

716  
ACTS AND RESOLVES  
PASSED BY THE  
GENERAL ASSEMBLY  
OF THE  
STATE OF VERMONT  
Fifty-Second Biennial Session

1973

SESSION CONVENEED JANUARY 3, 1973  
ADJOURNED APRIL 14, 1973\*



PUBLISHED BY AUTHORITY

\* Adjourned to January 2, 1974.

compensation shall be in lieu of any other expenses payable by the state to that person during the period he is out of the state and shall be contingent upon:

(1) Prior approval of the out-of-state duties by the speaker of the house in the case of a house member or employee, or by the president pro tempore of the senate in the case of a senator or senate employee; and

(2) Certification of the expense voucher to the commissioner of finance by either the speaker of the house or president pro tempore of the senate in the appropriate case or his designee.

Sec. 2. This act shall take effect 10 days after passage.

Approved: April 14, 1973.

NO. 63. AN ACT TO AMEND 19 V.S.A. §§ 1, 9, 15, 16, 17, 22, 101-104, 131-133, 931, 971, 973 AND 1451 AND 24 V.S.A. §§ 713 AND 716 AND TO REPEAL 19 V.S.A. §§ 8(3), 13, 14, 18, 20, 21, 23, 951 AND 952 AND 24 V.S.A. §§ 711(5), 715 AND 719 RELATING TO TOWN HIGHWAYS.

(S. 37)

*It is hereby enacted by the General Assembly of the State of Vermont:*

Sec. 1. 19 V.S.A. § 1 is amended to read:

§ 1. Definitions

(a) For the purposes of this title:

(1) "Department" means the Vermont department of highways.

(2) "Board" means the Vermont state highway board.

(3) "Commissioner" means the Vermont state highway commissioner.

(4) "Develop" means the partition or division of any tract of land of any size by a person through sale, lease, transfer or any other means by which any interest in or to the land or a portion thereof is conveyed to another person which will require the construction of permanent new or enlarged points of access to a state or town highway other than a limited access facility pursuant to

subsection (a) of section 1861a of this title; excluding however, tracts of land located entirely within a city or incorporated village.

(5) "Highways" are only such as are laid out in the mode prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to a municipal corporation or to the state by deed of a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the board or town. The term "highway" includes rights of way, bridges, drainage structures, signs, guardrails, vegetation and structures.

(6) "Person" includes a municipality or state agency.

(7) "State highways" are those highways exclusively in charge of the state highway board, which shall include limited access highways under the provisions of sections 1861-1872 of this title.

(8) "Town highways" are those highways exclusively controlled by the towns and over which the state highway board only supervises the expenditure of the state appropriations thereon.

(9) "Town" includes incorporated villages and cities.

(10) "Selectmen" includes village trustees and city councils.

Sec. 2. 19 V.S.A. § 9 is amended to read:

§ 9. Appropriations to highway department

(a) Monies appropriated from the highway fund to the highway department shall be appropriated to highway department accounts for the following purposes:

(1) Construction and maintenance on the state highways.

(2) Construction and maintenance on class 1, 2, 3 or 4 town highways.

(3) Construction and maintenance on forest and park roads.

(4) General administration of the department of highways, including a grant for pensions.

(5) Debt service for principal and interest of highway bonds.

(6) In the event the revenues of the highway fund exceed the appropriation of this section and other appropriations from said fund, the balance shall be appropriated to the highway board to be used for the account "debt service for principal and interest of highway bonds" and for the account "construction to the state highways."

(7) State highway garage, into which shall be covered all receipts from rental of trucks, machinery and equipment and other income of the state highway garage.

Sec. 3. 19 V.S.A. § 15 is amended to read:

§ 15. Measurement of highways

(a) A representative of the board in the presence of the selectmen or their designee shall measure the class 1, 2 and 3 town highways at least once every ten years.

(b) Annually, on or before February 10, the selectmen shall, after review by a representative of the board, file with the town clerk a sworn statement of the description and measurements of all class 1, 2 and 3 town highways, then in existence. When class 1, 2 or 3 town highways are discontinued or reclassified by statutory procedure, a copy of the proceedings shall be filed in the clerk's office and forwarded to the board. When new class 1, 2 or 3 town highways are built or added pursuant to the statutes, a copy of the town records as filed in the clerk's office showing the selectmen's certificate of completion containing a detailed description of said highways shall be forwarded to the board.

