

CHAPTER 161

DEPARTMENT OF HIGHWAYS

<p>Sec. 161.01 Department continued 161.02 Commissioner of highways 161.03 Powers of commissioner of highways 161.035 Contingent fund 161.04 Government war materials 161.05 Toll bridge may be part of temporary trunk highway system 161.06 Relinquishment of highway easements 161.07 State patrolman may be discharged 161.08 Causes for discharge 161.09 Charges must be written 161.10 Witnesses must attend hearing; decision; punishment</p>	<p>Sec. 161.11 Right of appeal 161.12 Application 161.13 Public utilities and works on trunk highways 161.14 Logging railroads across public highways 161.15 Logging railroads; permits; construction; removal 161.16 Bonds for construction of logging railroads 161.17 Highways in cities, villages, or boroughs excepted 161.18 Certain records filed in office of commissioner of highways</p>
--	--

161.01 DEPARTMENT CONTINUED. The department of highways is hereby continued in charge of the commissioner of highways, who shall have and exercise the rights and powers and perform the duties now prescribed by law.
 [1925 c. 426 art. 11 s. 1] (53-36)

161.02 COMMISSIONER OF HIGHWAYS. Subdivision 1. **Office created.** The office of commissioner of highways, the incumbent whereof shall have the powers, duties and privileges herein declared, is hereby created; the term of such office shall be four years, and the governor, with the consent of the senate, shall appoint a suitable person thereto. The commissioner of highways shall be subject to removal by the governor only for malfeasance or nonfeasance in office, and shall be entitled to written notice of the charges against him and allowed a reasonable opportunity to be heard thereon.

Subdivision 2. **Salary.** The commissioner of highways shall devote his entire time to the performance of his official duties and shall receive as compensation therefor a yearly salary of \$6,750, payable semimonthly.

Subdivision 3. **Bond.** The commissioner of highways shall, before entering upon the performance of his official duties, give bond to the state, to be approved by the governor, in the penal sum of \$25,000, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds available for the payment of the expenses of the highway department. The amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of the commissioner of highways in the performance of his official duties, may maintain an action on such bond for the recovery of damages so sustained. The commissioner of highways shall have an official seal with which he shall authenticate his official acts. There shall be engraved on the margin thereof the words "Commissioner of Highways—State of Minnesota," and in the center thereof the same device as is engraved on the great seal of the state.

Subdivision 4. **Assistant commissioner; employees; salaries and expenses.** The commissioner of highways shall appoint an assistant commissioner of highways, who shall be an experienced highway engineer. The salary of the assistant commissioner of highways shall be fixed by the commissioner of highways, but in an amount not to exceed the sum of \$6,000 per year, payable semimonthly.

Such assistant shall devote all his time to the duties of his office and, in case of the inability for any cause of the commissioner of highways to act, the assistant commissioner of highways shall act as such commissioner of highways with all his powers and duties.

Except when so acting as commissioner of highways the assistant and second assistant shall be subject to the direction and orders of the commissioner of highways.

Such assistant shall, before entering upon the performance of his official duties, give bond to the state, to be approved by the governor, in the penal sum of \$10,000, conditioned for the faithful performance of his duties. If a surety company bond

is given, the premium thereon may be paid from the funds available for the payment of the expenses of the highway department. The amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of the said assistant in the performance of his official duties, may maintain an action on such bond for the recovery of damages so sustained.

The commissioner of highways is hereby authorized to employ such skilled and unskilled help and employees as may be necessary for the performance of his duties, the same to be on such terms and for such compensation as he may deem just and proper; provided, no greater sum shall be paid to employees belonging to the following classes than as herein specified:

For bookkeepers, not to exceed.....	\$3,000
For stenographers, not to exceed.....	1,500
For draftsmen, not to exceed.....	2,400

The total annual expense for the highway department, exclusive of all outside employees and assistants and engineering and inspection work, shall not exceed the sum of \$150,000 per annum. None of such help or employees shall be required to possess any other qualifications than may be prescribed by the commissioner of highways.

The commissioner of highways, assistant, and such help and employees as may be so from time to time appointed or employed shall constitute and be known as the highway department.

Each of such help and employees as may be determined and designated by the commissioner of highways shall, before entering upon the duties of his office or employment, give bond to the state in such penal sum as may be determined upon by the commissioner of highways, to be approved by the governor and conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the trunk highway fund. The state, the several governmental subdivisions thereof, and any person damaged by any wrongful act or omission of said help or employees in the performance of his official duties may maintain an action on his bond for the recovery of the damages so sustained.

Subdivision 5. **Salaries and expenses paid from trunk highway fund.** The commissioner of highways shall maintain his office at the city of St. Paul. All salaries and expenses connected with the highway department shall be paid from the trunk highway fund.

