

April 28, 1965

R.S. 27:7-23

COPY NO. 2

LEGISLATIVE NOTES ON R.S. 27:7-23  
(Highways - Acquisition of municipally owned property)

L. 1927, Chapter 319, § 111 - S267  
Introduced March 8 by Senator Larson.  
Basic statute. Does not contain this  
provision (added in 1929).

L. 1929, Chapter 221, § 1 - S163  
Introduced February 25 by Senator Powell.  
Amended in Senate.  
Statement on the bill:

The purpose of this amendment is  
to limit the taking of property owned  
by municipalities and used for public  
purposes unless such taking be deemed  
a reasonable public necessity.

L. 1953, Chapter 27 - S24.  
Introduced by Senator Clapp.  
Makes technical amendments.

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## NOTATIONS

S 147 Wolber Feb. 18—Provides for appointment of separate Interstate Tunnel Commission to operate Hudson Tunnels.  
Apr. 8—Reported with com. amends.  
Apr. 15—Amended.  
Apr. 15—Passed in Senate.  
Apr. 22—Recommitted to Judiciary com. for amends.

Apr. 22—Reported with com. amends.  
Apr. 23—Passed in Assembly.  
Apr. 24—Assembly amendments passed in Senate.

S 148 Wolber Feb. 18—Provides for uniform statute to govern collection of checks, notes and other items deposited in banks.  
Apr. 1—Reported favorably.  
Apr. 1—Read second time.

S 149 Wolber Feb. 18—Governs the transfer of security receipts and equipment trust certificates.

Apr. 1—Reported favorably.  
Apr. 1—Read second time.  
Apr. 9—Laid over.

S 150 Read Feb. 18—Annexes to Ocean City, contiguous meadow lands.

Mar. 12—Passed in Senate.  
Apr. 16—Passed in Assembly.  
Apr. 23—Approved, Chapter 188.

S 151 Stiles Feb. 18—Changes open season for trapping fur bearing animals.  
Feb. 18—Game and Fisheries com.

S 152 Davis Feb. 18—Provides for appointment of separate commission to operate Delaware River Bridge at Camden.

Apr. 2—Reported with com. amends.  
Apr. 9—Passed in Senate.  
Apr. 22—Recommitted to Judiciary com. for amends.  
Apr. 22—Reported with com. amends.  
Apr. 23—Passed in Assembly.  
Apr. 24—Assembly amendments passed in Senate.

S 153 Davis Feb. 18—Validates conveyance of land after five years, notwithstanding defect in the acknowledgment of proof of deed.

Feb. 18—Revision of Laws com.

S 154 Davis Feb. 18—Extends provisions of home rule act to permit construction of service connections on water mains, as a local improvement.

Feb. 18—Municipal Corporations com.

S 155 Davis Feb. 18—Permits trust companies to guarantee the principal and interest of real estate mortgages.

Feb. 18—Banks and Insurance com.

S 156 Davis Feb. 18—Permits banks to guarantee the payment of interest and principal of mortgages.

Feb. 18—Banks and Insurance com.

S 157 McAllister Feb. 18—Companion b. to S 61; permits trust companies to use word "bank" in corporate name.

Apr. 1—Passed in Senate.  
Apr. 9—Passed in Assembly.  
Apr. 16—Approved, Chapter 109.

S 158 Read Feb. 18—Appropriates \$50,000 for dredging of Bidwell's Creek for distance of one and two-thirds miles.

Mar. 19—Passed in Senate.  
Apr. 9—Passed in Assembly.  
Apr. 16—Approved, Chapter 110.

S 159 Prall Feb. 18—Establishes new reformatory for men at Annandale.

Mar. 19—Passed in Senate.  
Apr. 9—Passed in Assembly.  
Apr. 16—Approved, Chapter 101.

S 160 Read Feb. 19—Provides penalty for fishing from power driven boats within three mile limit.

Feb. 19—Game and Fisheries com.

S 161 Abell Feb. 19—Repeals act which prohibits county committees from endorsing candidates.

Feb. 19—Elections com.

S 162 Cahart Feb. 25—Permits education boards in municipalities with less than 8,000 to fix hours for holding school elections.

Mar. 26—Passed in Senate.  
Apr. 15—Passed in Assembly.  
Apr. 16—Delivered to Governor.  
Apr. 22—Recalled from the Governor.  
Apr. 22—Recommitted to Educational com. for amends.

Apr. 22—Reported with com. amends.  
Apr. 23—Passed in Senate.  
Apr. 24—Received in Assembly.  
Apr. 24—Education com.

## NOTATIONS

S 163 Powell Feb. 25—Permits appeal to jury in circuit court to determine necessity for taking municipal lands for State highway purposes.

Apr. 8—Laid over.  
Apr. 10—Amended.  
Apr. 10—Passed in Senate.  
Apr. 23—Passed in Assembly.  
Apr. 23—Delivered to Governor.

S 164 Wolber Feb. 25—Governs probation system in courts on findings of Juvenile and Probation Study Commission of 1927.

Apr. 1—Reported with com. amends.  
Apr. 17—Passed in Senate.  
Apr. 22—Passed in Assembly.  
Apr. 22—Approved, Chapter 156.

S 165 Wolber Feb. 25—Provides for uniform State Juvenile Court practice.

Apr. 1—Reported with com. amends.  
Apr. 9—Placed back on second reading.  
Apr. 9—Amended.  
Apr. 17—Passed in Senate.  
Apr. 22—Passed in Assembly.  
Apr. 22—Approved, Chapter 157.

S 166 Wolber Feb. 25—Repeals Chapter 75, P. L. 1906, governing appointment of probation officer by Judge of Quarter Sessions.

Apr. 1—Reported favorably.  
Apr. 1—Read second time.

S 167 Wolber Feb. 25—Repeals Chapter 266, P. L. 1922, for appointment of probation officers by Judges of Common Pleas Court.

Apr. 1—Reported favorably.  
Apr. 1—Read second time.

S 168 Wolber Feb. 25—Permits merging of Building and Loan Associations by two-thirds of members present at meeting, rather than two-thirds of all members of associations.

Feb. 25—Banking and Insurance com.

S 169 Wolber Feb. 25—Amends Building and Loan Act, governing issue of mortgages and payments.

Feb. 25—Banking and Insurance com.

S 170 Wolber Feb. 25—Governs election of directors of Building and Loan Associations. Governs employment of attorneys, and permits employment of others for more than one year.

Apr. 1—Passed in Senate.  
Apr. 16—Reported with Assembly com. amends.  
Apr. 23—Passed in Assembly.  
Apr. 23—Assembly amendments passed in Senate.  
Apr. 24—Delivered to Governor.

S 171 Wolber Feb. 25—Building and Loan Association—amendment to have thirty per cent limitation apply to borrowed money whether on demand or time loans.

Apr. 9—Passed in Senate.  
Apr. 16—Received in Assembly.  
Apr. 16—Banking and Insurance com.  
Apr. 22—Reported favorably.  
Apr. 22—Read second time.

S 172 Wolber Feb. 25—Permits Banking Commissioner to direct form for keeping Building and Loan Accounts.

Feb. 25—Banking and Insurance com.

S 173 Wolber Feb. 25—Changes details given in reports of Building and Loan Associations, for profit and loss statements, approved by Banking Commissioner.

Feb. 25—Banking and Insurance com.

S 174 Wolber Feb. 25—Building and Loan Association dividends to be credited only out of new profits.

Apr. 9—Passed in Senate.  
Apr. 16—Received in Assembly.  
Apr. 16—Banking and Insurance com.  
Apr. 22—Reported favorably.  
Apr. 22—Read second time.

S 175 Wolber Feb. 25—Amendment to title of Building and Loan Act of 1925. Admits word "employees".

Mar. 25—Reported favorably.  
Mar. 25—Read second time.

S 176 Wolber Feb. 25—Building and Loan—amendment to permit directors to name committee to examine accounts.

Apr. 1—Laid over.  
Apr. 23—Passed in Senate.  
Apr. 24—Received in Assembly.  
Apr. 24—Banking and Insurance com.

