

of glandered horses as provided in chapter 170 of the laws of 1907.

All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1911.

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## HIGHWAYS

### CHAPTER 145.

[S. B. No. 176—Welo]

**APPOINTMENT OF COUNTY SUPERINTENDENTS OF HIGHWAYS.**  
AN ACT Providing for the Appointment of County Superintendents of Highways and Deputy Superintendents in Organized Counties, Who Shall Have Charge and Supervision of the Construction, Improvement and Maintenance of Roads Within Said Counties, Providing for Road Institutes, Prescribing the Duties of the State Engineer in Connection Therewith.

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

§ 1. The board of county commissioners may at its first regular meeting after April 1st, 1911, and biennially thereafter at its first regular meeting after January 1st, appoint a competent engineer or practical road builder who may or may not be the present county surveyor, who shall be known as the county superintendent of highways, and whose compensation shall be fixed by the county board. He shall be allowed by the county commissioners his actual and necessary traveling expenses incurred by him while in pursuance of his duties, upon presentation of properly itemized account. Such county superintendents of highways shall survey, lay out, superintend and inspect the construction and maintenance of all roads and ditches connected with the construction of highways. He shall hold office for two years or until his successor is appointed and qualified. Before entering upon his duties he shall give bond to the county, approved by the county board, in the sum of one thousand dollars, conditioned for the faithful discharge of his duties.

§ 2. In counties where county superintendent of highways has been appointed, the offices of the township road overseer and county road superintendent are hereby abolished and in place thereof the county superintendent of highways shall appoint a competent and practical road builder who is acceptable to the township board of supervisors in organized townships and to the board of county commissioners if in unorganized townships and who shall be known as deputy county superintendent of

highways who shall have charge, under the direction of the county superintendent of highways, of the construction and maintenance of all roads in the township. Provided, however, that this act shall not apply in cases where townships have heretofore adopted, or which may hereafter adopt the system of cash payment of road taxes, and the contract system of road labor, pursuant to section 3210 of the Revised Codes of 1905. Such deputy superintendent may with the approval of the county superintendent and township board employ one or more assistants. The county superintendent may, if he deems advisable, appoint one deputy for two or more townships. Such deputies shall serve under the direction and supervision of the county superintendent and may be discharged by him at any time. The salary of such deputy county superintendent shall be fixed by the township supervisors in organized townships and by the county superintendents in unorganized townships and shall not be less than three dollars nor more than four dollars per day for each day actually engaged in the performance of his duties. Such deputy superintendent shall furnish a sworn statement of his accounts, giving dates, and when his account is approved by the superintendent and the board of county commissioners, the county auditor shall issue his warrant on the treasurer for said amount so approved for deputies in other than organized townships. The accounts of deputy superintendents in organized townships upon approval of the county superintendent and chairman of the board of township supervisors shall be presented to the town clerk and chairman of the board of supervisors who shall issue their warrant upon the town treasurer for payment.

§ 3. It is the intent of this act to impose upon the county superintendent of highways and his deputies the duties of constructing, improving and maintaining of public highways within the county, not included within an incorporated city or village; throughout the entire year, also to cause all weeds along public highways to be cut in proper season at the expense of the abutting land owners as provided by law.

§ 4. Before any person, firm or corporation shall receive credit for labor performed upon the highways, it shall be the duty of the county superintendent of highways or his deputies, in conjunction with the chairman of the board of township supervisors in organized townships, to examine and inspect the work done by said person or corporation and unless accepted by said county superintendent or deputy superintendent of highways and the chairman of the township board, then, said person, firm, or corporation shall not receive pay for work done. Provided that in unorganized townships such examination, inspection, and acceptance shall be made by said county superintendent or deputy superintendent of highways.

§ 5. All moneys raised by organized townships for road pur-

poses shall be used and expended for construction, improvement and maintenance within such township, and the township supervisors shall designate the places where the work shall be done. In case of construction or maintenance on township or county boundary lines, then the expenses thereof shall be apportioned by the county superintendent or deputy superintendent between such organized township and any adjoining organized township or county, as the case may be.