[1921 c. 323 s. 12; 1937 c. 262 ss. 1, 2, 3] (2553)

161.03 POWERS OF COMMISSIONER OF HIGHWAYS. Subdivision 1. **General powers.** The commissioner of highways is empowered to carry out the provisions of the Constitution of the State of Minnesota, Article 16, Section 1; and is hereby authorized to acquire by purchase, gift, or condemnation, as provided by statute, all necessary right of way needed in laying out and constructing the trunk highway system, and to locate, construct, reconstruct, improve, and maintain such trunk highway system, to contract on an equitable basis with railroad companies for the construction of bridges and approaches necessary for the separation of grades at points of intersection between railroads and trunk highways, to let all necessary contracts therefor, and to purchase all needed road material, machinery, tools, and supplies necessary for the construction and maintenance thereof, and to purchase or rent grounds and buildings, necessary for the storing and housing of such material, machinery, tools, and supplies; and in carrying out the provisions of the Constitution of the State of Minnesota, Article 16, Section 1, is hereby authorized to expend out of trunk highway funds such portions thereof as may be available for the purposes herein provided, and there is hereby appropriated annually from such fund the entire amount thereof or so much as shall be necessary for the location, construction, reconstruction, improvement, and maintenance of the trunk highway system, including the cost of acquiring title to any needed right of way, and the cost of purchasing or renting grounds and buildings for such storage and housing, the purchase of the necessary road material, tools, machinery, and supplies for the construction and maintenance of said trunk highway system, and for the compensation of all persons employed and the necessary expenses incurred in the execution of such work, such expenditures to be made as provided in this chapter. The commissioner of highways shall continue under the provisions of Laws 1925, Chapter 426, as amended. Where any trunk highway runs to any inter-

MINNESOTA STATUTES 1945

1333

DEPARTMENT OF HIGHWAYS 161.03

state water forming the boundary between Minnesota and any other state and there connects with any interstate bridge across such boundary water or runs into any city or village situated on such water boundary and intersects any street thereof adjacent to and connecting with any such bridge, in every such case all that part of any such bridge within the limits of this state shall be considered a part of such trunk highway system except where any such bridge is owned by a private person or corporation or is operated as a toll bridge, and the commissioner of highways is authorized and directed to cooperate with the duly authorized authorities of such adjoining state in the maintenance, repair, construction, and reconstruction of any such bridge.

Subd. 2. Apportionment of trunk highway funds. On the first Tuesday of April, of each year, it shall be the duty of the commissioner of highways, the state auditor, and the state treasurer, following the transfer to the trunk highway fund of any surplus remaining in the trunk highway sinking fund, as provided in this chapter, to set aside from the total sum in the trunk highway fund:

(1) The proportion of expense of the department of highways to be borne by the trunk highway fund authorized by section 161.02, not to exceed \$150,000;

(2) The proportion of the trunk highway fund provided by chapters 160 to 165, to be set aside for maintenance;

(3) Such sum as may be found necessary for the payment of interest and principal on trunk highway bonds of the State of Minnesota or bonds issued by the State of Minnesota to take up maturing county bonds or county bonds assumed by the state under the Constitution of the State of Minnesota, Article 16; and

(4) Such sum as may be necessary to equal the total sum of the federal aid received from the United States government for road purposes in Minnesota.

Any sum remaining in the trunk highway fund after setting aside the sums hereinbefore mentioned, together with the sum set aside to meet the government aid, and the total amount received as government aid, excepting such portion of government aid as may be required to make connections on the federal aid system with adjoining states, shall constitute the portion of the trunk highway fund available for construction purposes for that year. The commissioner of highways is hereby authorized to use during the ensuing year for hard surface construction on the trunk highway not to exceed 20 per cent of such construction fund; provided, that he may, in his discretion, if the provisions of federal aid should so require as a condition precedent to receiving such aid, use an additional amount from such fund, not to exceed, in any event, an additional 13½ per cent from such construction fund in any one year. The remainder of such construction fund shall be used by him on the trunk highway system for the acquisition of right of way and for construction purposes on the trunk highway system, provided the same shall be expended among the various sections of the state in equitable proportions, as far as practicable, in the construction of the unfinished portions of the trunk highway. The commissioner of highways shall have authority to use for construction purposes on the unfinished portions of the trunk highway system any portion of the funds, set aside as herein provided, that shall not be needed as a part of the fund so set aside, and he is further authorized to use any portion of the trunk highway fund, set aside for maintenance in any one county, for construction purposes in such county when not needed for maintenance therein.

Whenever there shall be a surplus in the trunk highway fund which is not currently needed, the commissioner of highways shall certify to the state board of investment the amount thereof and when it will be needed for highway purposes. Upon receipt of the certification, the state board of investment may invest the amount so certified in bonds or securities of the United States of America, so conditioned as to be convertible into cash without discount through federal government agencies at the option of the state on or before the time when the proceeds will be needed as certified by the commissioner of highways. At or before the time so certified, except as the commissioner of highways may then certify that there is no current need therefor, the board shall proceed to cash such bonds or securities and shall deposit the proceeds in the trunk highway fund. All interest and profit accruing from the bonds or securities shall be credited to and be a part of the trunk highway fund.

Subd. 3. Practicable roads to be selected. Until such time as he may definitely locate and construct the several routes of the trunk highway system, he shall select

practicable roads along the general location of all other of the several routes, enumerated in the Constitution of the State of Minnesota, Article 16, which he shall maintain for the benefit of the traveling public, which routes shall be known as temporary trunk highways.

No portion of the trunk highway system lying within the corporate limits of any borough, village or city shall be constructed, reconstructed or improved unless the plans and specifications therefor shall be approved by the governing body of such borough, village or city before such work is commenced, nor shall the grade of such portion of the trunk highway system lying within such corporate limits be changed without the consent of the governing body of such borough, village or city.