SENATE, No. 163

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1929

By Mr POWELL

(By request)

Referred to Committee on Highways

AN ACT to amend an act entitled "An act to establish a State Highway System and to provide for the improvement, betterment, reconstruction, resurfacing, maintenance, repair and regulation of the use thereof" (Revision of 1927), approved March thirteenth, nineteen hundred and twenty-seven

1 BE IT ENACTED by the Senate and General Assembly of the State of New Jersey

1 Section one hundred and eleven of the act to which this act is an amend-  
2 ment is hereby amended to read as follows

3 111 In addition to (and not in limitation of,) its general powers, the State  
4 Highway Commission shall have power

5 a To determine and adopt rules, regulations and specifications and to enter into  
6 contract covering all matters and things incident to the acquisition, improvement,  
7 betterment, construction, reconstruction, maintenance and repair of State highways

8 b To execute and perform as an independent contractor or through contracts  
9 made in the name of the State of New Jersey, all manner of work incident to the  
10 maintenance and repair of State highways

11 c To establish and maintain as an independent contractor or employer a  
12 patrol repair system for the proper and efficient maintenance and repair of State  
13 highways

14 d To employ and discharge, subject to the provisions of the civil service  
15 act, all foremen and laborers, prescribe their qualifications and furnish all equipment,  
16 tool and material necessary for such patrol repair system

17 e To widen, straighten and regrade any State highway and to acquire any  
18 lands or rights therein by gift, devise, purchase, or by condemnation, according to the  
19 procedure as contained in an act entitled "An act to regulate the ascertainment and  
20 payment of compensation for property condemned or taken for public use" (Revi-  
21 sion of 1900), approved March twentieth, one thousand nine hundred, and vacate  
22 any State highway or any part thereof, the State Highway Commission shall have  
23 the right and power to enter upon and take property in advance of making  
24 compensation therefor in any case where it cannot acquire land or other property  
25 by agreement with the owner, whether by reason of disagreement as to the price, or  
26 the legal incapacity or absence of the owner, or his inability to convey valid title, or  
27 by reason of any other cause. In any such case, upon the said highway com-  
28 mission exercising this right and entering upon and taking land in  
29 advance of making compensation therefor, it shall present a petition, and  
30 proceedings shall be had to fix the compensation, to be paid to the owner, as  
31 provided in the said act entitled "An act to regulate the ascertainment and payment  
32 of compensation for property condemned or taken for public use" (Revision of 1900),  
33 approved March twentieth, one thousand nine hundred. To do and perform what-  
34 ever may be necessary or desirable to effectuate the object and purposes of this act  
35 To do and perform all acts now required by law to be done and performed by the  
36 State Commissioner of Public Roads, the State Highway Commission and the  
37 highway commission, provided, however, that where the State Highway Com-  
38 mission may find it necessary to acquire lands owned and used by municipalities  
39 for public uses and purposes the State Highway Commission shall before taking over  
40 such property for highway purposes and after hearing had in the manner already  
41 prescribed in section one hundred and two of the act of which this act is an amend-  
42 ment if before the time fixed for said hearing the municipality whose land is sub-  
43 ject to be acquired shall file a notice with the said State Highway Commission  
44 setting forth that said land is necessary for the public use of the municipality  
45 owning the same then the said State Highway Commission shall determine whether  
46 or not it is a reasonable public necessity to acquire the land in question and in the  
47-50 event that it decides that it is a reasonable public necessity to acquire such lands for  
51 the State Highway System, it shall give notice of its finding by serving a copy

52 thereof upon the clerk of the governing body of such municipality within ten days  
53 after the rendering of such decision and the municipality may within twenty days  
54 after service upon it of such notice, appeal from the decision of the State Highway  
55 Commission to the Circuit Court of the county within which such municipality is  
56 situate, which shall determine the question of whether or not the taking of the land  
57 in question in preference to some other route is a reasonable public necessity The  
58 court to which appeal is had shall order a trial by a struck jury to determine the  
59 question of fact of whether such a taking of public property is a reasonable public  
60 necessity.

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STATEMENT

The purpose of this amendment is to limit the taking of property owned by municipalities and used for public purposes unless such taking be deemed a reasonable public necessity

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SENATE, No. 163

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2 ment is hereby amended to read as follows

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4 Highway Commission shall have power

5 a To determine and adopt rules, regulations and specifications and to enter into  
6 contract covering all matters and things incident to the acquisition, improvement,  
7 betterment, construction, reconstruction maintenance and repair of State highways

8 b To execute and perform as an independent contractor or through contracts  
9 made in the name of the State of New Jersey, all manner of work incident to the  
10 maintenance and repair of State highways.

11 c. To establish and maintain as an independent contractor or employer a  
12 patrol repair system for the proper and efficient maintenance and repair of State  
13 highways

14 d To employ and discharge, subject to the provisions of the civil service  
15 act, all foremen and laborers, prescribe their qualifications and furnish all equipment,  
16 tools and material necessary for such patrol repair system

17 e To widen, straighten and regrade any State highway and to acquire any  
18 lands or rights therein by gift, devise, purchase, or by condemnation, according to the  
19 procedure as contained in an act entitled "An act to regulate the ascertainment and  
20 payment of compensation for property condemned or taken for public use" (Revi-  
21 sion of 1900), approved March twentieth, one thousand nine hundred, and vacate  
22 any State highway or any part thereof, the State Highway Commission shall have  
23 the right and power to enter upon and take property in advance of making  
24 compensation therefor in any case where it cannot acquire land or other property  
25 by agreement with the owner, whether by reason of disagreement as to the price, or  
26 the legal incapacity or absence of the owner, or his inability to convey valid title, or  
27 by reason of any other cause. In any such case, upon the said highway com-  
28 mission exercising this right and entering upon and taking land in  
29 advance of making compensation therefor, it shall present a petition, and  
30 proceedings shall be had to fix the compensation, to be paid to the owner, as  
31 provided in the said act entitled "An act to regulate the ascertainment and payment  
32 of compensation for property condemned or taken for public use" (Revision of 1900),  
33 approved March twentieth, one thousand nine hundred. To do and perform what-  
34 ever may be necessary or desirable to effectuate the object and purposes of this act  
35 To do and perform all acts now required by law to be done and performed by the  
36 State Commissioner of Public Roads, the State Highway Commission and the  
37 highway commission, *provided, however,* that where the State Highway Com-  
38 mission may find it necessary to acquire lands owned and used by municipalities  
39 for public uses and purposes the State Highway Commission shall before taking over  
40 such property for highway purposes and after hearing had in the manner already  
41 prescribed in section one hundred and two of the act of which this act is an amend-  
42 ment if before the time fixed for said hearing the municipality whose land is sub-  
43 ject to be acquired shall file a notice with the said State Highway Commission  
44 setting forth that said land is necessary for the public use of the municipality  
45 owning the same then the said State Highway Commission shall determine whether  
46 or not it is a reasonable public necessity to acquire the land in question and in the  
47-50 event that it decides that it is a reasonable public necessity to acquire such lands for  
51 the State Highway System, it shall give notice of its finding by serving a copy

52 thereof upon the clerk of the governing body of such municipality within ten days  
53 after the rendering of such decision and the municipality may within twenty days  
54 after service upon it of such notice, appeal from the decision of the State Highway  
55 Commission to the judge of the Circuit Court of the county within which such mu-  
56 nicipality is situate, who shall hear and determine the question of whether or not the  
57 taking of the land in question in preference to some other route is a reasonable pub-  
58 lic necessity.

1     2. This act shall take effect immediately.

# STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1953

By Mr. CLAPP

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning highways, and revising parts of the statutory law.

1 **BE IT ENACTED** by the Senate and General Assembly of the State of New  
2 Jersey:

1 1. Section 27:5-1 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:5-1. Whoever shall paint or place upon, or in any manner affix to, a  
4 fence, structure, pole, rock, tree or other object which is the property of an-  
5 other, whether within or without the limits of a public highway, or maintain  
6 thereon any words, device, trademark, advertisement or notice not required  
7 by law to be posted thereon, without first obtaining the consent in writing  
8 of the owner or tenant of the property, or of the body having control of  
9 the highway if placed on a highway, shall, upon complaint of the owner or  
10 tenant, or of any police officer or other person, be liable to a penalty of  
11 twenty-five dollars (\$25.00) upon conviction in the municipal court of the mu-  
12 nicipality wherein the violation occurred. If consent is obtained that fact  
13 shall be stated on the advertisement or notice.

14 This chapter shall not apply to cautionary signals or signs, or direc-  
15 tional signs or notices erected on or along a highway by the body having  
16 control thereof or by its consent.