(c) No mileage shall be accepted for the purpose of this chapter until the records required to be filed in the clerk's office by this section are received by the board.

(d) The selectmen of any town who are aggrieved by a finding of a representative of the board concerning the measurement, description or classification of a town highway may appeal that decision in accordance with the provisions of chapter 25 of Title 3.

(e) The board shall, upon request, provide each town with maps of all of the highways in that town together with the mileage of each class 1, 2 and 3 highways and such other information as the board deems appropriate.

Sec. 4. 19 V.S.A. § 16 is amended to read:

§ 16. Authority of electorate

Each town shall annually vote at an annual or special town meeting warned for that purpose to expend a sum of at least \$50.00 per mile for each mile of class 1, 2 and 3 town highways within the town. Unless a town so votes it shall not be eligible for aid under section 17 of this title.

Sec. 5. 19 V.S.A. § 17 is amended to read:

§ 17. State aid for class 1, 2 and 3 town highways

(a) For the purposes of this section and receiving state aid all town highways shall be categorized into one or another of the following classes:

(1) Class 1 town highways are those town highways which form the extension of a state highway route and which carry a state highway route number. The board shall determine which highways are to be class 1 highways.

(2) Class 2 town highways are those town highways selected as the most important highways in each town. As far as practicable they shall be selected with the purpose of securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amount of traffic. The selectmen with the approval of the board shall determine which highways are to be class 2 highways.

(3) (A) Class 3 town highways are all traveled town highways other than class 1 or 2 highways as certified in section 15 of this title. The selectmen, after conference with a representative of the board, shall determine which highways are class 3 town highways.

(B) In their determination the selectmen shall consider that the minimum standards for class 3 highways are a highway negotiable, under normal conditions, all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage and sufficient width capable to provide winter maintenance.

(C) Highways not meeting these standards (may) be considered class 3 highways, if after public hearing, the selectmen determined that the public good and the convenience of the inhabitants made them a necessary part of the travelable highway system and that with five years of such determination, they would meet all class 3 highway standards.

(4) Class 4 town highways are all other town highways including trails and pent roads. The selectmen shall determine which highways are class 4 town highways.

(b) The annual appropriation to class 1, 2 and 3 town highways shall be in the amount of three and twenty-five hundredths cents per gallon of the annual motor fuel tax as estimated by the secretary of administration.

(c) The board shall annually apportion not more than five percent of the amount appropriated under subsection (b) of this section to the department to defray the costs of engineering services relating to any of the purposes authorized by this section.

(d) Upon application to it, the board shall, in accordance with rules adopted by it, annually apportion not more than 14 percent of the amount appropriated under subsection (b) of this section to the various towns for bridge engineering services and for aid in repairing, building or rebuilding bridges of a span of not less than six feet, wholly or partially within this state on a class 1, 2 or 3 town highway. The selectmen of a town may make application to the board for this purpose and submit plans and specifications for the board's approval. If the repairing, building or rebuilding of the bridge has been accomplished according to the plans and specifications of the board, and upon the receipt of a sworn statement from the selectmen, on forms furnished by the board showing the cost of repairing, building or rebuilding the bridge and such other facts as it may require, the board shall issue a certificate in favor of the town in which the bridge has been repaired, built or rebuilt for a sum equal to four-fifths of the cost of the repairing, building or rebuilding of the bridge, unless the remaining one-fifth cost to be paid by the town exceeds 67 cents on the grand list of the town in any one year, in which case the board shall include the excess in the certificate issued to the town. Any sums apportioned to this subsection by the board and not expended during the year shall be carried forward and added to the apportionment for the succeeding year.

(e) Upon application to it, the board shall annually apportion not more than five percent of the amount apportioned under subsection (b) of this section to the various towns for emergency aid in repairing, building or rebuilding class 1, 2 or 3 highways or bridges thereon or for the purpose of matching federal aid highway monies to be expended on class 1, 2 or 3 town highways or bridges. The board shall determine by regulation that which constitutes an emergency or which type of project monies may be expended under this subsection to match federal monies. Any monies apportioned under this subsection which are not expended during the year, other than monies allocated to match federal monies, shall be added to the appropriation made under subsection (b) of this section for the following year.