Subd. 4. Temporary trunk highways. The commissioner of highways shall by order or orders designate such temporary trunk highway or highways, and when the definite location of any trunk highway or portion thereof has been by him determined, he shall designate the same by order or orders. The commissioner of highways may change the definite location of any trunk highway between the fixed termini, as fixed by law, when the interest of public safety and convenient public travel so require, and said changes shall be designated by order or orders. When the county board of any county interested asks for a public hearing with reference to the definite location of any trunk highway or any change in such definite location, a hearing shall be held by the commissioner within the section, county or counties interested before making any such definite location or any such change therein. Copies of such order or orders shall be certified by the commissioner of highways to the county auditor or auditors, of the county or counties wherein such highways are located.

Said county auditor or auditors shall receive and file any and all such order or orders or certified copies thereof. No such order or orders or certified copies thereof shall be removed from the office or offices wherein filed. Such counties or subdivisions thereof shall thereupon be relieved from responsibilities and duties thereon, provided that in case the definite location should be other than the location of the temporary trunk highway, the portion of such temporary location which is not included in the definite location shall, upon notice from the commissioner of highways, revert to the county or subdivision thereof originally charged with the care thereof, and when the commissioner of highways shall make a change in the location of a trunk highway that has been definitely located between the termini as fixed by law, in the interest of public safety and convenient public travel, then such portion of the existing road as shall no longer be a definitely located trunk highway shall revert to the county or subdivision thereof, originally charged with the care thereof, but where such road or any portion thereof so ceasing to be a trunk highway had its origin as a state trunk highway, it shall become a county road, unless the same lies within the corporate limits of any village, borough or city, in which event it shall become a street of such village, borough or city.

No such change as herein provided, except changes of a minor character, shall be made without the approval and consent of the attorney general.

Subd. 5. Marking design adopted. The commissioner of highways shall adopt a suitable marking design with which he shall mark or blaze the routes so selected, and as the definite final location of each route is opened to traffic the markings shall be changed to such location.

In order to coordinate the markings of the various existing routes, together with the new routes which hereby are or may be added, and in order to avoid duplication in numbers used on interstate routes, the commissioner of highways is authorized to revise and consolidate the marking and numbering of the routes within the system from time to time. When the commissioner of highways does so revise the marking or numbering he shall prepare a map showing the existing routes and identifying numbers and the routes and identifying numbers or design of the revised system. This map shall be authenticated by a certificate of the commissioner of highways certifying the same as being the map showing the revised markings under the provisions of this section. This map and certificate shall be filed in the office of the secretary of state and a duplicate thereof filed in the office of the commissioner of highways and thereafter shall govern the identification of the several routes or portions thereof in the trunk highway system and all proceedings, records, and accounts thereafter shall be governed accordingly. Proceedings pending

MINNESOTA STATUTES 1945

1335

DEPARTMENT OF HIGHWAYS 161.03

and under way at the time such map is filed shall cite both the old and the new identifications.

Subd. 6. Manner of conducting work on trunk highways. The commissioner of highways may conduct the work or any part thereof, incidental to the construction and maintenance of the trunk highways by labor employed therefor or by contract. In cases of construction work, the commissioner of highways shall first advertise for bids for contracts and, if no satisfactory bids are received, he shall have the right to reject all bids and readvertise or do the work by labor employed therefor. When work is to be let under contract he shall publish a notice to the effect, for three successive weeks prior to the date such bids are to be received, in such local newspaper or other periodicals as may be deemed advisable; provided, that in case of emergency requiring immediate action, contract may be awarded without published notice. Emergency shall be defined as the doing of such work on the highways of the state of Minnesota as is necessary for immediate action in order to maintain existing highways in a passable condition; provided, no emergencies shall be declared to exist except upon the written authority of the commissioner of highways or his deputy. Bids may be received between March first and June first each year and contracts not to exceed \$25,000 individually may be let for repairing and restoring trunk highways damaged by the spring breakup upon publication of notice for one week prior to the date such bids are to be received, and in addition thereto upon the mailing of such notices to all contractors who have filed a written request therefor. Where relief work is employed, payable out of federal funds in the construction or reconstruction of trunk highways, and where the state is the sponsor of such projects, also necessitating the use of trunk highway funds in order to complete such construction or reconstruction, the commissioner of highways is authorized to furnish supervision, equipment, equipment operators, materials, and such labor as is necessary therefor.

Subd. 7. Closing highways. When during the construction work on any trunk highways it may be necessary to prevent traffic from passing over any portion of such highway in order to avoid damage to the work under way the commissioner of highways is empowered to close such portions of the highway to any or all traffic by causing to be posted in a conspicuous manner at the ends of the portion of the highway so closed suitable signs warning the public that such road is closed under authority of law, and by the erection of suitable barricades, fences, dikes, or other obstructions. The driver or owner, or both, of any vehicle, self-propelled or otherwise, passing through, over, or around any such barricades, fences, or other obstructions so placed, or any person opening, removing, or defacing any such barricade, fence, or other obstruction or any such warning sign without written permission from the engineer in charge of the work, or any person wilfully, knowingly, or maliciously causing any damage to the work under construction, shall be guilty of a misdemeanor.