1 2. Section 27:5-3 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:5-3. The subordinate officers of the police force of every municipal-  
4 ity having an organized police force, shall report to the chief of police of  
5 such municipality every violation of section 27:5-1 of this Title so far as it  
6 relates to public highways within the municipality. Thereupon the chief of  
7 police or a person designated by him, shall notify the person violating said  
8 section 27:5-1 to abate the nuisance forthwith. If the notice is not promptly  
9 complied with, a summary proceeding shall be commenced for the penalty in  
10 the name and for the use of the municipality in accordance with the Penalty  
11 Enforcement Law (N. J. S. 2A:58-1 et seq.).

1 3. Section 27:7-23 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:7-23. If the commissioner finds it necessary to acquire lands owned  
4 and used by municipalities for public uses and purposes he shall, before tak-  
5 ing it over for highway purposes and after hearing had in the manner pre-  
6 scribed in section 27:7-4 of this Title, if before the time fixed for the hear-  
7 ing the municipality whose land is subject to be acquired shall file a notice  
8 with the commissioner setting forth that the land is necessary for the public  
9 use of the municipality, determine whether or not it is a reasonable public  
10 necessity to acquire the land in question.

11 If the commissioner decides that it is a reasonable public necessity to  
12 acquire such lands for the State highway system, he shall give notice of  
13 his finding by serving a copy thereof upon the clerk of the governing body  
14 of the municipality within ten days after rendering the decision.

15 The municipality may within twenty days after service upon it of such  
16 notice, appeal from the decision of the commissioner to the Superior Court,  
17 which shall in an action hear and determine the question of whether or not  
18 the taking of the land in question in preference to some other route is a  
19 reasonable public necessity. The court may proceed in the action in a sum-  
20 mary manner or otherwise.

1 4. Section 27:7-44.1 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:7-44.1. No consent, grant or franchise affecting any portion of a State  
4 highway, or of any road included in the State highway system, shall be  
5 given for the construction of a railroad or street railway thereon except  
6 upon approval of and under conditions acceptable to the commissioner; nor  
7 shall any person enter upon or construct any works in or upon any State  
8 highway, except under such conditions and regulations as the commissioner  
9 may prescribe. Whenever any encroachment may exist without warrant of  
10 law in any road when taken over as a State highway, the commissioner  
11 shall notify the Attorney-General, who shall proceed to cause the same to be  
12 removed as by law provided.

13 Any person guilty of any violation of this section shall be liable to a fine  
14 not exceeding one hundred dollars (\$100.00) for each such day's violation, and  
15 the costs of prosecution, to be recovered by a civil action in the name of the  
16 State before any court of competent jurisdiction, by the commissioner. Said  
17 fines shall be paid into the State treasury to the credit of the funds available  
18 for construction, maintenance and repair of roads.

19 Any such violation may be removed from any State highway as a  
20 trespass by a civil action brought by the commissioner in the Superior Court.  
21 The court may proceed in the action in a summary manner or otherwise.

1 5. Section seven of chapter sixteen of the laws of one thousand nine hun-  
2 dred and fifty-two is amended to read as follows:

3 7. Upon the exercise of the power of eminent domain by the Authority,  
4 the compensation to be paid thereunder shall be ascertained and paid in the  
5 manner provided in chapter one of Title 20 of the Revised Statutes in so far  
6 as the provisions thereof are applicable and not inconsistent with the pro-  
7 visions contained in this act.

8 Upon the filing of the complaint in the action to fix the compensation to be  
9 paid, or at any time thereafter the Authority may file with the clerk of the  
10 county in which such property is located and also with the Clerk of the Su-

11 perior Court a declaration of taking, signed by the Authority, declaring that  
12 possession of one or more of the tracts or parcels of land or property described  
13 in the complaint is thereby being taken by and for the use of the Authority.  
14 The said declaration of taking shall be sufficient if it sets forth (1) a descrip-  
15 tion of each tract or parcel of land or property to be so taken sufficient for the  
16 identification thereof to which there may or may not be attached a plan or  
17 map thereof; (2) a statement of the estate or interest in the said land or prop-  
18 erty being taken; (3) a statement of the sum of money estimated by the  
19 Authority by resolution to be just compensation for the taking of the estate  
20 or interest in each tract or parcel of land or property described in said dec-  
21 laration; and (4) that, in compliance with the provisions of this act, the  
22 Authority has established and is maintaining a trust fund as hereinafter  
23 provided.

24 Upon the filing of the said declaration, the Authority shall deposit with  
25 the Clerk of the Superior Court the amount of the estimated compensation  
26 stated in said declaration. In addition to the said deposits with the Clerk of  
27 the Superior Court the Authority at all times shall maintain a special trust  
28 fund on deposit with a bank or trust company doing business in this State in an  
29 amount at least equal to twice the aggregate amount deposited with the Clerk  
30 of the Superior Court as estimated compensation for all property described in  
31 declarations of taking with respect to which the compensation has not been  
32 finally determined and paid to the persons entitled thereto or into court. Said  
33 trust fund shall consist of cash or securities readily convertible into cash  
34 constituting legal investments for trust funds under the laws of this State.  
35 Said trust fund shall be held solely to secure and may be applied to the pay-  
36 ment of just compensation for the land or other property described in such  
37 declaration of taking. The Authority shall be entitled to withdraw from said  
38 trust fund from time to time so much as may then be in excess of twice the  
39 aggregate of the amount deposited with the Clerk of the Superior Court as  
40 estimated compensation for all property described in declarations of taking  
41 with respect to which the compensation has not been finally determined and  
42 paid to the persons entitled thereto or into court.

43 Upon the filing of the said declaration as aforesaid and depositing with  
44 the Clerk of the Superior Court the amount of the estimated compensation  
45 stated in said declaration, the Authority, without other process or proceedings,  
46 shall be entitled to the exclusive possession and use of each tract of land or  
47 property described in said declaration and may forthwith enter into and take  
48 possession of said land or property, it being the intent of this provision that  
49 the action to fix compensation to be paid or any other proceedings relating  
50 to the taking of said land or interest therein or other property shall not  
51 delay the taking of possession thereof and the use thereof by the Authority  
52 for the purpose or purposes for which the Authority is authorized by law  
53 to acquire or condemn such land or other property or interest therein.

54 The Authority shall cause notice of the filing of said declaration and the  
55 making of said deposit to be served upon each party to the action to fix the  
56 compensation to be paid, who resides in this State, either personally or by  
57 leaving a copy thereof at his residence, if known, and upon each such party  
58 who resides out of the State, by mailing a copy thereof to him at his residence,  
59 if known. In the event that the residence of any such party or the name of  
60 such party is unknown, such notice shall be published at least once in a news-  
61 paper published or circulating in the county or counties in which the land is  
62 located. Such service, mailing or publication shall be made within ten days  
63 after filing such declaration. Upon the application of any party in interest  
64 and after notice to other parties in interest, including the Authority, the Su-  
65 perior Court may direct that the money deposited with the Clerk of the Su-  
66 perior Court or any part thereof be paid forthwith to the person or persons  
67 entitled thereto for or on account of the just compensation to be awarded in  
68 said action; *provided*, that each person shall have filed with the Clerk of the  
69 Superior Court a consent in writing that, in the event the award in the said  
70 action shall be less than the amount deposited, the court, after such notice as  
71 the court prescribes and hearing, may determine his liability, if any, for the  
72 return of such difference or any part thereof and enter judgment therefor.  
73 If the amount of the award as finally determined shall exceed the amount so

74 deposited, the person or persons to whom the award is payable shall be en-  
 75 titled to recover from the Authority the difference between the amount of the  
 76 deposit and the amount of the award, with interest at the rate of six per  
 77 centum (6%) per annum thereon from the date of making the deposit. If  
 78 the amount of the award shall be less than the amount so deposited, the  
 79 Clerk of the Superior Court shall return the difference between the amount  
 80 of the award and the deposit to the Authority unless the amount of the  
 81 deposit or any part thereof shall have theretofore been distributed, in which  
 82 event the court, on application of the Authority and notice to all persons in-  
 83 terested in the award and affording them an opportunity to be heard, shall  
 84 enter judgment in favor of the Authority for such difference against the  
 84A party or parties liable for the return thereof.

85 The Authority shall not abandon any condemnation proceeding subse-  
 86 quent to the date upon which it has taken possession of the land or property  
 87 as herein provided.