§ 6. Whenever the county superintendent of highways deems it necessary to employ an engineer or surveyor to establish grade lines or to do any surveying or engineering work in connection with the construction and maintenance of highways, he is hereby authorized to employ such engineer or surveyor, subject to the approval of the county commissioners.

§ 7. Any county superintendent or deputy superintendent who wilfully and knowingly neglects the duties imposed upon him by this act is guilty of a misdemeanor and upon conviction shall be made to pay a fine of not less than ten dollars nor more than twenty-five dollars, and in addition thereto shall be removed from office.

§ 8. It shall be the duty of the county superintendent of highways to adopt rules and regulations for the guidance of deputy superintendents of highways in the construction and maintenance of roads.

§ 9. The county superintendent of highways and deputy superintendents of highways in each and every county in the state shall meet annually in a road institute at such time and place in each county as the county superintendent may designate, there to consider and discuss such matters of road improvement as may be of special interest to such county superintendents and deputies. Such institute shall be open to the public during its entire session.

§ 10. The county superintendent of highways shall on or before December 31st each year make and file with the county auditor a full report of all work done by him or under his supervision during the year immediately preceding.

§ 11. It shall be the duty of the state engineer upon request of the county superintendent of highways to furnish any information or bulletins on road construction and maintenance that he may have at his command, and it shall also be his duty to attend the road institutes in each county when the time and duties of his office will permit.

§ 12. No county superintendent of highways or deputy superintendent or any of their assistants or employees shall be directly or indirectly interested in any contract for the construction, improvement, or maintenance of any road under this act.

§ 13. All acts or parts of acts in conflict herewith are hereby repealed.

§ 14. Whereas, an emergency exists, there being no provision for the appointment of the superintendent of highways in organized counties, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 24th, 1911.

#### CHAPTER 146.

[S. B. No. 160—Carter]

##### PURCHASE OF ROAD MACHINERY.

AN ACT To Amend Section 3213, Revised Codes of North Dakota for the Year 1905, Relating to Township Boards.

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

§ 1. AMENDMENT.] That section 3213, revised codes of North Dakota for the year 1905, be and the same hereby is amended to read as follows:

§ 3213. ROAD MACHINERY.] In townships owning road machinery, the township board shall have authority to make such disposition of the same as in its discretion is best for the interests of the township, or it may purchase or lease such machinery as may be necessary for the purpose of carrying out the provisions hereof, and the performance of contracts in reference thereto; provided, that no machinery shall be purchased or sold to exceed in value the sum of two hundred and eighty dollars, except such sale or purchase shall be ordered at the annual township meeting by a majority vote of the legal voters of such township assembled at such meeting or at a special election called for that purpose by said board upon petition of twelve free-holders of said township.

Approved February 28, 1911.

#### CHAPTER 147.

[S. B. No. 275—Elken]

##### COUNTY COMMISSIONERS TO CONDEMN AND PURCHASE RIGHT OF WAY.

AN ACT Authorizing the County Commissioners to Condemn and Purchase Right of Way for Highway Whenever the Cost of Constructing Such Highway or any Part Thereof is to be Borne by the County.

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

§ 1. Whenever the expense of constructing a highway or any part thereof is to be borne by the county, the board of county

commissioners thereof shall have the power to deviate from section and town lines and condemn and purchase right of way for such highway, whenever in their opinion, the cost of constructing and maintaining such highway shall be materially decreased, provided, that the cost of obtaining such right of way shall be borne by the county.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1911.

#### CHAPTER 148.

[S. B. No. 326—Duncan]

LAYING OUT, ALTERING OR DISCONTINUING ROADS.  
AN ACT to Amend Section 1350, Revised Codes of 1905, Relating to the Laying Out, Altering or Discontinuing Roads.