Subd. 8. Highway map published yearly. The commissioner of highways shall once each year publish a map showing the location and status of improvements of the trunk highway system.

Subd. 9. Files and records. The commissioner of highways shall be the custodian of and preserve the records of the state highway commission as heretofore constituted and of the official acts and determinations, which shall be denominated orders, made by himself or his predecessors in office. All of the files and records of the department of highways shall, under reasonable regulations, be open to public inspection, and copies thereof certified by the commissioner of highways as being true copies shall be received in evidence in any court in this state with the same force and effect as the originals. The attorney general shall be ex officio attorney for the commissioner of highways and give him such legal counsel, advice, and assistance as he may require from time to time.

Subd. 10. Books of account; examinations. The commissioner of highways shall keep accurate and complete books of account of such character as may be prescribed by the public examiner, the same to show in detail itemized receipts and disbursements of the trunk highway sinking fund and the trunk highway fund. The books of account shall show, and it shall be the duty of the public examiner to so prescribe, the following facts, among others:

(1) The expenses of maintaining the highway department, including the salaries and expenses of the individual members thereof;

MINNESOTA STATUTES 1945

(2) The amounts of money expended in each county of the state for the construction or maintenance of trunk highways, when, where, and upon what job or portion of road expended, so that the cost per mile of such construction or maintenance can be easily ascertained;

(3) The amount of road equipment and materials purchased, and when, where, and from whom purchased; these books shall show the price paid for each item; the original invoice shall form a part of the permanent files and records in the department of highways and be open to public inspection; and

(4) Any other moneys expended by the state in connection with any other roads than trunk highways, and when, where, and upon what portion of road so expended.

It shall be the duty of the public examiner to examine the books, accounts, records, and files of the department of highways at least twice every year and oftener if he thinks proper; a copy containing a summarized report of such audit shall be filed with the auditor of each county. No money derived from the one-mill road tax shall be expended on the trunk highway system except by action of the county board of the county to which such money may be allotted.

Subd. 11. Rules and regulations. The commissioner of highways shall from time to time make and adopt such rules and regulations for the location, construction, improvement, and maintenance of state aid roads as he shall deem suitable and which shall be printed and copies forwarded to the auditor of each county.

Subd. 12. Aid given to other departments. (a) The engineers and technical assistants shall give advice, assistance, and supervision with regard to road or highway construction and improvement throughout the state as may be required and as the rules and regulations of the commissioner of highways may prescribe and render such other engineering or surveying service as may be required by the governor for any of the state departments.

(b) The commissioner of highways may, at the request of the governing body of any county, make surveys and prepare plans for the location, construction or reconstruction of any bridge or road within said county and may supply technical and engineering advice and assistance to any county. The commissioner of highways shall have a claim against the county requesting the same for the cost thereof to reimburse the trunk highway fund and the commissioner of highways is hereby directed to file a verified claim against the county and to collect such claim from the county in the manner provided by law in the case of other claims against such county.

Subd. 13. Road materials; reports of. When practicable the commissioner of highways shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, and investigate the most approved laws in relation to roads in other states, and hold public meetings throughout the state when deemed advisable. On or before February first each year, he shall make a printed report to the governor stating the condition, management, and financial transactions of his department, including a statement of the expense incurred in maintaining such department; the number of miles of road built or improved during the preceding year and their cost; the general character and location of material suitable for road construction; the general character and needs of the roads of the state; and recommend such legislation as he deems advisable. Such report shall be transmitted by the governor to the legislature.

Subd. 14. [Repealed by 1945 c. 60 s. 1]

Subd. 15. Employees not to be interested in construction contracts. It shall be unlawful for any member or employee of the department of highways to be directly or indirectly interested in any contract for the construction or improvement of any road or bridge constructed or improved under the provisions of chapters 160, 161, 162, 163, and 164, or in any contract for the repair, purchase, or sale of any road machinery, equipment, materials, or supplies under the provisions of chapters 160, 161, 162, 163, and 164. Any such person violating any of the foregoing provisions shall be guilty of a gross misdemeanor.

Subd. 16. Manner of payments. In all cases of payments to be made, as herein authorized, by the commissioner out of the highway fund, the same shall be made in the following manner. The commissioner shall furnish verified abstracts of the same, prepared in triplicate, one of which shall be delivered to the state auditor, one to the state treasurer, and one to be retained by the commissioner of highways. Such abstract shall contain the name, residence, and the amount due each claimant, and designate the contract or purpose for which the payment is made.

The copy of the abstracts delivered to the state auditor shall be accompanied by the original voucher or vouchers, together with the proof of claim for each item included in such abstracts. If there be sufficient money in the proper fund, the state auditor shall issue his warrant upon the state treasurer for the gross amount shown by such abstract; and the state treasurer shall deliver checks to the several persons entitled thereto, as shown by such abstracts, and he shall preserve in his office a record of each check and remittance, showing the date of each issue, the name of the payee, and any other facts tending to evidence its payment.

Subd. 17. State may waive immunity from suit. When a controversy arises out of any contract for the construction or repair of state trunk highways entered into by the commissioner of highways or by his authority, in respect to which controversy the party would be entitled to redress against the state, either in a court of law or equity, if the state were suable, where no claim against the state has heretofore been made under Mason's Minnesota Statutes of 1927, Section 2554, Subsection 17, the state hereby waives immunity from suit in connection with such controversy and hereby confers jurisdiction on the district courts of the state to hear and try out such controversy in the manner provided for the trial of causes in the district courts.