1 6. Section 27:16-42 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-42. If the board cannot acquire the real estate, or any interest  
 4 therein, necessary for the making of any improvement authorized by this  
 5 chapter by agreement with the owners thereof, the compensation to be paid  
 6 therefor shall be ascertained and paid in an action in accordance with chap-  
 7 ter one of Title 20 of the Revised Statutes except as hereinafter provided.  
 8 In the action the Superior Court shall determine the benefits conferred  
 9 and damages sustained by each person in interest by reason of the taking  
 10 of the real estate or any interest therein. The court shall consider the con-  
 11 dition in which each parcel will be left and the benefits that will result  
 12 from the improvement to the owners thereof. The costs, fees and expenses  
 13 of the action shall be paid by the county treasurer.

1 7. Section 27:16-43 of the Revised Statutes is hereby repealed.

1 8. Section 27:16-44 of the Revised Statutes is hereby repealed.

1 9. Section 27:16-45 of the Revised Statutes is hereby repealed.

1 10. Section 27:16-46 of the Revised Statutes is hereby repealed.

1 11. Section 27:16-47 of the Revised Statutes is hereby repealed.

1 12. Section 27:16-48 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:16-48. The board of chosen freeholders may enter upon and take  
4 property for any of the purposes set forth in section 27:16-1 of this Title,  
5 in advance of making compensation therefor, in any case where it cannot ac-  
6 quire the property by agreement with the owner. In such cases the board,  
7 upon exercising such right and entering upon and taking the property in  
8 advance of making compensation therefor, shall institute an action to fix  
9 the compensation to be paid to the owner and others as provided in chap-  
10 ter one of Title 20 of the Revised Statutes.

1 13. Section 27:16-49 of the Revised Statutes is hereby repealed.

1 14. Section 27:16-50 of the Revised Statutes is hereby repealed.

1 15. Section 27:16-51 of the Revised Statutes is hereby repealed.

1 16. Section 27:16-52 of the Revised Statutes is hereby repealed.

1 17. Section 27:16-53 of the Revised Statutes is hereby repealed.

1 18. Section 27:16-57 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:16-57. Upon the conclusion of the hearing as provided in this chapter  
4 and the adoption of the resolution, the map together with a copy of the resolu-  
5 tion duly attested by the clerk of the board of chosen freeholders shall, without  
6 delay, be filed with the highway right of way commission by the county, and  
7 notice of the pendency of the action, naming the parties interested, with de-  
8 scription by reference to the map sufficiently to identify the plot of land of each  
9 owner to be taken, shall be filed in the office of the county clerk or register  
10 of deeds and mortgages, as the case may be, and shall be recorded in the same  
11 manner and place and for the same fees as notices of lis pendens in civil  
12 actions. In default of such recording, persons acquiring an interest in the  
13 property pending the action without notice thereof, shall not be bound thereby.

1 19. Section 27:16-64 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:16-64. When a building is partly upon the land to be taken and  
4 partly upon the owner's remaining land and the commission deems it to the  
5 interest of the county and just to the owner that the title to the building  
6 be also acquired by the county for removal or destruction, it shall show in  
7 its award that the title to the necessary land and to the building, is to be  
8 acquired upon payment of the award, and in such case the county shall be  
9 obligated at its own cost and expense to raise or remove the building from  
10 the remaining land within sixty days from the time of payment, or payment  
11 into court of the award as hereinafter provided, if no appeal therefrom is  
12 taken, and for that purpose the county shall have the right, after such pay-  
13 ment or tender, to go upon the owner's remaining land.

1 20. Section 27:16-65 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:16-65. If an uncertainty exists as to who is entitled to the amount  
4 awarded, or if the board of chosen freeholders is unable to tender the award  
5 by reason of the incapacity or absence of any person entitled thereto, or if  
6 there exists an unsatisfied lien upon the property to be taken, or any person  
7 refuses to receive the award, or an appeal from the award is taken, it may  
8 be paid into the Superior Court and shall be distributed to the person en-  
9 titled thereto according to law. Payment into the Superior Court shall  
10 operate to stop the running of interest upon an award thereafter made to  
11 the amount of the deposit.

12 The owner or owners or the board of chosen freeholders of the county,  
13 feeling aggrieved by an award for any real estate taken for any such im-  
14 provement, may appeal to the Superior Court at any time within sixty days  
15 after the filing of the report in the office of the county clerk or register of  
16 deeds, as the case may be. The appeal shall be taken by bringing an action  
17 in the court in accordance with chapter one of the Title Eminent Domain  
18 (§ 20:1-1 et seq.) of the Revised Statutes to have the court award the dam-

19 ages anew. The completion of the improvement shall not be delayed thereby  
 20 and the county may proceed with the improvement as though the appeal had  
 21 not been taken.

1 21. Section 27:16-66 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-66. Upon the acceptance of the award, or the payment thereof into  
 4 the Superior Court, title to the real estate or right or interest therein shall  
 5 vest in the county, and the board of chosen freeholders may thereupon enter  
 6 upon and take possession of the real estate or right or interest therein and  
 7 remove all persons therefrom.

1 22. Section 27:16-67 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-67. The report of the commission or a copy thereof certified by  
 4 the county clerk or register of deeds and mortgages, as the case may be, or in  
 5 case of an appeal, the judgment or a copy thereof certified by the clerk of the  
 6 court, and proof of tender of the amount awarded, or payment thereof to the  
 7 owner or into court, as the case may be, shall at all times be evidence of the  
 8 right of the board of chosen freeholders to have, hold, use, occupy, possess  
 9 and enjoy the real estate or interest therein for road or highway purposes.

1 23. Section 27:17-4 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:17-4. Before entering upon the duties of his office each commissioner  
 4 shall take an oath to perform well and truly the duties of his office to the best  
 5 of his skill and ability, and shall give a bond to the county, conditioned  
 6 upon the faithful performance of his duties, the amount of which shall be  
 7 fixed and the bond approved by a judge of the County Court. The oath and  
 8 bond shall be filed in the office of the county clerk.

1 24. Section 27:19-7 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:19-7. Whenever it shall have been determined that the public con-  
 4 venience requires that a viaduct or bridge be constructed at the joint expense

5 of adjoining counties, or that a viaduct or bridge being maintained at  
 6 such joint expense should be repaired or rebuilt, and the boards of chosen  
 7 freeholders of such counties shall be unable to agree as to the location or  
 8 character of the new viaduct or bridge, or as to the materials of which it shall  
 9 be constructed, or as to whether a viaduct or bridge already erected and out  
 10 of repair shall be repaired or rebuilt, or if said boards shall be unable to  
 11 agree in any respect as to the manner or method of repairing or rebuilding  
 12 any such viaduct or bridge, either of the boards may apply to a judge of the  
 13 Superior Court, who shall appoint three commissioners who shall meet forth-  
 14 with and summarily inquire into the matters in dispute. To that end the  
 15 commissioners may employ one or more civil engineers and other persons.

16 If in the judgment of the commissioners it shall be determined that  
 17 the public convenience requires that the viaduct or bridge be constructed or  
 18 repaired or rebuilt, they, or a majority of them, shall make and sign a report,  
 19 under their hands, determining the matters in dispute, and cause a duplicate  
 20 original of the report to be filed with the clerk of each of the boards.

21 The commission may have plans, drawings, surveys and specifications  
 22 prepared, advertise for and receive bids for the doing of the work, and award  
 23 a contract or contracts for the work, and may supervise the doing of the  
 24 work. The advertising and awards shall be made in accordance with the pro-  
 25 visions of chapter twenty-five of the Title Municipalities and Counties  
 26 (§ 40:25-1 et seq.). Any expense incurred by the commissioners, including  
 27 the cost of construction, repair or rebuilding, shall, upon certification by  
 28 them, be paid by the county treasurers of each of the counties in the same  
 29 proportion as similar expenses relating to the viaduct or bridge.

30 The commissioners shall serve as such and render their services with-  
 31 out compensation and shall be known as "joint bridge commissioners for  
 32 ..... counties."

25. Section 27:19-32 of the Revised Statutes is amended to read as follows:

27:19-32. The bonds, notes or other evidences of indebtedness (hereinafter in this section called "bonds") issued by such bridge commissions shall bear interest at not more than six per centum (6%) per annum, payable semiannually, and may be sold at either private or public sale, to any person, to the United States Government or to any governmental agency. Such commissions shall provide the form of such bonds and shall fix the denominations, place or places of payment of principal and interest, the terms and conditions and do all other things that may be necessary for the proper execution and delivery of said bonds.

