

*Leon Aufander*

REFERENCE TITLE: Bicycle and Foot Pathways

State of Arizona  
Senate  
Thirtieth Legislature  
Second Regular Session

*Michael Posner*

*Tom Kruke*

S. B. 1175

*Keith Peak*

*Bill McCune*  
*Roy Everett*

*Joe Blough*  
*Mark*

*Low Jink*  
*Roy Kottler*  
*Landy Camping*

Introduced by

*Sandra O'Connor*

*Harold S. Baldwin*  
*AN ACT*

*Richard Burgess*

*Joe Carillo*  
*Douglas Holstein*  
*John M. Dwyer*  
*to read:*

RELATIVE TO HIGHWAYS; PROVIDING FOR THE DESIGN AND CONSTRUCTION OF BICYCLE AND FOOT PATHWAYS BY THE STATE AND ITS POLITICAL SUBDIVISIONS; AMENDING SECTIONS 18-106, 18-132, 18-155 AND 28-1502, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION AND PROVIDING FOR CONDITIONAL ENACTMENT.

It enacted by the Legislature of the State of Arizona:

Section 1. Section 18-106, Arizona Revised Statutes, is amended

*Jay Stuber*

18-106. Powers and duties of commission

The commission shall:

- 6 1. Lay out and establish a complete system of state routes and
- 7 issue a map showing such routes.
- 8 2. Determine which state routes or portions thereof shall be
- 9 accepted as state highways, and which state routes or portions thereof
- 10 shall be improved at the expense of the state.
- 11 3. Direct the state highway director to establish, open, re-
- 12 locate, alter, widen, change, vacate or abandon any portion of the
- 13 state route or state highway.
- 14 4. Pass upon projects submitted by the director for construction
- 15 in cooperation with the United States, and authorize the director or
- 16 his authorized and bonded agent to negotiate and enter into contracts
- 17 on behalf of the state with the United States for the cooperative
- 18 construction and maintenance of federal aid highways within the state.

*Billy Beckwith*  
*John Maynard*

*Michael Posner*

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- 1           5. Authorize the director to enter into agreements on behalf  
2 of the state with counties, cities, towns or road districts for the  
3 improvement or maintenance of state routes, or for the joint im-  
4 provement or maintenance thereof, and to enter into contracts for  
5 the construction of state highways.
- 6           6. LAY OUT AND ESTABLISH A SYSTEM OF BICYCLE AND FOOT PATHWAYS  
7 ADJACENT TO CERTAIN STATE HIGHWAYS AND PROVIDE FOR THE PLANNING, EN-  
8 GINEERING, CONSTRUCTION AND MAINTENANCE OF SUCH PATHWAYS.
- 9           6. 7. Prescribe rules and regulations for the expenditure,  
10 by or under the direction of the director, of all money in the state  
11 highway fund.
- 12           7. 8. Exercise complete and exclusive control and jurisdiction  
13 of the state highways, ADJACENT BICYCLE PATHWAYS AND FOOT PATHWAYS,  
14 and prescribe such rules and regulations to govern the use of state  
15 highways AND SUCH ADJACENT PATHWAYS as it deems necessary for public  
16 safety and convenience, and to prevent the abuse and unauthorized use  
17 of the highways AND PATHWAYS.
- 18           8. 9. Prescribe standard board and road signs, or other devices,  
19 and provide a uniform system of marking and signaling on state routes,  
20 and state highways, AND ADJACENT PATHWAYS which shall correlate with  
21 and so far as possible conform to the system as approved by the  
22 American association of state highway officials, and regulate the use  
23 of advertising signboards and road signs on state roads, or state  
24 highways OR PATHWAYS.
- 25           9. 10. Prescribe rules and regulations for closing state  
26 highways under construction or repair.
- 27           10. 11. Prescribe the qualifications of employees of the  
28 department, and inquire into their official conduct.
- 29           11. 12. Require from the director complete information con-  
30 cerning the work under his charge, and require him to make such  
31 special investigations and compile such special data as it deems  
32 of value to the department.
- 33           12. 13. Supervise and administer, through the director, the

1 motor vehicle division of the department, and adopt upon recommendation  
2 of the director rules and regulations for the collection of taxes and  
3 license fees required to be paid into the vehicle division.

4 ~~13.~~ 14. Enter into agreements with the governor for the labor  
5 upon highways by inmates of the state prison, or other state institu-  
6 tions, but prison labor shall not be contracted to private persons.

7 ~~14.~~ 15. Provide for assembling and distributing information  
8 to the public relating to the highways, PATHWAYS and activities of  
9 the department.