(f) The board shall annually apportion to the various towns four percent of the amount appropriated under subsection (b) of this section for the construction and maintenance of class 1 town highways. The apportionment shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the state. Payment under this subsection shall be made in quarterly installments beginning July 15 in each year.

(g) The board shall annually apportion to the various towns 32 percent of the amount appropriated under subsection (b) of this section in such a way that each town receives the same amount for each mile of class 2 town highway. Payment under this subsection shall be made in quarterly installments beginning July 15 each year.

(h) The board shall annually apportion to the various towns from the amount appropriated under subsection (b) of this section all monies not apportioned under subsections (c) through (g) of this section in such a way that each town receives the same amount for each mile of class 3 town highway. Payment under this subsection shall be made in quarterly installments beginning July 15 each year.

(j) Each town shall use the monies apportioned to it solely for town highway construction, betterment and maintenance purposes and the selectmen shall be personally liable to the state in a civil action brought by the attorney general for making any unauthorized expenditures from monies apportioned to the town under this section. All monies apportioned may only be expended for the purpose for which they were apportioned; however, the selectmen with the written approval of a representative of the board may expend monies originally apportioned under this section for use for class 1, 2 or 3 town highways.

(k) Each year, on or before July 15, the selectmen of each town shall forward to the board on forms furnished by it an actual accounting of all monies spent in that town for class 1, 2, 3 or 4 town highways during the year ending on the next preceding June 30. The report shall show the source of all monies spent and any surplus or deficit in expenditures or receipts. The accounts and records of each town shall be subject to review by the board. A town shall not receive its next annual apportionment under subsections (f), (g), and (h) of this section until the report is received by the board. The board shall file such procedures with the secretary of state prior to December 31, 1973 in accordance with chapter 25 of Title 3.

(m) Each year, on or before June 1, the selectmen of each town shall forward to the board on forms provided by it a plan for the maintenance and construction of all highways under their control for the year ensuing. This plan shall be made with the advice of the district highway engineer. The town shall not be eligible for aid under this section until the plan is filed with the board. The 1971, 1972 and 1973 aid referred to in this subsection is only the regular state aid apportioned on a per mile basis.

(n) Any other provision notwithstanding, no town shall receive less aid for class 1, 2 and 3 town highways in any particular year than that town received for aid for all town highways, on the average, during the years beginning July 1, 1971, 1972 and 1973. In granting any increase in aid required under this subsection, the amount of aid due all towns not affected by this section shall be proportionately reduced.

Sec. 6. 19 V.S.A. § 22 is amended to read:

**§ 22. Contract work for class 1, 2 and 3 town highways**

When the selectmen of a town that receives the apportionments for class 1, 2 or 3 town highways provided for by this chapter request that the work be done by contract, the board may grant such requests. The board in all such cases shall furnish plans and specifications upon which the contract shall be awarded by the selectmen and the board, or its agent, to the lowest responsible bidder. All such work shall be done to the satisfaction and in accordance with the requirements of the board.

Sec. 7. 19 V.S.A. § 101 is amended to read:

**§ 101. Duties and liabilities**

The selectmen shall superintend the expenditure of the town highway tax, shall have charge of keeping in repair such highways and shall be responsible to the town for damages sustained by it through their fault or neglect in the discharge of their duties.

Sec. 8. 19 V.S.A. § 102 is amended to read:

**§ 102. Accounts**

The selectmen shall keep accurate accounts, showing in detail all moneys received by them, from whom and when received, and all moneys paid out by them, to whom and for what purpose, and settle the same with the auditors not less than twenty-five days before the annual meeting.

Sec. 9. 19 V.S.A. § 103 is amended to read:

**§ 103. Orders**

All money expended upon town highways as provided in this chapter, except in cities and incorporated villages shall be drawn from the town treasury upon the orders of the selectmen to the party entitled thereto; and the treasurer shall keep a printed blank book of such orders, on the stubs of which shall be a counterpart of the order so given.