Subd. 18. Action, when commenced. No such action shall be maintained under subdivision 17 unless commenced within 90 days after the plaintiff has been furnished by the state with a final estimate under his contract, or, at the election of the plaintiff, within six months after the work provided for in the contract shall have been in all things completed.

Subd. 19. Action may be brought in Ramsey county. Such action shall be brought, at the election of the plaintiff, in the district court of Ramsey county, or in the district court of the county where a major portion of the contract is performed, or in the district court of the county in which the plaintiff resides, or, if there be several plaintiffs residing in different counties, then in the district court of the county of the residence of any one of them. The action shall be commenced by filing a complaint with the clerk of the court and serving summons and copy of the complaint upon the attorney general of the state at the state capitol. The state shall have 40 days from the date of such service within which to serve an answer upon the plaintiff; and thereafter the case shall proceed in the same manner as other actions at law in the court.

Subd. 20. May appeal to the supreme court. An appeal from any final order of judgment in such action shall lie to the supreme court of the state in the same manner as appeals in ordinary civil actions.

Subd. 21. Number of highway patrolmen to be appointed. The commissioner of highways is hereby authorized to employ and designate not to exceed 126 and 151 persons during the first full calendar year after the cessation of hostilities in the present war as declared by proper federal authority and a chief supervisor, such assistant supervisors and sergeants as hereinafter provided to enforce the provisions of the law relating to the protection of and use of trunk highways, who shall have upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables, and police officers have within their respective jurisdictions, so far as may be necessary for the protection of life and property upon such trunk highways. Under instructions and regulations of the commissioner of highways, said employees shall cooperate with all sheriffs and other police officers, and to that end are authorized to exercise the powers herein conferred upon all trunk highways and, for the purpose of continuing pursuit from such trunk highways of offenders thereon, upon all public highways connecting and traversing such trunk highways, provided that said employees shall have no power or authority in connection with strikes or industrial disputes. Employees thus employed and designated shall subscribe an oath and furnish a bond running to the State of Minnesota, said bond to be approved and filed in the office of the secretary of state.

Subd. 22. Fines paid into separate fund; how used. All fines, from traffic law violations, collected from persons apprehended or arrested by such employees, shall be paid into the state treasury by the justice of the peace, or such other person or officer collecting such fines or instalments thereof, within 15 days after the last day of the month in which such fines were collected, and shall be credited to a separate fund hereby established for that purpose. Out of such fund shall first be paid to counties all costs and expenses incurred by them in the prosecution and punishment of persons so arrested and for which such counties have not been reimbursed by the

MINNESOTA STATUTES 1945

payment of such costs and expenses by the person prosecuted, and so much of the fund as shall be necessary for the making of such reimbursement is hereby appropriated therefor. Such payment shall be made by the state treasurer upon the claim of the county verified by the county auditor. On the first day of each calendar month the money remaining in such fund shall be credited to that part of the trunk highway fund which is set apart for maintenance purpose; and so much of the maintenance fund as shall be necessary for the salaries and maintenance of such employees is hereby appropriated for that purpose.

Subd. 23. Salaries of patrolmen. (1) Commencing July 1, 1945, each such employee other than the chief supervisor, assistant supervisors and sergeants hereinafter designated shall be known as patrolmen, each of which shall receive a basic salary of not less than \$160 per month and shall receive an annual raise of \$5.00 per month for each succeeding year of employment, such term of employment to be computed from commencement of employment by such individual employee, except that the basic salary of no patrolman shall exceed the sum of \$200 per month, and in addition thereto each such individual employee shall be paid not less than \$1.00 per day for subsistence while in the performance of his duty.

(2) Where the then basic monthly salary of a patrolman is in excess of \$150 but not greater than \$200, his basic monthly salary on July 1, 1945, shall be determined by adding to \$160 the amount of such excess, unless the amount thus obtained exceeds \$200, in which case his basic monthly salary shall be fixed at that amount.

(3) As a cost of living adjustment for the fiscal years ending June 30, 1946, and June 30, 1947, there shall be added to the basic monthly salary of each patrolman, as determined under the provisions of clause (2) of this subdivision, the sum of \$24.00.

(4) The salary of one chief supervisor shall be in such amounts as may be fixed by the commissioner of highways, but not to exceed \$4,200 per year.

(5) There may be appointed one assistant chief supervisor who shall receive a salary of \$3,498 per annum; two assistant supervisors who shall each receive a salary of \$3,168 per annum; five assistant supervisors who shall each receive a salary of \$2,970 per annum; and there may be appointed six sergeants, each of whom shall receive a salary of \$2,640 per annum. The basic monthly salaries of the assistant chief supervisor, each of the assistant supervisors, and each of sergeants, commencing July 1, 1945, shall be fixed by the commissioner of highways. In the event such last mentioned six sergeants are appointed, the vacancies thereby created among the patrolmen shall not be filled. In addition thereto, each individual supervisor and sergeant, except the chief supervisor, shall be paid not less than \$1.00 per day for subsistence while in the performance of his duty. The supervisors and sergeants shall be appointed by and have such duties as the commissioner of highways may direct and shall be selected from the patrolmen, sergeants and supervisors who shall have had at least three years' experience as either patrolmen, sergeants or supervisors.