The proceeds from the sale of such bonds shall be deposited by the treasurers of such bridge commissions and used as provided in any contract or agreement of the commissions relative thereto, or if not so provided, then as the commissions shall direct and solely for the payment of the cost of the bridges and approaches and costs incident thereto, to be drawn upon over the signatures of the chairmen or vice-chairmen of the commissions and the secretaries and treasurers thereof. The surplus, if any, shall be paid into the fund hereinafter provided for the payment of the principal and interest of such bonds.

The rates of tolls to be charged for the use of any bridge constructed or purchased under the provisions of this article shall be so fixed and adjusted as to comply with any contract or agreement of the commission relative thereto and, in any event provide a fund sufficient to pay the interest and principal of any bonds issued under this article, and to provide an additional fund to pay the cost of maintaining, repairing and operating such bridges.

All bonds of a bridge commission shall be authorized by resolution of the commission. Any such resolution may contain provisions, and the commission, in order to secure the payment of such bonds and in addition to its other powers, shall have power to agree by provision in such resolution

32 with the several holders of such bonds, and to make, enter into and perform  
 33 covenants and agreements, as to

34 a. the custody, security, use, expenditure or application of the pro-  
 35 ceeds of the bonds;

36 b. the construction and completion, or replacement, of all or any  
 37 part of the bridge or bridges or approaches thereto;

38 c. the use, regulation, operation, maintenance, insurance or disposi-  
 39 tion of all or any part of the bridge or bridges or approaches thereto,  
 40 or restrictions on the exercise of the powers of the commission to dis-  
 41 pose, or to limit or regulate the use, of all or any part of the same;

42 d. payment of the principal of or interest on the bonds, and the  
 43 sources and methods thereof, the rank or priority of any such bonds as  
 44 to any lien or security, or the acceleration of the maturity of any such  
 45 bonds;

46 e. the use and disposition of any moneys of the commission, includ-  
 47 ing revenues (hereinafter in this section sometimes called "bridge reve-  
 48 nue") derived or to be derived from the operation of all or any part  
 49 of the bridge or bridges or approaches thereto, including any parts  
 50 thereof theretofore constructed or acquired and any parts, extensions, re-  
 51 placements or improvements thereof thereafter constructed or acquired;

52 f. pledging, setting aside, depositing or trusteeing all or any part of  
 53 the bridge revenues or other moneys of the commission to secure the  
 54 payment of the principal of or interest on the bonds, or the payment of  
 55 expenses of operation or maintenance of the bridge or bridges or ap-  
 56 proaches thereto;

57 g. the setting aside out of the bridge revenues or other moneys of  
 58 the commission of reserves and sinking funds, and the source, custody,  
 59 security, regulation, application and disposition thereof;

60 h. determination or definition of the bridge revenues or of the ex-  
 61 penses of operation and maintenance of the bridge or bridges or ap-  
 62 proaches thereto;

62 i. the rates or tolls for passage over or through or the use of the  
63 bridge or bridges or approaches thereto, including any parts thereof  
64 theretofore constructed or acquired and any parts, extensions, replace-  
65 ments or improvements thereof thereafter constructed or acquired, and  
66 the fixing, establishment, collection and enforcement of the same, the  
67 amount or amounts of bridge revenues to be produced thereby, and the  
68 disposition and application of the amounts charged or collected;

69 j. the assumption or payment or discharge of any indebtedness,  
70 liens or other claims relating to any part of the bridge or bridges or  
71 approaches thereto or any obligations constituting or which may con-  
72 stitute a lien on any part of the bridge revenues;

73 k. limitations on the issuance of additional bonds, notes or other  
74 evidences of indebtedness or on the incurrence of indebtedness of the  
75 commission;

76 l. limitations on the powers of the commission to construct, acquire  
77 or operate, or permit the construction, acquisition or operation of, any  
78 structures, facilities or properties which may compete or tend to com-  
79 pete with the bridge or bridges or approaches thereto;

80 m. payment of costs or expenses incident to the enforcement of  
81 the bonds or of the provisions of such resolution or of any covenant or  
82 agreement with the holders of the bonds;

83 n. the procedure, if any, by which the terms of any covenant or  
84 agreement with, or duty to, the holders of bonds may be amended or  
85 abrogated, the amount of bonds the holders of which must consent  
86 thereto, and the manner in which such consent may be given or evi-  
87 denced; or

88 o. any other matter or course of conduct which, by recital in such  
89 resolution, is declared to further secure the payment of the principal of  
90 or interest on the bonds.

91 All such provisions of said resolution and all such covenants and agree-  
92 ments shall constitute valid and legally binding contracts between the

98 commission and the several holders of the bonds, regardless of the time of  
94 issuance of such bonds, and shall be enforceable by any such holder or  
95 holders by appropriate action or proceeding, including a proceeding in lien  
96 of prerogative writ, in any court of competent jurisdiction.

1 26. Section 27:20-3 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:20-3. If any such bridge is used by a street railway company the com-  
4 pany may undertake a part of the expense of its building, rebuilding and  
5 repair, and the board or boards of chosen freeholders and the company may  
6 enter into an agreement whereby the share of the expense to be borne by  
7 the company may be ascertained and settled.

8 If no agreement can be reached the boards of chosen freeholders or the  
9 company may institute an action in the Superior Court. The court may pro-  
10 ceed in the action in a summary manner or otherwise and apportion and  
11 determine the portion of the expense to be paid by the company.

1 27. Section 27:20-4 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:20-4. When the road and bridge or bridges of a plank road company,  
4 included within the terms of sections 27:20-1 to 27:20-3 of this Title con-  
5 stitute a continuous highway in two or more counties the boards of chosen  
6 freeholders shall acquire, maintain and operate such road and bridge or  
7 bridges at joint expense, and may, by agreement, divide the expense thereof  
8 between the counties in such proportion as they may deem just, notwith-  
9 standing the share of such expense agreed to be borne by either county may  
10 be more or less than the cost of acquiring, maintaining and operating the  
11 portion of the road or bridges located within the limits of the county.

12 If no agreement can be reached the boards of chosen freeholders or either  
13 of them may institute an action in the Superior Court. The court may pro-  
14 ceed in the action in a summary manner or otherwise and apportion and de-  
15 termine the portion of the expense to be paid by each of the counties respec-  
16 tively.

1 28. Section 27:20-6 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:20-6. At any time after the entry of a judgment of apportionment of  
4 expense as provided in sections 27:20-4 and 27:20-5 of this Title, the boards  
5 of chosen freeholders or either of them, alleging changes in the conditions  
6 upon which the original judgment of apportionment had been based, may  
7 institute another action in the Superior Court. The court may also proceed  
8 in this action in a summary manner or otherwise and apportion and de-  
9 termine the portion of the expense to be thereafter paid by each of the coun-  
10 ties respectively.

1 29. Section 27:21-3 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:21-3. The cost of construction of a bridge or the widening of an exist-  
4 ing bridge shall be borne by the board of chosen freeholders of the county,  
5 the canal corporation, its successors or assigns, over whose canal the bridge  
6 is constructed or widened, and the municipality in which the street or high-  
7 way is located, in the amount or proportion agreed upon between them. If  
8 no agreement can be reached the board of chosen freeholders may institute  
9 an action in the Superior Court. The court may proceed in the action in a  
10 summary manner or otherwise and may apportion and determine the portion  
11 of the expense to be paid by each of the parties.

1 30. This act shall take effect immediately.

# STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1953

By Mr. CLAPP

Referred to Committee on Revision and Amendment of Laws

An Act concerning highways, and revising parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 27:5-1 of the Revised Statutes is amended to read as follows:

27:5-1. Whoever shall paint or place upon, or in any manner affix to, a fence, structure, pole, rock, tree or other object which is the property of another, whether within or without the limits of a public highway, or maintain thereon any words, device, trademark, advertisement or notice not required by law to be posted thereon, without first obtaining the consent in writing of the owner or tenant of the property, or of the body having control of the highway if placed on a highway, shall, upon complaint of the owner or tenant, or of any police officer or other person, be liable to a penalty of twenty-five dollars (\$25.00) upon conviction in the municipal court of the municipality wherein the violation occurred. If consent is obtained that fact shall be stated on the advertisement or notice.

This chapter shall not apply to cautionary signals or signs, or directional signs or notices erected on or along a highway by the body having control thereof or by its consent.