10 ~~15.~~ 16. Exercise such other powers and duties necessary to  
11 carry out fully the provisions of this section, and in general ex-  
12 ercise powers and duties which relate to adopting and carrying out  
13 policies of the department and control of its financial affairs.

14 Sec. 2. Section 18-132, Arizona Revised Statutes, is amended  
15 to read:

16 18-132. Authorized uses of fund; preferences; investment

17 A. The highway fund shall be used for the following purposes  
18 in strict conformity with and subject to the budget as provided by  
19 this section and by sections 18-133 through 18-137:

20 1. To pay salaries, wages, necessary travel and other expenses  
21 of officers and employees of the department, and the incidental office  
22 expenses, including telegraph, telephone, postal and express charges  
23 and expenses for printing, stationery and advertising.

24 2. To pay for equipment, supplies, machines, tools, division  
25 offices and laboratories established by the department, and for the  
26 construction and repair of buildings or yards of the department.

27 3. To pay the cost of engineering, construction, improvement  
28 and maintenance of state highways, BICYCLE PATHWAYS ADJACENT TO STATE  
29 HIGHWAYS and parts of highways forming state routes, and of highways  
30 under cooperative agreements with the United States, entered into as  
31 provided by this chapter and pursuant to an act of congress providing  
32 for the construction of rural post roads.

33 4. To pay land damages incurred by reason of establishing,

1 opening, altering, relocating, widening or abandoning portions of a  
2 state route, or state highway OR PATHWAY ADJACENT TO A STATE HIGHWAY.

3 5. To reimburse the department revolving account.

4 6. To pay premiums upon authorized indemnity bonds, and upon  
5 compensation insurance under the workmen's compensation act.

6 7. To defray lawful expenses and costs required to administer  
7 and carry out the intent, purposes and provisions of this title, and  
8 to pay lawful bills and charges incurred by the state engineer.

9 8. When expending money from the fund, the commission shall  
10 give preference to the requirements of the budget in the following  
11 order:

12 1. Maintenance of existing portions of the seven per cent  
13 system.

14 2. Maintenance of existing state highways not included in the  
15 seven per cent system.

16 3. Construction of highways in cooperation with the United  
17 States.

18 4. Taking over and constructing other state highways.

19 C. Reconstruction or replacement of existing highways damaged  
20 or destroyed by acts of God or other sudden or unexpected causes, shall  
21 be given preference accorded maintenance expenditures in accordance  
22 with the order named in subsection B of this section.

23 D. The director or his designated agent, with the consent and  
24 approval of the highway commission, and the advice of the state  
25 treasurer, may invest inactive deposits in the highway fund in United  
26 States government bonds or interest bearing notes and other interest  
27 bearing obligations of the United States for which the full faith  
28 and credit of the United States are pledged. All interest earned  
29 on highway funds shall be credited by the state treasurer to the  
30 highway fund.

31 Sec. 3. Section 18-155, Arizona Revised Statutes, is amended  
32 to read:  
33

1           18-155. Purchase, sale or condemnation of land for  
2                           highway purposes

3           A. The commission, in the name of the state, may acquire,  
4 either in fee or a lesser estate or interest, real property which  
5 it considers necessary for highway purposes, by purchase, donation,  
6 dedication, exchange, condemnation or other lawful means from the  
7 state highway fund. Property acquired for such purposes shall in-  
8 clude lands or any interest therein considered necessary for rights  
9 of way or camp sites, roadside rest areas, BICYCLE OR FOOT PATHWAYS,  
10 water or material needed in the construction, improvement or main-  
11 tenance of state highways or other property under the jurisdiction,  
12 possession or control of the commission, or for spoil banks, rock  
13 quarries, gravel pits, sand or earth borrow pits, or for rights of  
14 way to the place where material required in the construction, im-  
15 provement or maintenance of state highways may be located, for offices,  
16 shops, maintenance camps, storage yards, inspection or weighing sta-  
17 tions, radio transmitter or repeater stations, and for rights of way  
18 for access to such location.

19           B. Whenever a part of a parcel of land is to be taken for state  
20 highway purposes and the remainder is to be left in such shape or con-  
21 dition as to be of little value to its owner, or to give rise to  
22 claims or litigation concerning severance or other damage, the whole  
23 parcel may be acquired by any means provided in subsection A of this  
24 section, and the remainder may be sold or may be exchanged for other  
25 property needed for state highway purposes.