(6) As a cost of living adjustment for the fiscal years ending June 30, 1946, and June 30, 1947, there shall be added to the basic monthly salary of each employee referred to in clause (5) of this subdivision, as fixed by the commissioner of highways, to become effective July 1, 1945, the sum of \$24.00.

(7) Every person employed hereunder shall be subject to the terms and provisions of Laws 1935, Chapter 254, and acts amendatory thereof.

Subd. 24. Highway maintained across portion of adjoining state. When a state trunk highway route is so located that in order to properly connect the designated objectives it is advisable to construct and maintain the highway across a portion of an adjoining state, the commissioner of highways is authorized to expend trunk highway funds therefor in the same manner as other expenditures for trunk highway purposes are made.

Subd. 25. To cooperate with United States government. The commissioner of highways is authorized to cooperate with the government of the United States and any agency or department thereof in the construction, improvement, and maintenance of roads and bridges in the state of Minnesota and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such roads and bridges.

Subd. 26. May accept federal moneys. The commissioner of highways is authorized to accept federal moneys and other moneys, either public or private, for and in behalf of the state of Minnesota or any governmental subdivision thereof, for the construction, improvement, or maintenance of roads and bridges upon such

MINNESOTA STATUTES 1945

1339

DEPARTMENT OF HIGHWAYS 161.03

terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and is authorized to act as an agent of any governmental subdivision of the state of Minnesota upon the request of such subdivision in accepting such moneys in its behalf for road or bridge purposes, in acquiring right of way therefor, and in contracting for the construction, improvement, or maintenance of roads or bridges financed either in whole or in part by federal moneys, and the governing body of any such subdivision is authorized to designate the commissioner of highways as its agent for such purposes and to enter into an agreement with him prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations, and with subdivisions 25 to 29 of this section.

Subd. 27. State laws to govern. All contracts for the construction, improvement, or maintenance of roads or bridges made by the commissioner of highways as the agent of any governmental subdivision shall be made pursuant to the laws of the state of Minnesota governing the making of contracts for the construction, improvement, and maintenance of roads and bridges on the trunk highway system of the state; provided, where the construction, improvement or maintenance of any road or bridge is financed wholly with Federal moneys, the commissioner of highways as the agent of any governmental subdivision may let contracts in the manner prescribed by the Federal authorities acting under the laws of the United States and any rules or regulations made thereunder, notwithstanding any state law to the contrary.

Subd. 28. Funds to be deposited in state treasury. All moneys accepted for disbursement by the commissioner of highways pursuant to the terms of subdivisions 25 to 29 shall be deposited in the state treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available to be expended in accordance with federal laws and regulations and with subdivisions 25 to 29. The commissioner of highways is authorized, whether acting for the state of Minnesota or as the agent of any of its governmental subdivisions, or when requested by the United States government or any agency or department thereof, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Subd. 29. No personal liability created. Nothing in subdivisions 25 to 29 shall be construed as creating any personal liability upon the commissioner of highways or in any way authorizing him to create any liability on the part of the state of Minnesota when he is acting as the agent of any governmental subdivision thereof, or when he is acting at the request of the United States.

Subd. 30. Snow removal for political subdivisions of state. The commissioner of highways may, at the request of any county board or the governing body of any political subdivision of the state, any governmental agency, school district, or public sanatorium, furnish and operate snow removal equipment and furnish necessary men to operate such equipment to remove snow upon public highways other than trunk highways in this state. Upon completion of such work the state shall have a claim against the county, city, village, borough, town, or school district requesting such snow removal to reimburse the trunk highway fund; and the commissioner of highways is hereby directed to file a verified claim and to collect it against the political subdivision, governmental agency, school district, or public sanatorium in the manner provided by law in the case of other claims against such governmental subdivision or agency.

Subd. 31. Commissioner to procure insurance. The commissioner of highways is authorized to procure on the open market a policy of insurance covering the payment of benefits accruing under the Workmen's Compensation Act to employees of the department of highways engaged in work off the trunk highway system pursuant to any agreements made for such work by the commissioner of highways with any political subdivision or agency of the state.

Subd. 32. Payment of premium; reimbursement. The commissioner of highways is hereby authorized to pay the premiums for any said policy of insurance out of the trunk highway fund. The political subdivision or agency of the state for whom work is performed by employees of the department of highways pursuant to any agreement therefor made with the commissioner of highways shall pay to the

MINNESOTA STATUTES 1945

trunk highway fund that portion of the premium for said policy of insurance directly attributable to the work performed for it.