1 2. Section 27:5-3 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:5-3. The subordinate officers of the police force of every municipal-  
4 ity having an organized police force, shall report to the chief of police of  
5 such municipality every violation of section 27:5-1 of this Title so far as it  
6 relates to public highways within the municipality. Thereupon the chief of  
7 police or a person designated by him, shall notify the person violating said  
8 section 27:5-1 to abate the nuisance forthwith. If the notice is not promptly  
9 complied with, a summary proceeding shall be commenced for the penalty in  
10 the name and for the use of the municipality in accordance with the Penalty  
11 Enforcement Law (N. J. S. 2A:58-1 et seq.).

12 3. Section 27:7-23 of the Revised Statutes is amended to read as fol-  
13 lows:

14 27:7-23. If the commissioner finds it necessary to acquire lands owned  
15 and used by municipalities for public uses and purposes he shall, before tak-  
16 ing it over for highway purposes and after hearing had in the manner pre-  
17 scribed in section 27:7-4 of this Title, if before the time fixed for the hear-  
18 ing the municipality whose land is subject to be acquired shall file a notice  
19 with the commissioner setting forth that the land is necessary for the public  
20 use of the municipality, determine whether or not it is a reasonable public  
21 necessity to acquire the land in question.  
22 If the commissioner decides that it is a reasonable public necessity to  
23 acquire such lands for the State highway system, he shall give notice of  
24 his finding by serving a copy thereof upon the clerk of the governing body  
25 of the municipality within ten days after rendering the decision.

26 The municipality may within twenty days after service upon it of such  
27 notice, appeal from the decision of the commissioner to the Superior Court,  
28 which shall in an action hear and determine the question of whether or not  
29 the taking of the land in question in preference to some other route is a  
30 reasonable public necessity. The court may proceed in the action in a sum-  
mary manner or otherwise.

1 4. Section 27:7-44.1 of the Revised Statutes is amended to read as fol-  
 2 lows:  
 3 27:7-44.1. No consent, grant or franchise affecting any portion of a State  
 4 highway, or of any road included in the State highway system, shall be  
 5 given for the construction of a railroad or street railway thereon except  
 6 upon approval of and under conditions acceptable to the commissioner; nor  
 7 shall any person enter upon or construct any works in or upon any State  
 8 highway, except under such conditions and regulations as the commissioner  
 9 may prescribe. Whenever any encroachment may exist without warrant of  
 10 law in any road when taken over as a State highway, the commissioner  
 11 shall notify the Attorney-General, who shall proceed to cause the same to be  
 12 removed as by law provided.

13 Any person guilty of any violation of this section shall be liable to a fine  
 14 not exceeding one hundred dollars (\$100.00) for each such day's violation, and  
 15 the costs of prosecution, to be recovered by a civil action in the name of the  
 16 State before any court of competent jurisdiction, by the commissioner. Said  
 17 fines shall be paid into the State treasury to the credit of the funds available  
 18 for construction, maintenance and repair of roads.

19 Any such violation may be removed from any State highway as a  
 20 trespass by a civil action brought by the commissioner in the Superior Court.  
 21 The court may proceed in the action in a summary manner or otherwise.

1 5. Section seven of chapter sixteen of the laws of one thousand nine hun-  
 2 dred and fifty-two is amended to read as follows:

3 7. Upon the exercise of the power of eminent domain by the Authority,  
 4 the compensation to be paid thereunder shall be ascertained and paid in the  
 5 manner provided in chapter one of Title 20 of the Revised Statutes in so far  
 6 as the provisions thereof are applicable and not inconsistent with the pro-  
 7 visions contained in this act.

8 Upon the filing of the complaint in the action to fix the compensation to be  
 9 paid, or at any time thereafter the Authority may file with the clerk of the  
 10 county in which such property is located and also with the Clerk of the Su-

11 perior Court a declaration of taking, signed by the Authority, declaring that  
12 possession of one or more of the tracts or parcels of land or property described  
13 in the complaint is thereby being taken by and for the use of the Authority.  
14 The said declaration of taking shall be sufficient if it sets forth (1) a descrip-  
15 tion of each tract or parcel of land or property to be so taken sufficient for the  
16 identification thereof to which there may or may not be attached a plan or  
17 map thereof; (2) a statement of the estate or interest in the said land or prop-  
18 erty being taken; (3) a statement of the sum of money estimated by the  
19 Authority by resolution to be just compensation for the taking of the estate  
20 or interest in each tract or parcel of land or property described in said dec-  
21 laration; and (4) that, in compliance with the provisions of this act, the  
22 Authority has established and is maintaining a trust fund as hereinafter  
23 provided.

24 Upon the filing of the said declaration, the Authority shall deposit with  
25 the Clerk of the Superior Court the amount of the estimated compensation  
26 stated in said declaration. In addition to the said deposits with the Clerk of  
27 the Superior Court the Authority at all times shall maintain a special trust  
28 fund on deposit with a bank or trust company doing business in this State in an  
29 amount at least equal to twice the aggregate amount deposited with the Clerk  
30 of the Superior Court as estimated compensation for all property described in  
31 declarations of taking with respect to which the compensation has not been  
32 finally determined and paid to the persons entitled thereto or into court. Said  
33 trust fund shall consist of cash or securities readily convertible into cash  
34 constituting legal investments for trust funds under the laws of this State.  
35 Said trust fund shall be held solely to secure and may be applied to the pay-  
36 ment of just compensation for the land or other property described in such  
37 declaration of taking. The Authority shall be entitled to withdraw from said  
38 trust fund from time to time so much as may then be in excess of twice the  
39 aggregate of the amount deposited with the Clerk of the Superior Court as  
40 estimated compensation for all property described in declarations of taking  
41 with respect to which the compensation has not been finally determined and  
42 paid to the persons entitled thereto or into court.

43 Upon the filing of the said declaration as aforesaid and depositing with  
44 the Clerk of the Superior Court the amount of the estimated compensation  
45 stated in said declaration, the Authority, without other process or proceedings,  
46 shall be entitled to the exclusive possession and use of each tract of land or  
47 property described in said declaration and may forthwith enter into and take  
48 possession of said land or property, it being the intent of this provision that  
49 the action to fix compensation to be paid or any other proceedings relating  
50 to the taking of said land or interest therein or other property shall not  
51 delay the taking of possession thereof and the use thereof by the Authority  
52 for the purpose or purposes for which the Authority is authorized by law  
53 to acquire or condemn such land or other property or interest therein.

54 The Authority shall cause notice of the filing of said declaration and the  
55 making of said deposit to be served upon each party to the action to fix the  
56 compensation to be paid, who resides in this State, either personally or by  
57 leaving a copy thereof at his residence, if known, and upon each such party  
58 who resides out of the State, by mailing a copy thereof to him at his residence,  
59 if known. In the event that the residence of any such party or the name of  
60 such party is unknown, such notice shall be published at least once in a news-  
61 paper published or circulating in the county or counties in which the land is  
62 located. Such service, mailing or publication shall be made within ten days  
63 after filing such declaration. Upon the application of any party in interest  
64 and after notice to other parties in interest, including the Authority, the Su-  
65 perior Court may direct that the money deposited with the Clerk of the Su-  
66 perior Court or any part thereof be paid forthwith to the person or persons  
67 entitled thereto for or on account of the just compensation to be awarded in  
68 said action; *provided*, that each person shall have filed with the Clerk of the  
69 Superior Court a consent in writing that, in the event the award in the said  
70 action shall be less than the amount deposited, the court, after such notice as  
71 the court prescribes and hearing, may determine his liability, if any, for the  
72 return of such difference or any part thereof and enter judgment therefor.  
73 If the amount of the award as finally determined shall exceed the amount so

74 deposited, the person or persons to whom the award is payable shall be en-  
 75 titled to recover from the Authority the difference between the amount of the  
 76 deposit and the amount of the award, with interest at the rate of six per  
 77 centum (6%) per annum thereon from the date of making the deposit. If  
 78 the amount of the award shall be less than the amount so deposited, the  
 79 Clerk of the Superior Court shall return the difference between the amount  
 80 of the award and the deposit to the Authority unless the amount of the  
 81 deposit or any part thereof shall have theretofore been distributed, in which  
 82 event the court, on application of the Authority and notice to all persons in-  
 83 terested in the award and affording them an opportunity to be heard, shall  
 84 enter judgment in favor of the Authority for such difference against the  
 84A party or parties liable for the return thereof.