Sec. 10. 19 V.S.A. § 104 is amended to read:

**§ 104. Incorporated villages not affected**

Nothing in this chapter shall be construed to affect the rights and powers conferred on incorporated villages by their charters to appoint street commissioners, and collect and disburse highway taxes.

Sec. 11. 19 V.S.A. § 131 is amended to read:

**§ 131. Highway districts**

As soon as possible, the selectmen of a town having two road commissioners, may divide or redivide the town into two highway districts, and cause a record of such division or redivision to be made in the office of the town clerk.

Sec. 12. 19 V.S.A. § 132 is amended to read:

**§ 132. Division of duties and money**

As in their judgment seems best, the selectmen shall divide between such districts the moneys received from the town highway tax and the use of the town road making tools and machinery; provided however, that the selectmen of a town whether it has one or two road commissioners, with the approval of the highway board, may designate a part or all of its class 2 highways to be maintained for a term not exceeding three years by patrolmen employed by the highway board for the purpose.

Sec. 13. 19 V.S.A. § 133 is amended to read:

**§ 133. Powers of road commissioners**

The selectmen shall have the same powers that selectmen have under the provisions of section 132 of this title respecting the designation of class 2 highways to be patrolled, the apportionment of money for the same and the drawing of orders for the amount thus apportioned. The provisions of section 132 relating to the main-

tenance of class 2 highways by patrolmen shall extend to roads in incorporated villages constituted as highway districts and the trustees thereof shall have the same powers and duties relating thereto as the selectmen have in towns.

Sec. 14. 19 V.S.A. § 971 is amended to read:

**§ 971. Highway work by state for towns on contract basis**

When requested by the selectmen of a town or trustees of a village, the highway board may, by agreement with such officials, do any construction or maintenance work on any class 1, 2 or 3 highway or on a bridge thereon. Upon demand of the highway board the municipality shall thereafter reimburse the state for the expenditures so made, and the amount repaid shall be covered into the state treasury and credited to the fund from which the cost of such work was paid.

Sec. 15. 19 V.S.A. § 973 is amended to read:

**§ 973. Class 1 and 2 highways; marking center line**

The department of highways shall mark all paved class 1 and 2 highways outside cities and incorporated villages with unbroken painted center lines where the sight is obstructed, and shall maintain such center lines thereafter as considered necessary.

Sec. 16. 19 V.S.A. § 1451 is amended to read:

**§ 1451. Powers of state highway board on certain highways**

On all highways that have been selected as class 1 or 2 highways, and the bridges thereon, the highway board shall have concurrent authority and jurisdiction with selectmen in all matters within the authority and jurisdiction of such selectmen under the provisions of this chapter. If a person named in an order made by the board, under the authority of this section, neglects or refuses to comply therewith within the time prescribed by law, the board may report such neglect or refusal to the state's attorney of the county wherein the highway or bridge mentioned in such order is located.

Sec. 17. 24 V.S.A. § 713 is amended to read:

**§ 713. Number of officers**

Each town shall have three selectmen, three listers, unless additional selectmen or listers are elected under the provisions of section 714 of this title, and three auditors. At each annual meet-

ing one selectman, one lister and one auditor shall be elected and the term of office of each shall be three years.

Sec. 18. 24 V.S.A. § 716 is amended to read:

**§ 716. Road commissioners; appointment, removal**

The selectmen shall appoint forthwith one or two road commissioners and may remove from office a road commissioner appointed by them, for just cause after due notice and hearing. The selectmen may appoint one or two members of their own board to serve as road commissioners.

Sec. 19. Temporary provision

(a) For the year beginning July 1, 1974:

(1) Class 1 town highways are those town highways which were, on June 30, 1973, considered by the board to be state aid connecting links and were designated as such on a map entitled "Vermont State Aid Highways" as of January 1, 1957, as revised and filed in the office of the secretary of state;

(2) Class 2 town highways are those town highways which were, on June 30, 1973, considered by the board to be state aid highways and were designated as such on a map entitled "Vermont State Aid Highways" as of January 1, 1957, as revised and filed in the office of the secretary of state;

(3) Class 3 town highways are those town highways which were certified by the selectmen after conference with a representative of the board as traveled town highways during the year beginning July 1, 1973;

(4) Class 4 town highways are all town highways which are not classified as town 1, 2 or 3 highways.