[1921 c. 323 s. 13; 1923 c. 439; 1925 c. 341; 1927 c. 227 s. 3; 1929 c. 355 s. 1; 1931 c. 44 s. 1; 1933 c. 440 ss. 3, 5; 1935 c. 42 s. 1; 1935 c. 63 ss. 1, 2; 1935 c. 304; Ex. 1936 c. 17 s. 1; 1937 c. 30 s. 1; 1937 c. 131 s. 1; 1937 c. 262 ss. 4, 5; 1937 c. 490 s. 1; 1939 c. 277; 1939 c. 313; 1939 c. 400; 1941 c. 175; 1941 c. 345 ss. 1, 2, 3, 4, 5; 1941 c. 369; 1941 c. 456 ss. 1, 2, 3, 4; 1943 c. 3 s. 1; 1943 c. 90 s. 1; 1943 c. 315 ss. 1, 2; 1943 c. 623 s. 1; 1945 c. 60 s. 1; 1945 c. 61 s. 1; 1945 c. 77 s. 1; 1945 c. 89 s. 1; 1945 c. 253 ss. 1, 2; 1945 c. 422 s. 1; 1945 c. 516 s. 1] (2554)

161.035 CONTINGENT FUND. The state auditor and the state treasurer are hereby authorized and directed to continue to make available to the department of highways out of moneys in the state treasury appropriated for trunk highway purposes the sum of \$5,000, or such lesser amount as the commissioner of highways may request to be used by said department as a contingent fund, subject to such rules and regulations for its use as may be prescribed by the commissioner of administration.

The commissioner of highways is hereby authorized to use the moneys in the contingent fund for trunk highway purposes in facilitating and expediting the business of the department of highways, particularly in the handling of garnishments, emergency labor payrolls, expense accounts of employes, and in departmental litigation, and all acts of the commissioner of highways heretofore performed in the use of said fund are hereby in all things recognized and confirmed.

[1943 c. 92]

161.04 GOVERNMENT WAR MATERIALS. The commissioner of highways is hereby authorized to accept from the federal government allotments to the state of excess war materials suitable for road construction and maintenance purposes and to provide for the use of same in the improvement and maintenance of roads in the state.

The commissioner of highways is hereby authorized to pay the necessary expense incurred in receiving, placing in use, or delivering such excess war materials from the federal government and to pay for the expense so incurred from the trunk highway fund; provided, that any expense so incurred in receiving and delivering materials which may be loaned to counties shall be charged to the counties receiving such materials and payment by the county shall be credited to the trunk highway fund.

The commissioner of highways is hereby authorized to buy such supplies and equipment as may be necessary to carry out the provisions of chapters 160 to 164 and to purchase and supply extra parts for excess war materials as may be required to furnish an adequate supply depot for proper upkeep of such materials and to charge the expense thereof to the trunk highway fund; provided, that such extra parts and equipment as are furnished to counties shall be delivered at cost and payment by the counties shall be credited to the trunk highway fund.

[1921 c. 323 s. 14] (2555)

161.05 TOLL BRIDGE MAY BE PART OF TEMPORARY TRUNK HIGHWAY SYSTEM. The commissioner of highways, if and when he shall deem and determine that it is to the best interests of the public and necessary in the location, construction, improvement, or maintenance of any trunk highway, is hereby authorized and empowered to designate by order as a part of the temporary trunk highway system any toll bridge situated wholly within the state and to acquire by purchase, gift, or condemnation, as provided by statute, such public rights or easement on behalf of the state in, to, or over any such toll bridge as will enable the public to use any such bridge for highway traffic free of toll.

[1937 c. 218 s. 1] (2554-3)

161.06 RELINQUISHMENT OF HIGHWAY EASEMENTS. The governor, in behalf of the state, may, upon recommendation of the commissioner of highways and upon repayment to the state for deposit in the trunk highway fund of any moneys paid for the acquisition thereof, relinquish and quitclaim to the fee owner any easement or portion thereof owned but no longer needed by the state for trunk highway right of way purposes, or may quitclaim to any person the fee title to any

lands owned by the state for trunk highway right of way purposes but no longer needed for such purposes. When less than the entire easement or part of the fee title of any such land owned by the state is to be relinquished and quitclaimed the amount of moneys so to be repaid or paid to the state shall not be a less proportion of the consideration paid therefor by the state than the proportion of the area or estate of the part so to be relinquished and quitclaimed bears to the area or estate of the entire easement or estate.

[1929 c. 287 s. 1] (2554-1)

161.07 STATE PATROLMAN MAY BE DISCHARGED. Every person employed and designated as a state highway patrolman under and pursuant to the provisions of section 161.03, after six months of continuous employment, shall continue in service and hold his position without demotion, until suspended, demoted, or discharged in the manner hereinafter provided for one or more of the causes specified in section 161.08.

[1935 c. 254 s. 1] (2554½)

161.08 CAUSES FOR DISCHARGE. Causes for suspension, demotion, or discharge shall be:

- (1) Conviction of any criminal offense in any court of competent jurisdiction subsequent to the commencement of such employment;
- (2) Neglect of duty or wilful violation or disobedience of orders or rules;
- (3) Inefficiency in performing duties;
- (4) Immoral conduct or conduct injurious to the public welfare, or conduct unbecoming an officer; or
- (5) Incapacity or partial incapacity affecting his normal ability to perform his official duties.

[1935 c. 254 s. 2] (2554½a)

161.09 CHARGES MUST BE WRITTEN. Charges against any state highway patrolman shall be made in writing and signed and sworn to by the person making the same, which written charges shall be filed with the commissioner of highways. Upon the filing of same, if the commissioner shall be of the opinion that such charges constitute a ground for suspension, demotion, or discharge, he shall order a hearing to be had thereon and fix a time for such hearing. Otherwise he shall dismiss the charges. At least ten days before the time appointed for the hearing, written notice specifying the charges filed and stating the name of the person making the charges, shall be served on the employee personally or by leaving a copy thereof at his usual place of abode with some person of suitable age and discretion then residing therein. If the commissioner of highways orders a hearing, he may suspend such employee pending his decision to be made after such hearing.