85 The Authority shall not abandon any condemnation proceeding subse-  
 86 quent to the date upon which it has taken possession of the land or property  
 87 as herein provided.

1 6. Section 27:16-42 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-42. If the board cannot acquire the real estate, or any interest  
 4 therein, necessary for the making of any improvement authorized by this  
 5 chapter by agreement with the owners thereof, the compensation to be paid  
 6 therefor shall be ascertained and paid in an action in accordance with chap-  
 7 ter one of Title 20 of the Revised Statutes except as hereinafter provided.  
 8 In the action the Superior Court shall determine the benefits conferred  
 9 and damages sustained by each person in interest by reason of the taking  
 10 of the real estate or any interest therein. The court shall consider the con-  
 11 dition in which each parcel will be left and the benefits that will result  
 12 from the improvement to the owners thereof. The costs, fees and expenses  
 13 of the action shall be paid by the county treasurer.

1 7. Section 27:16-43 of the Revised Statutes is hereby repealed.

1 8. Section 27:16-44 of the Revised Statutes is hereby repealed.

1 9. Section 27:16-45 of the Revised Statutes is hereby repealed.

1 10. Section 27:16-46 of the Revised Statutes is hereby repealed.

- 1 11. Section 27:16-47 of the Revised Statutes is hereby repealed.
- 1 12. Section 27:16-48 of the Revised Statutes is amended to read as fol-  
 2 lows:  
 3 of 27:16-48. The board of chosen freeholders may enter upon and take  
 4 property for any of the purposes set forth in section 27:16-1 of this Title,  
 5 in advance of making compensation therefor, in any case where it cannot ac-  
 6 quire the property by agreement with the owner. In such cases the board,  
 7 upon exercising such right and entering upon and taking the property in  
 8 advance of making compensation therefor, shall institute an action to fix  
 9 the compensation to be paid to the owner and others as provided in chap-  
 10 ter one of Title 20 of the Revised Statutes.
- 1 13. Section 27:16-49 of the Revised Statutes is hereby repealed.
- 1 14. Section 27:16-50 of the Revised Statutes is hereby repealed.
- 1 15. Section 27:16-51 of the Revised Statutes is hereby repealed.
- 1 16. Section 27:16-52 of the Revised Statutes is hereby repealed.
- 1 17. Section 27:16-53 of the Revised Statutes is hereby repealed.
- 1 18. Section 27:16-57 of the Revised Statutes is amended to read as fol-  
 2 lows:  
 3 27:16-57. Upon the conclusion of the hearing as provided in this chapter  
 4 and the adoption of the resolution, the map together with a copy of the resolu-  
 5 tion duly attested by the clerk of the board of chosen freeholders shall, without  
 6 delay, be filed with the highway right of way commission by the county, and  
 7 notice of the pendency of the action, naming the parties interested, with de-  
 8 scription by reference to the map sufficiently to identify the plot of land of each  
 9 owner to be taken, shall be filed in the office of the county clerk or register  
 10 of deeds and mortgages, as the case may be, and shall be recorded in the same  
 11 manner and place and for the same fees as notices of lis pendens in civil  
 12 actions. In default of such recording, persons acquiring an interest in the  
 13 property pending the action without notice thereof, shall not be bound thereby.

1 19. Section 27:16-64 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-64. When a building is partly upon the land to be taken and  
 4 partly upon the owner's remaining land and the commission deems it to the  
 5 interest of the county and just to the owner that the title to the building  
 6 be also acquired by the county for removal or destruction, it shall show in  
 7 its award that the title to the necessary land and to the building, is to be  
 8 acquired upon payment of the award, and in such case the county shall be  
 9 obligated at its own cost and expense to raze or remove the building from  
 10 the remaining land within sixty days from the time of payment, or payment  
 11 into court of the award as hereinafter provided, if no appeal therefrom is  
 12 taken, and for that purpose the county shall have the right, after such pay-  
 13 ment or tender, to go upon the owner's remaining land.

1 20. Section 27:16-65 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:16-65. If an uncertainty exists as to who is entitled to the amount  
 4 awarded, or if the board of chosen freeholders is unable to tender the award  
 5 by reason of the incapacity or absence of any person entitled thereto, or if  
 6 there exists an unsatisfied lien upon the property to be taken, or any person  
 7 refuses to receive the award, or an appeal from the award is taken, it may  
 8 be paid into the Superior Court and shall be distributed to the person en-  
 9 titled thereto according to law. Payment into the Superior Court shall  
 10 operate to stop the running of interest upon an award thereafter made to  
 11 the amount of the deposit.

12 The owner or owners or the board of chosen freeholders of the county,  
 13 feeling aggrieved by an award for any real estate taken for any such im-  
 14 provement, may appeal to the Superior Court at any time within sixty days  
 15 after the filing of the report in the office of the county clerk or register of  
 16 deeds, as the case may be. The appeal shall be taken by bringing an action  
 17 in the court in accordance with chapter one of the Title Eminent Domain  
 18 (§ 20:1-1 et seq.) of the Revised Statutes to have the court award the dam-

19 ages anew. The completion of the improvement shall not be delayed thereby  
 20 and the county may proceed with the improvement as though the appeal had  
 21 not been taken.

1 21. Section 27:16-66 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:16-66. Upon the acceptance of the award, or the payment thereof into  
 4 the Superior Court, title to the real estate or right or interest therein shall  
 5 vest in the county, and the board of chosen freeholders may thereupon enter  
 6 upon and take possession of the real estate or right or interest therein and  
 7 remove all persons therefrom.

1 22. Section 27:16-67 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:16-67. The report of the commission or a copy thereof certified by  
 4 the county clerk or register of deeds and mortgages, as the case may be, or in  
 5 case of an appeal, the judgment or a copy thereof certified by the clerk of the  
 6 court, and proof of tender of the amount awarded, or payment thereof to the  
 7 owner or into court, as the case may be, shall at all times be evidence of the  
 8 right of the board of chosen freeholders to have, hold, use, occupy, possess  
 9 and enjoy the real estate or interest therein for road or highway purposes.

1 23. Section 27:17-4 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:17-4. Before entering upon the duties of his office each commissioner  
 4 shall take an oath to perform well and truly the duties of his office to the best  
 5 of his skill and ability, and shall give a bond to the county, conditioned  
 6 upon the faithful performance of his duties, the amount of which shall be  
 7 fixed and the bond approved by a judge of the County Court. The oath and  
 8 bond shall be filed in the office of the county clerk.

1 24. Section 27:19-7 of the Revised Statutes is amended to read as fol-

2 lows:

3 27:19-7. Whenever it shall have been determined that the public con-  
 4 venience requires that a viaduct or bridge be constructed at the joint expense

X

5 of adjoining counties, or that a viaduct or bridge being maintained at  
 6 such joint expense should be repaired or rebuilt, and the boards of chosen  
 7 freeholders of such counties shall be unable to agree as to the location or  
 8 character of the new viaduct or bridge, or as to the materials of which it shall  
 9 be constructed, or as to whether a viaduct or bridge already erected and out  
 10 of repair shall be repaired or rebuilt, or if said boards shall be unable to  
 11 agree in any respect as to the manner or method of repairing or rebuilding  
 12 any such viaduct or bridge, either of the boards may apply to a judge of the  
 13 Superior Court, who shall appoint three commissioners who shall meet forth-  
 14 with and summarily inquire into the matters in dispute. To that end the  
 15 commissioners may employ one or more civil engineers and other persons.

16 If in the judgment of the commissioners it shall be determined that  
 17 the public convenience requires that the viaduct or bridge be constructed or  
 18 repaired or rebuilt, they, or a majority of them, shall make and sign a report,  
 19 under their hands, determining the matters in dispute, and cause a duplicate  
 20 original of the report to be filed with the clerk of each of the boards.

21 The commission may have plans, drawings, surveys and specifications  
 22 prepared, advertise for and receive bids for the doing of the work, and award  
 23 a contract or contracts for the work, and may supervise the doing of the  
 24 work. The advertising and awards shall be made in accordance with the pro-  
 25 visions of chapter twenty-five of the Title Municipalities and Counties  
 26 (§ 40:25-1 et seq.). Any expense incurred by the commissioners, including  
 27 the cost of construction, repair or rebuilding, shall, upon certification by  
 28 them, be paid by the county treasurers of each of the counties in the same  
 29 proportion as similar expenses relating to the viaduct or bridge.