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

§ 1. AMENDMENT.] That section 1350 of the revised codes of North Dakota be and the same is hereby amended to read as follows:

§ 1350. PETITION FOR LAYING OUT, ALTERING OR DISCONTINUING ROADS.] The board having jurisdiction as provided by the provisions of the preceding section may alter or discontinue any road or lay out any new road upon the petition of not less than six legal voters, who own real estate, or who occupy real estate under the homestead laws of the United States, or under contract from the state of North Dakota, in the vicinity of the road to be altered, discontinued or laid out, said petition shall set forth in writing a description of the road and what part thereof is to be altered or discontinued; and, if for a new road, the names of the owners of the land, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate; provided, that all roads, or parts thereof heretofore or hereafter laid out by authority of the board of county commissioners, or township supervisors, and not open to public use within ten years from the time when so laid out, (or which shall thereafter be abandoned and not used for ten years) are hereby declared vacant; provided, further, that whenever any tract of land is surveyed or sold in tracts less than the original subdivision as established by the government survey thereof, so that any part thereof does not touch upon some of the lines now considered as public roads and so allow the owner of such tract access to a public highway, the board of county commissioners or board of township

supervisors may, upon a petition as herein provided, open a cartway or highway along the lines of any such tract or tracts when in the judgment of such board such cartway or highway is necessary; provided, however, that no such cartway or highway shall exceed two rods in width unless in the judgment of such board a roadway two rods in width shall not be sufficient to accommodate the travel thereon. The provisions of this chapter shall apply to all lands owned by the state or any institution thereof, or held by virtue of any contract with the state, and notice of the altering, laying out or discontinuing of any such cartway or highway shall be served by registered mail upon the board of university and school lands not less than thirty days prior to any such board taking action in regard to altering, laying out or discontinuing such cartway or highway.

§ 2. EMERGENCY.] Whereas, an emergency exists in that many roads have been abandoned in this state which should be declared vacated, therefore this law shall be in force and effect, immediately after its passage and approval.

Approved March 3, 1911.

#### CHAPTER 149.

[H. B. No. 91—Akesson]

##### FEES FOR LABOR ON HIGHWAYS.

AN ACT To Provide for Fixing the Amount to be Allowed for Labor on Highways when Performed in Payment of Road Taxes.

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

§ 1. COMPENSATION, ELECTORS TO FIX RATE.] In organized townships the electors at the regular annual town meeting each year may by resolution fix the rate per diem which shall be allowed for work to be done during each year on the highways in payment of road taxes; but the rate of such compensation shall not be less than one 50-100 dollars per day nor more than two dollars per day for the work of one man or one team of horses or mules.

§ 2. SUPERVISORS TO FIX RATE, WHEN.] If the electors shall fail to fix the rate of compensation for road labor as provided in the preceding section, then the board of supervisors shall fix and determine the rate of compensation at the first meeting of the board after the annual town meeting; and the rate so fixed at the annual town meeting or by the supervisors shall not be changed during that fiscal year.

§ 3. COUNTY COMMISSIONERS TO FIX RATE, WHEN.] In counties where road supervisors are appointed by the board of county commissioners, such board shall annually at the time of appoint-

ing the road supervisors, fix the rate of compensation to be allowed during such year for road work performed in payment of road taxes; the rate so to be fixed not to be less than one 50-100 dollars per day nor more than two dollars per day for one man, or for a team of horses or mules.

§ 4. MINIMUM RATE.] In case the rate per day of compensation for road work shall not have been fixed as herein provided in an organized township, or in a county where road supervisors are appointed by the board of county commissioners, then the rate of compensation in such township or county, as the case may be, shall be two dollars per day for the work of one man, and the same amount for one team of horses or mules.

§ 5. COMMUTATION.] In case of commutation of road taxes by payment in cash, such commutation shall be at the rates fixed as in this act provided.

§ 6. REPEAL.] All acts or parts of acts in so far as they conflict herewith are hereby repealed.

§ 7. EMERGENCY.] This act shall take effect and be in force immediately upon its passage and approval.

Approved March 3, 1911.

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## CHAPTER 150.

[H. B. No. 269—Hedalen]

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### PUBLIC ROADS.

AN ACT Entitled an Act to Amend and Re-enact Sections 1352 and 1353 of Chapter 19 of the Revised Codes of North Dakota for the year 1905, Relating to Altering, Discontinuing and Laying Out Public Roads, and Defining what shall be Deemed Sufficient Notices to All Parties Concerned.

