 4. REPEAL.] That Section 14 of Chapter 139 of the Session Laws of North Dakota for 1937 be and the same is hereby repealed.

Approved March 19, 1943.

CHAPTER 147

S. B. No. 104—(Rue, Brunsdale and Streibel)

FLIGHT STRIPS AND HIGHWAYS

An Act to Authorize the State Highway Commissioner to co-operate with the Public Roads Administration of the United States in the construction and maintenance of flight strips and of certain classes of highways and to acquire, by purchase or condemnation, lands required for such flight strips and highways.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. In order to facilitate the war effort, the State Highway Commissioner, upon request of the Commissioner of Public Roads of the United States, is hereby authorized to cooperate with the Public Roads Administration in the making of surveys, plans, specifications and estimates for, and in the construction and maintenance of, flight strips and of roads and bridges necessary to provide access to military and naval reservations, to defense industries and defense-industry sites, and to sources of raw materials, and for replacing existing highways and highway connections shut off from general public use at military and naval reservations and defense-industry sites, and, notwithstanding any other provision of law, may enter into contracts in any manner approved by the Commissioner of Public Roads for the construction of any such flight strips or roads, or may perform such construction and maintenance work by force account, whether such construction and maintenance work is paid for in whole by Federal funds or in part by Federal funds and in part by funds provided by the State or any of its subdivisions.

§ 2. In furtherance of such proposals, the State Highway Commissioner shall be authorized to acquire, by purchase or con-

demnation, the lands necessary for the construction of such flight strips and such access highways, which power of purchase or condemnation shall be exercised in the manner provided by law for acquiring lands required for the construction of State highways.

Approved March 18, 1943.

CHAPTER 148

S. B. No. 144—(Rue, Porter and Kehoe)

HIGHWAY CONTRACTS AND FORCE ACCOUNTS

An Act to amend and Re-enact Section 11 of Chapter 159 of the Session Laws of North Dakota for 1927 as amended by Chapter 174 of the Session Laws of North Dakota for 1941, relating to the Department of State Highways.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] That Section II of Chapter 159 of the Session Laws of North Dakota for 1927 as amended by Chapter 174 of the Session Laws of North Dakota for 1941, is hereby amended and re-enacted as follows:

§ II. CONTRACTS AND FORCE ACCOUNT.] Whenever the cost of any improvement or the purchase price of equipment or materials and supplies shall exceed the sum of Three Thousand (\$3,000.00) Dollars, the Department of State Highways shall proceed to advertise the same, request bids and award such contracts in the manner hereinafter provided. Whenever any proposed contract, purchase or work of the Department of State Highways shall be for a sum less than Three Thousand (\$3,000.00) Dollars, it shall be discretionary with the Department of State Highways whether the same shall be awarded after advertising, or request of bids; and it shall award such contracts in a manner hereinafter provided; provided, however, that where contracts be in excess of One Thousand (\$1,000.00) Dollars, the Department of State Highways shall request informal bids from as many contractors, manufacturers and dealers as it can conveniently.

Request for bids for all construction work or the improvement of any State Highway, or any structure in excess of Three Thousand (\$3,000.00) Dollars, shall be advertised by publication once a week for a period of two successive weeks, prior to the opening of such bids, in the county official newspaper of the county in which the project is located. Such advertisement shall state where the bidder

may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened.

All requests for bids for the purchase of equipment, materials and supplies in excess of the sum of Three Thousand (\$3,000.00) Dollars, shall be advertised in the official newspaper of Burleigh County, once a week for a period of two successive weeks prior to the opening of such bids. All bids shall be opened at the time and place specified, and in the offices of the Department of State Highways. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in an amount equal to five per cent of his bid, which check shall be forfeited to the State Highway Fund should the bidder fail to effect a contract within ten days after a notice of such award. In the event that any county or municipality shall participate in and defray the cost, or part of the cost, of any improvement to be made by the Department of State Highways, it shall be the duty of the State Highway Commissioner to notify the Board of County Commissioners of the county so interested, or the proper city officials of any municipality, of the time set for opening such bids.

Excepting the certified checks of the three lowest bidders; all certified bidders' checks shall be returned to the bidders promptly upon opening such bids. The checks of the three lowest responsible bidders may be cashed and the money retained until the contract has been awarded and properly executed.

Informal bids shall be requested and the contract therefor may be awarded upon such basis and procedure as the State Highway Commissioner shall direct.

Provided, however, that in case of great emergency requiring immediate action, and where delay would cause a public injury, the work may be done by the Department of State Highways by force account.

Approved March 17, 1943.

CHAPTER 149

S. B. No. 123—(Rue, Feton, Greiser and Lavik)

HIGHWAY CONTRACTS, CANCELLATION

An Act to authorize the State Highway Commissioner to cancel certain contracts for the construction, reconstruction, or repair of highways or bridges which cannot be performed because of war conditions, and to make full settlement with such contractors, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The State Highway Commissioner may, at any time, when requested by a contractor who holds a contract for the construction, reconstruction, or repair of any highway or bridge, or highway or bridge improvement, which contract has not been fully performed or which cannot, in the opinion of the State Highway Commissioner, be performed within the time specified in such contract, nor within a reasonable time thereafter, cancel such contract where it appears that the failure or inability of the contractor to fully perform such contract within the time specified, or within a reasonable time thereafter, was or is due to lack of sufficient available materials or labor on account of war conditions and not to the fault of the contractor; and in case of such cancellation the State Highway Commissioner shall be authorized to make full settlement with such contractor on a fair and equitable basis and release such contractor from further liability thereon. In case the State Highway Commissioner and the contractor cannot agree upon the terms of settlement, such contract may, nevertheless, be cancelled by the Commissioner, and the controversy respecting the terms of settlement shall then be submitted to arbitration in the manner provided by Chapter 160 of the Session Laws of North Dakota for 1927, which arbitration procedure shall be followed insofar as the same shall be applicable.

§ 2. In all cases where a contractor whose contract for the construction, reconstruction, or repair of any highway or bridge, or highway or bridge improvement, has not been fully completed when this Act takes effect, due to war conditions, and is not canceled as provided in the preceding section, and it appears to the State Highway Commissioner that such contract cannot be fully completed within a reasonable time, he may, notwithstanding the provisions of other law, pay to such contractor that proportion of the total contract price which the percentage of performance bears to the total performance required to fully complete such contract, or upon such fair and equitable basis as the Commissioner and contractor may agree.

§ 3. This Act shall expire on July 1, 1945.

§ 4. EMERGENCY.] This Act shall be deemed an emergency measure and shall be in full force and effective from and after its passage and approval.

Approved March 12, 1943.

CHAPTER 150

H. B. No. 68—(Johnson of Cass)

SALARIES STATE HIGHWAY OFFICIALS AND EMPLOYEES

An Act removing statutory limitations on salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the Highway Department between July 1, 1943 and June 30, 1945; repealing all Acts and parts of Acts in conflict herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Between the first day of July, 1943 and the thirtieth day of June, 1945, the limitations imposed by statutes on the salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers, and draftsmen in the State Highway Department shall not be operative or effective, and salaries in excess of such limitations may be paid, provided, however, that the salaries of the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the State Highway Department shall not be increased more than twenty-five per cent above the limitations imposed by statutes.

§ 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 10, 1943.