30 The commissioners shall serve as such and render their services with-  
 31 out compensation and shall be known as "joint bridge commissioners for  
 32 ..... counties."

1 25. Section 27:19-32 of the Revised Statutes is amended to read as fol-  
2 lows:

3 27:19-32. The bonds, notes or other evidences of indebtedness (herein-  
4 after in this section called "bonds") issued by such bridge commissions  
5 shall bear interest at not more than six per centum (6%) per annum, payable  
6 semiannually, and may be sold at either private or public sale, to any per-  
7 son, to the United States Government or to any governmental agency. Such  
8 commissions shall provide the form of such bonds and shall fix the denomi-  
9 nations, place or places of payment of principal and interest, the terms and  
10 conditions and do all other things that may be necessary for the proper  
11 execution and delivery of said bonds.

12 The proceeds from the sale of such bonds shall be deposited by the  
13 treasurers of such bridge commissions and used as provided in any con-  
14 tract or agreement of the commissions relative thereto, or if not so provided,  
15 then as the commissions shall direct and solely for the payment of the cost of  
16 the bridges and approaches and costs incident thereto, to be drawn upon  
17 over the signatures of the chairmen or vice-chairmen of the commissions and  
18 the secretaries and treasurers thereof. The surplus, if any, shall be paid  
19 into the fund hereinafter provided for the payment of the principal and  
20 interest of such bonds.

21 The rates of tolls to be charged for the use of any bridge constructed or  
22 purchased under the provisions of this article shall be so fixed and adjusted  
23 as to comply with any contract or agreement of the commission relative  
24 thereto and, in any event provide a fund sufficient to pay the interest and  
25 principal of any bonds issued under this article, and to provide an addi-  
26 tional fund to pay the cost of maintaining, repairing and operating such  
27 bridges.

28 All bonds of a bridge commission shall be authorized by resolution of  
29 the commission. Any such resolution may contain provisions, and the com-  
30 mission, in order to secure the payment of such bonds and in addition to its  
31 other powers, shall have power to agree by provision in such resolution

32 with the several holders of such bonds, and to make, enter into and perform  
33 covenants and agreements, as to

34 a. the custody, security, use, expenditure or application of the pro-  
35 ceeds of the bonds;

36 b. the construction and completion, or replacement, of all or any  
37 part of the bridge or bridges or approaches thereto;

38 c. the use, regulation, operation, maintenance, insurance or disposi-  
39 tion of all or any part of the bridge or bridges or approaches thereto,  
40 or restrictions on the exercise of the powers of the commission to dis-  
41 pose, or to limit or regulate the use, of all or any part of the same;

42 d. payment of the principal of or interest on the bonds, and the  
43 sources and methods thereof, the rank or priority of any such bonds as  
44 to any lien or security, or the acceleration of the maturity of any such  
45 bonds;

46 e. the use and disposition of any moneys of the commission, includ-  
47 ing revenues (hereinafter in this section sometimes called "bridge reve-  
48 nue") derived or to be derived from the operation of all or any part  
49 of the bridge or bridges or approaches thereto, including any parts  
50 thereof theretofore constructed or acquired and any parts, extensions, re-  
51 placements or improvements thereof thereafter constructed or acquired;

52 f. pledging, setting aside, depositing or trusteing all or any part of  
53 the bridge revenues or other moneys of the commission to secure the  
54 payment of the principal of or interest on the bonds, or the payment of  
55 expenses of operation or maintenance of the bridge or bridges or ap-  
56 proaches thereto;

57 g. the setting aside out of the bridge revenues or other moneys of  
58 the commission of reserves and sinking funds, and the source, custody,  
59 security, regulation, application and disposition thereof;

60 h. determination or definition of the bridge revenues or of the ex-  
61 penses of operation and maintenance of the bridge or bridges or ap-  
61a proaches thereto;

62 i. the rates or tolls for passage over or through or the use of the  
63 bridge or bridges or approaches thereto, including any parts thereof  
64 theretofore constructed or acquired and any parts, extensions, replace-  
65 ments or improvements thereof thereafter constructed or acquired, and  
66 the fixing, establishment, collection and enforcement of the same, the  
67 amount or amounts of bridge revenues to be produced thereby, and the  
68 disposition and application of the amounts charged or collected;

69 j. the assumption or payment or discharge of any indebtedness,  
70 liens or other claims relating to any part of the bridge or bridges or  
71 approaches thereto or any obligations constituting or which may con-  
72 stitute a lien on any part of the bridge revenues;

73 k. limitations on the issuance of additional bonds, notes or other  
74 evidences of indebtedness or on the incurrance of indebtedness of the  
75 commission;

76 l. limitations on the powers of the commission to construct, acquire  
77 or operate, or permit the construction, acquisition or operation of, any  
78 structures, facilities or properties which may compete or tend to com-  
79 pete with the bridge or bridges or approaches thereto;

80 m. payment of costs or expenses incident to the enforcement of  
81 the bonds or of the provisions of such resolution or of any covenant or  
82 agreement with the holders of the bonds;

83 n. the procedure, if any, by which the terms of any covenant or  
84 agreement with, or duty to, the holders of bonds may be amended or  
85 abrogated, the amount of bonds the holders of which must consent  
86 thereto, and the manner in which such consent may be given or evi-  
87 denced; or

88 o. any other matter or course of conduct which, by recital in such  
89 resolution, is declared to further secure the payment of the principal of  
90 or interest on the bonds.

91 All such provisions of said resolution and all such covenants and agree-  
92 ments shall constitute valid and legally binding contracts between the

93 commission and the several holders of the bonds, regardless of the time of  
 94 issuance of such bonds, and shall be enforceable by any such holder or  
 95 holders by appropriate action or proceeding, including a proceeding in lieu  
 96 of prerogative writ, in any court of competent jurisdiction.

1 26. Section 27:20-3 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:20-3. If any such bridge is used by a street railway company the com-  
 4 pany may undertake a part of the expense of its building, rebuilding and  
 5 repair, and the board or boards of chosen freeholders and the company may  
 6 enter into an agreement whereby the share of the expense to be borne by  
 7 the company may be ascertained and settled.

8 If no agreement can be reached the boards of chosen freeholders or the  
 9 company may institute an action in the Superior Court. The court may pro-  
 10 ceed in the action in a summary manner or otherwise and apportion and  
 11 determine the portion of the expense to be paid by the company.

1 27. Section 27:20-4 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:20-4. When the road and bridge or bridges of a plank road company,  
 4 included within the terms of sections 27:20-1 to 27:20-3 of this Title con-  
 5 stitute a continuous highway in two or more counties the boards of chosen  
 6 freeholders shall acquire, maintain and operate such road and bridge or  
 7 bridges at joint expense, and may, by agreement, divide the expense thereof  
 8 between the counties in such proportion as they may deem just, notwith-  
 9 standing the share of such expense agreed to be borne by either county may  
 10 be more or less than the cost of acquiring, maintaining and operating the  
 11 portion of the road or bridges located within the limits of the county.

12 If no agreement can be reached the boards of chosen freeholders or either  
 13 of them may institute an action in the Superior Court. The court may pro-  
 14 ceed in the action in a summary manner or otherwise and apportion and de-  
 15 termine the portion of the expense to be paid by each of the counties respec-  
 16 tively.

1 28. Section 27:20-6 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:20-6. At any time after the entry of a judgment of apportionment of  
 4 expense as provided in sections 27:20-4 and 27:20-5 of this Title, the boards  
 5 of chosen freeholders or either of them, alleging changes in the conditions  
 6 upon which the original judgment of apportionment had been based, may  
 7 institute another action in the Superior Court. The court may also proceed  
 8 in this action in a summary manner or otherwise and apportion and de-  
 9 termine the portion of the expense to be thereafter paid by each of the coun-  
 10 ties respectively.

1 29. Section 27:21-3 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 27:21-3. The cost of construction of a bridge or the widening of an exist-  
 4 ing bridge shall be borne by the board of chosen freeholders of the county,  
 5 the canal corporation, its successors or assigns, over whose canal the bridge  
 6 is constructed or widened, and the municipality in which the street or high-  
 7 way is located, in the amount or proportion agreed upon between them. If  
 8 no agreement can be reached the board of chosen freeholders may institute  
 9 an action in the Superior Court. The court may proceed in the action in a  
 10 summary manner or otherwise and may apportion and determine the portion  
 11 of the expense to be paid by each of the parties.

1 30. This act shall take effect immediately.