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

§ 1. AMENDMENT.] That section 1352 is hereby amended so as to read as follows:

§ 1352. NOTICE TO ALL PARTIES TO BE GIVEN, AND WHAT DEEMED TO BE NOTICES.] When the board having jurisdiction receives a petition in compliance with preceding sections for laying out, altering or discontinuing any highway, they shall, within thirty days, make out a notice and fix therein a time and place at which they will meet and decide upon such application, and the applicant shall ten days previous to such a time so fixed, cause such notice to be given to all occupants of the land through which such highway may pass, which notice shall be served personally or by copy left at the abode of such occupant. The said board shall also cause copies of such notice to be posted in the three public places in said county or township, at least ten days

previous to such meeting; every such notice shall specify, as near as practicable, the highway proposed to be laid out, altered or discontinued, and the tract of land through which the same may pass. Provided, however, that in cases where at least seventy per cent of legal voters who are owners or part owners of land bordering on said proposed road or highway, shall have signed the original petition and thereby releasing all their claims to damages arising by altering, discontinuing or laying out of such road or highway, that in such cases it shall not be necessary to post notices as provided for in section 1351, nor to post notices or serve notices as above provided for in this section except that the notices must be served personally or left at the abode of such occupants as may have failed to sign the petition and whose land borders on such proposed road or highway. The general knowledge of and the fact that seventy per cent of the legal voters shall have signed the original petition in compliance with this provision shall be deemed sufficient notice to all concerned and for all intents and purposes, provided further, that the petition under this provision, if for a road between two or more counties, must be filed with the auditor of one of the counties affected at least fifteen days before any action is taken, and it shall be the duty of such auditor to immediately transmit certified copies of such petition to the auditors of all other counties to be affected by such changing, discontinuing or laying out of roads or highways whose duty it shall be to lay such petition before the board of county commissioners at their next meeting for them to take action in the matter as provided for in this chapter.

§ 2. AMENDMENT.] That section 1353 shall be amended so as to read as follows:

§ 1353. EXAMINATION OF PROPOSED HIGHWAY.] The said board upon being satisfied that the notices required in the preceding sections have been duly served, or that at least seventy per cent of the legal voters who are owners of lands have signed the original petition and notice served personally or left at the abode of those who may have failed to sign original petition, proof of which shall be shown by affidavit, shall proceed to examine such proposed highway and shall hear any reasons for or against the laying out, altering or discontinuing the same, and decide upon the application as they deem proper.

§ 3. EMERGENCY.] Whereas, an emergency exists in this that there is no provision in the present laws applicable in the procedure of county or township boards as herein provided, therefore this law shall be in force and take effect upon and after its passage and approval.

Approved March 6, 1911.

## CHAPTER 151.

[H. B. No. 422—DeLance]

## COST OF BRIDGES OVER NAVIGABLE RIVERS.

AN ACT to Amend and Re-Enact Section 1385, Revised Codes of 1905,  
Limiting the Cost of Bridges Over Navigable Rivers.

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

§ 1. AMENDMENT.] Section 1385, revised codes of North Dakota for 1905 is hereby amended to read as follows:

§ 1385. COST OF BRIDGE LIMITED.] Not more than one wagon bridge across a navigable river in each county shall be built under this article and the total cost of such bridge shall in no case exceed the sum of three hundred thousand dollars.

Approved March 6, 1911.

## CHAPTER 152.

[H. B. No. 64—Sorlie]

## LOCATING AND BUILDING OF BRIDGES.

AN ACT To Amend Section 1380, of the Revised Codes of 1905, as Amended by Chapter 42 of the Session Laws of 1907, Relating to Location and Building of Bridges.

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

§ 1. AMENDMENT.] Section 1380 of the revised codes of 1905 as amended by chapter 42 of the Session Laws of 1907 is amended to read as follows:

§ 1380. SUPERVISION AND REPAIRS OF BRIDGE.] Any bridge built under the provisions of section 1378 shall be under the supervision of the board of county commissioners, and the cost of all such building and repairs shall be estimated by the county commissioners and paid for by the county; provided, however, that should any emergency arise, requiring the immediate rebuilding or repairing of any bridges, the board of county commissioners are hereby authorized to rebuild or repair, as the circumstances require, and without advertising for bids, in case said work can be performed by a responsible party, at a price not to exceed the last bid accepted by said board of county commissioners for like work.

§ 2. EMERGENCY.] Whereas, an emergency exists, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1911.