26           C. The right of eminent domain may be exercised by the state  
27 for such purposes and the court in which the action is pending shall  
28 give the action precedence over other civil actions. Whenever prop-  
29 erty which is devoted to or held for some public use other than  
30 existing street or highway uses for which the power of eminent domain  
31 might be exercised is to be taken for state highway purposes, the  
32 commission may, with the consent of the person or agency in charge  
33 of such public use, purchase real property or an interest therein to

1 be exchanged with such person or agency for the real property so to  
2 be taken for state highway purposes. This section does not limit  
3 the authorization to the department to acquire, other than by ex-  
4 change, property for such purposes, or to acquire directly, by  
5 condemnation, purchase or otherwise, without such exchange, prop-  
6 erty held for some other public use by any lawful means set forth  
7 in subsection A of this section.

8 D. The authority conferred by this section to acquire real  
9 property for state highway purposes includes authority to acquire  
10 for future needs provided the commission has an adopted and approved  
11 route plan for said state highway showing a reasonable need for such  
12 property. The commission is authorized to lease or let at fair  
13 rental value any lands which are held for state highway purposes and  
14 are not presently needed therefor on such terms and conditions as the  
15 commission may fix and to maintain and care for such property in order  
16 to secure rent therefrom on terms consistent with this section. Rents  
17 received from property acquired in which federal funds participated in  
18 the cost of acquisition shall be deposited in the state highway fund.  
19 Twenty-four per cent of all other rent so received shall be deposited  
20 in the highway properties rental fund in the state treasury, which  
21 fund is hereby created. The balance of such rents shall be deposited  
22 in the state highway fund. Income received from rentals under this  
23 section shall be credited to the budgetary item from which the prop-  
24 erty was acquired.

25 E. Whenever it is determined by the commission that any rental  
26 revenue collected under the provisions of this section represents  
27 overpayment or payment in duplicate, the commission may authorize  
28 the refund of such overpayment or payment in duplicate from the  
29 highway properties rental fund and the state highway fund.

30 F. The commissioner of finance shall, not later than the first  
31 day of November next following the close of any fiscal year after the  
32 effective date of this section, pay the rents deposited in the highway  
33 properties rental fund to the county asses.or in the county in which  
34 such real property is situated. The commission shall certify to the

1 commissioner of finance the amount of such rentals attributable to  
2 each county and shall notify each county of the rental and location  
3 of each piece of rental property for which rents are deposited in  
4 the fund. The county assessor shall distribute any payment received  
5 by him pursuant to this section to the county, to each revenue dis-  
6 trict for which the county assesses and collects real property taxes  
7 or assessments, and to every other taxing agency within the county  
8 in which the property is situated. The amount distributable to the  
9 county and each such revenue district or other taxing agency shall  
10 be proportionate to the ratio which the amount of the taxes and as-  
11 sessments of each on similar real property similarly situated with-  
12 in that part of the county embracing the smallest in area of the  
13 revenue districts or other taxing agencies other than the county,  
14 levied for the fiscal year next preceding, bears to the combined  
15 amount of the taxes and assessments of all such districts and  
16 agencies, including the county, on such property levied for that  
17 year. The county assessor shall determine and certify the amounts  
18 distributable to the board of supervisors, which shall thereupon  
19 order the making of the distribution. Any money distributed pur-  
20 suant to this section to any county, revenue district or other  
21 taxing agency shall be deposited to the credit of the same fund  
22 as any taxes or assessments on any taxable similar real property  
23 similarly situated. Where a county receives a payment pursuant  
24 to this section in the amount of twenty-five dollars or less in  
25 respect to any parcel or leased property, all of such payment shall  
26 be distributed to the county for deposit in the county general fund.  
27 The money received by the respective jurisdictions under this sec-  
28 tion may be expended by them for any proper public purpose not pro-  
29 hibited by the state constitution.

30 G. The commission may dispose of real property or any right,  
31 title or interest therein, when it determines that it is no longer  
32 needed or used for highway purposes. Rights of way and roadways  
33 shall be disposed of or may be used as provided in title 18, chapter

1 5, article 1, except that the highway commission may after the  
2 establishment, laying out or substantial completion of a highway  
3 improvement, convey out any such real property or any interest  
4 therein which was acquired pursuant to subsection D above and which  
5 it determines is not necessary for such improvement. Such con-  
6 veyance shall be made to the highest and most responsible bidder  
7 at a public sale held for that purpose. Such sale may be made for  
8 cash or on terms of not less than twenty percent down with balance  
9 payable in annual installments for ten years, the unpaid balance  
10 thereof to bear interest at the rate of six percent per annum.  
11 The commission may execute all deeds or conveyances necessary to  
12 convey any real property or interest therein to be sold or exchanged  
13 under the provisions of this section. The commission may insert in  
14 any such deed or conveyance such conditions, covenants, exceptions  
15 and reservations as it deems to be in the public interest or may  
16 convey in fee simple absolute. It shall be conclusively presumed  
17 in favor of any purchaser for value and without notice of any real  
18 property or interest therein conveyed pursuant to the provisions of  
19 this section that the department acted within its lawful authority  
20 in acquiring the property, and that the commission acted within its  
21 lawful authority in executing any deed or conveyance or lease au-  
22 thorized by this section.