(b) Any other provision notwithstanding any town which has escheat on July 1, 1974, any advance payment of aid from the state or any aid due from the state, shall have the amount thereof deducted or added to its apportionment during the year beginning July 1, 1975 are apportioned from the appropriation made under Sec. 5 of this act statutory subsection (b).

(c) Any other provision notwithstanding the selectmen of each town shall, not later than June 1, 1974, forward to the board on forms provided by it a plan for the maintenance and construction of all highways under the control of the town for the year beginning July 1, 1974. The town shall not be eligible for any aid from the highway fund until the plan is filed with the highway board.

**Sec. 20. Duties of towns**

19 V.S.A. § 931 is amended to read:

**§ 931. Highways and bridges**

(1) A town shall keep in good and sufficient repair at all seasons of the year its class 1, 2 and 3 highways and bridges thereon.

(2) Class 4 highways may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants or may be reclassified using the same procedures as for laying out highways and meet the standards set forth in section 17 of this title.

**Sec. 21. Temporary appropriation**

For the fiscal years beginning July 1, 1972 and July 1, 1973 there is appropriated to the highway fund all revenue in excess of \$400,000.00 as determined by the commissioner of motor vehicles collected each year under the provisions of subchapter 3 of chapter 7 of Title 23. The revenue thus appropriated shall be distributed, in accordance with the provisions of sections 17 and 18 of Title 19, for use by the towns in the construction, repair or maintenance of bridges.

For the fiscal year beginning July 1, 1974 and each year thereafter all of the revenue collected each year under the provisions of subchapter 3 of chapter 7 of Title 23 is appropriated to the highway fund. In addition to any and all other appropriations to the department of highways, the sum of \$500,000.00 is appropriated from the highway fund for the fiscal year beginning July 1, 1973, to be distributed in accordance with the provisions of sections 17 and 18 of Title 19, for use by the towns in the construction, repair and maintenance of bridges.

**Sec. 22.** 19 V.S.A. §§ 8(3), 13, 14, 18, 20, 21, 23, 951 and 952, and 24 V.S.A. §§ 711(5), 715 and 719 are repealed.

**Sec. 23. Highway betterment**

(1) To implement a three-year program of immediate betterment for state highways, including but not limited to so-called spot improvements, curve reductions, shoulder widenings, uphill passing and crawler lanes, and the like, in order to improve safety and expedite traffic flow on dangerous or congested sections of such highways, including feeder routes, which will not be substantially

superseded, reconstructed or otherwise improved so soon as to throw away the effort in the judgment of the highway board.

(2) To give the highest priority in construction to spots and sections with the lowest sufficiency ratings or presenting the gravest dangers.

(3) There is hereby appropriated the sum of \$1,000,000.00 from the highway fund to the state highway board for the purposes of this section.

**Sec. 24.** This act shall take effect July 1, 1974 except that Sec. 19 of this act shall take effect June 1, 1974 and Secs. 20, 21 and 23 of this act shall take effect from passage. Any road commissioner elected to serve as such holding office on July 1, 1974 shall cease to hold such office on that date and the selectmen shall immediately appoint one or two persons to the position of road commissioner.

Approved: April 14, 1973.

NO. 64. AN ACT TO AMEND 21 V.S.A. §§ 601(18) AND (19), 641 AND 642(a) RELATING TO WORKMEN'S COMPENSATION.

(S. 87)

*It is hereby enacted by the General Assembly of the State of Vermont:*

**Sec. 1.** 21 V.S.A. § 601(18) and (19) are amended to read:

(18) "Maximum weekly compensation" means a sum of money equal to 60 percent of the average compensation, rounded to the next higher dollar.

(19) "Minimum weekly compensation" means a sum of money equal to 30 percent of the average compensation, rounded to the next higher dollar. However, in cases where the employee's average weekly wage computed under section 650 of this title is lower than the minimum weekly compensation, his weekly compensation shall be the full amount of his average weekly wages.

**Sec. 2.** 21 V.S.A. § 641 is amended to read:

**§ 641. —Charges, limited**

(a) The pecuniary liability of such employer for the medical, surgical, hospital, and nursing services and supplies as required in