[1935 c. 254 s. 3] (2554½b)

161.10 WITNESSES MUST ATTEND HEARING; DECISION; PUNISHMENT. The commissioner of highways shall have power to compel the attendance of witnesses at any such hearing and to examine them under oath, and to require the production of books, papers, and other evidence at any such hearing, and for that purpose may issue subpoenas and cause the same to be served and executed in any part of the state. The employee accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf, and to be represented by counsel at such hearing. The commissioner of highways, within 25 days after such hearing, shall render his decision in writing and file the same in his office. If after such hearing he finds that any such charge made against such state employee is true, he may punish the offending party by reprimand, suspension without pay, demotion, or dismissal.

[1935 c. 254 s. 4] (2554½c)

161.11 RIGHT OF APPEAL. Any state highway patrolman who is so suspended, demoted, or dismissed may have such decision or determination of the commissioner of highways reviewed by a writ of certiorari in the district court of the county where such patrolman resides. If such decision or determination of the commissioner of highways shall be finally rejected or modified by the court, the

MINNESOTA STATUTES 1945

161.12 DEPARTMENT OF HIGHWAYS

1342

patrolman shall be reinstated in his position and the commissioner of highways shall pay to the patrolman so suspended out of the funds of the state the salary or wages withheld from him pending the determination of the charges or as may be directed by the court. If upon any such hearing the commissioner of highways shall find the charges made against such patrolman are not true or dismiss such charges after such hearing, such patrolman shall be reinstated in his position and any salary or wages withheld from him pending the determination or decision of the commissioner of highways upon such charges shall be paid to such patrolman by the commissioner of highways out of state funds.

[1935 c. 254 s. 5] (2554½d)

161.12 APPLICATION. Sections 161.07 to 161.12 shall apply to all persons employed and designated under and pursuant to section 161.03, except the chief supervisor of the state highway patrol.

[1935 c. 254 s. 6] (2554½e)

161.13 PUBLIC UTILITIES AND WORKS ON TRUNK HIGHWAYS. Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat or gas mains, flumes or other structures, which, under the laws of this state or the ordinance of any village or city, may be constructed, placed, or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such regulations as may be prescribed by the commissioner of highways, who shall have power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across, or in any such trunk highway of any of the utilities hereinbefore set forth. Nothing herein shall restrict the actions of public authorities in extraordinary emergencies.

[1921 c. 323 s. 17] (2558)

161.14 LOGGING RAILROADS ACROSS PUBLIC HIGHWAYS. The commissioner of highways, in respect to trunk highways, and the county board, in respect to all other public highways, are hereby authorized and empowered to grant to the owner of any logging railroad permission to locate, construct, and maintain for such period as such officer or board may determine a logging railroad across any public highway in this state.

[1927 c. 288 s. 1] (2558-1)

161.15 LOGGING RAILROADS; PERMITS; CONSTRUCTION; REMOVAL. Such permit shall specify the place at which such railroad shall cross the public highway, the time for which it may be maintained thereon, which shall in no case exceed five years, the manner of its construction and maintenance, and the measures that shall be taken for the protection of the highways and of the public using such highway.

The construction and maintenance of such railroad crossing shall be under the supervision and control of the officer or body granting such permit.

The person to whom such permit is granted shall, at the expiration of the time therein limited or at such earlier time as such crossing is not longer necessary, remove such railroad therefrom and restore the highway to such condition as the authority granting such permit shall require.

[1927 c. 288 s. 2] (2558-2)

161.16 BONDS FOR CONSTRUCTION OF LOGGING RAILROADS. Every person to whom such permit is granted shall execute and deliver to the commissioner of highways, or to the county board, as the case may be, a good and sufficient surety bond in such sum as shall be fixed by the authority granting such permit, conditioned for the compliance with and performance of all of the terms and conditions of such permit and of sections 161.14 to 161.17.

[1927 c. 288 s. 3] (2558-3)

161.17 HIGHWAYS IN CITIES, VILLAGES, OR BOROUGHS EXCEPTED. The provisions of sections 161.14 to 161.17 shall not apply to any public highway within the corporate limits of any city, village, or borough.

[1927 c. 288 s. 4] (2558-4)

MINNESOTA STATUTES 1945

1343

DEPARTMENT OF HIGHWAYS 161.18

161.18 CERTAIN RECORDS FILED IN OFFICE OF COMMISSIONER OF HIGHWAYS. Upon the written request of the commissioner of highways, the clerk of any court, the auditor of any county, the clerk of any town, or the recorder or clerk of any village, borough, or city, shall furnish a copy of the proceedings, documents, and plats, if any, relating to the establishment of any road or the procuring of the right of way of any such road, which has or may be taken over by the State of Minnesota as a trunk highway. Such copy shall be filed in the records of the commissioner of highways and be prima facie evidence of the existence of such road as described therein. The legal fee for such copies may be paid from the trunk highway fund.

[1921 c. 323 s. 53] (2593)