23 H. The commission may at any time prior to payment of the  
24 compensation and damages awarded the defendants by the court or  
25 jury abandon the proceedings and cause the action to be dismissed  
26 without prejudice provided, however, that the court may require  
27 that reasonable attorneys' fees, expert witness fees and the costs  
28 be paid as a condition of dismissal.

29 I. The commission shall justify each acquisition or disposal  
30 of real property under this section by at least one appraisal report,  
31 in sufficient scope to document and justify the economic basis for  
32 the acquisition or disposal.

33 J. None of the provisions of this section are intended to



1 limit, or shall limit, the provisions of any other section, each of  
2 which is a distinct and separate authorization.

3 Sec. 4. Section 28-1502, Arizona Revised Statutes, is amended  
4 to read:

5 28-1502. Payment; distribution of proceeds

6 A. The license tax accrued in any calendar month shall be paid  
7 on or before the twenty-fifth day of the next succeeding calendar  
8 month to the vehicle superintendent, who shall promptly make the  
9 distribution pursuant to section 28-1502.01 of the amount of money  
10 collected as a license tax on sales of motor vehicle fuel used in  
11 propelling watercraft commencing with the month following the con-  
12 clusion of the survey conducted pursuant to section 28-1502.01,  
13 and then shall promptly pay seven tenths of all remaining monies  
14 to the state treasurer to be placed in the highway fund, and three  
15 tenths thereof to the several county treasurers, in the proportion  
16 that the sale of motor vehicle fuel in such county bears to the  
17 total sales of motor vehicle fuel throughout the state. The su-  
18 perintendent shall deduct all exemptions and refunds before making  
19 the division.

20 B. Two thirds of the money distributed to the counties shall  
21 be retained by the counties for the purposes set forth in this ar-  
22 ticle, and the balance forthwith paid by each of the county treasurers  
23 to the several incorporated cities and towns within the boundaries of  
24 the county in proportion to their population as shown by the most  
25 recent United States census. If there is no incorporated city or  
26 town in a county, the amount allocated thereto shall revert to the  
27 county for the purposes provided by this article.

28 C. The tax accruing to the incorporated cities and towns shall  
29 be used by them as may be determined by the governing bodies thereof  
30 solely for improvement, construction, reconstruction or maintenance  
31 of municipal streets and highways, BICYCLE PATHWAYS, FOOT PATHWAYS  
32 and administrative expenses in connection therewith, including re-  
33 tirement of bonds issued after November 25, 1946, for the payment of

1 which such revenues have been pledged, and for no other purposes. The  
2 tax so accruing to the incorporated cities and towns shall be kept in  
3 a separate fund and may be allowed to accumulate from year to year and  
4 shall not be subject to the provisions of article 4 of chapter 2,  
5 title 42.

6 D. The tax accruing to the counties shall be used by the counties  
7 as determined by the boards of supervisors thereof, for the construction,  
8 improvement or maintenance of county highways, BICYCLE PATHWAYS, FOOT  
9 PATHWAYS or bridges, or for the retirement of outstanding county high-  
10 way bonds, or the payment of interest thereon.

11 Sec. 5. Appropriation; purpose; exemption

12 A. The sum of sixty thousand dollars is appropriated to the  
13 state highway department for the purpose of making a study, to be  
14 available and completed by February 15, 1973, resulting in specific  
15 findings and recommendations to the state and its political subdivi-  
16 sions concerning the most economical, aesthetic and practical plan-  
17 ning, design, construction and maintenance of the bicycle and foot  
18 pathways provided for by the provisions of this act. All state,  
19 county or municipal officials shall cooperate in the submission or  
20 exchange of information as the state highway department deems nec-  
21 essary in the preparation of such study and recommendations.

22 B. The appropriation made under the terms of this section is  
23 exempt from the provisions of section 35-190, Arizona Revised Statutes,  
24 relating to lapsing of appropriations.

25 Sec. 6. Conditional enactment

26 The provisions of this act shall not become effective until  
27 such time as the constitution of Arizona is amended by vote of the  
28 people to allow use of vehicle, user and gasoline and diesel tax  
29 receipts for the creation of such bicycle and foot pathways.  
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