

navigation: *And provided further*, That where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions.

(June 21, 1940, ch. 409, § 6, 54 Stat. 499; July 16, 1952, ch. 889, § 2, 66 Stat. 733; Pub. L. 85-640, § 1(c), Aug. 14, 1958, 72 Stat. 595.)

Editorial Notes

AMENDMENTS

1958—Pub. L. 85-640 permitted issuance of an order of apportionment of cost for entire alteration based on the accepted bid for first part of alteration and an estimate of cost for remainder of work where bridge owner proceeds with alteration on a successive partial bid basis.

1952—Act July 16, 1952, made railroads share equally with proprietors of highways in bearing cost of alterations necessary to remove obstacles to navigation.

§ 517. Payment of share of United States

Following service of the order requiring alteration of the bridge, the Secretary of the department in which the Coast Guard is operating may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of the department in which the Coast Guard is operating may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Fiscal Service upon certifications of the Secretary of the department in which the Coast Guard is operating.

(June 21, 1940, ch. 409, § 7, 54 Stat. 499; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Pub. L. 85-640, § 1(d), Aug. 14, 1958, 72 Stat. 596; Pub. L. 91-605, title I, § 118, Dec. 31, 1970, 84 Stat. 1725; Pub. L. 97-449, § 2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 114-120, title III, § 306(b)(4)(C), Feb. 8, 2016, 130 Stat. 55.)

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-120 substituted “Secretary of the department in which the Coast Guard is operating” for “Secretary of Transportation” wherever appearing.

1983—Pub. L. 97-449 substituted “Secretary of Transportation” for “Secretary of War” wherever appearing, which substitution had previously been made by Pub. L. 91-605. See, also, Transfer of Functions note below.

1970—Pub. L. 91-605 substituted provision permitting Secretary of Transportation to make payments for design work performed prior to the actual commencement of bridge alteration but after the order to alter has been issued for provision requiring Secretary of War to approve alteration plans, the cost guaranty, the fixing of proportionate shares as between the United States and bridge owner, and the commencement of the alteration, before the Chief of Engineers may make payments for bridge alteration, inserted reference to Secretary of Transportation in second sentence, and substituted “Secretary of Transportation” for “Secretary of War” in third sentence.

1958—Pub. L. 85-640 struck out provisions which required Secretary of War to furnish to Secretary of the Treasury a certified copy of his approval of the plans and specifications and guaranty, and of his order fixing the proportionate shares, and which required the Secretary of the Treasury to set aside the share of the United States for the project.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Section 6(g)(3) of Pub. L. 89-670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to obstructive bridges under this subchapter to Secretary of Transportation. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(3) of Pub. L. 89-670, and repealed section 6(g)(3).

Executive Documents

TRANSFER OF FUNCTIONS

“Fiscal Service” substituted in text for “Division of Disbursement” on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

§ 518. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 8, 54 Stat. 500.)

Statutory Notes and Related Subsidiaries

ALTERATION OF BRIDGES

Pub. L. 108-90, title II, Oct. 1, 2003, 117 Stat. 1144, provided in part: “That in fiscal year 2004 and thereafter, funds for bridge alteration projects conducted pursuant to the Act of June 21, 1940 (33 U.S.C. 511 et seq.) shall be available for such projects only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless contrary to law or international agreement, or unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-7, div. I, title I, Feb. 20, 2003, 117 Stat. 389.

§ 519. Noncompliance with orders; penalties; removal of bridge

Any bridge owner who shall willfully fail or refuse to comply with any lawful order of the

Secretary, made in accordance with the provisions of this subchapter, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding \$5,000, and every month such bridge owner shall remain in default shall be deemed a new offense and subject such bridge owner to additional penalties therefor. In addition to the penalties above prescribed the Secretary may, upon the failure or refusal of any bridge owner to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of any such bridge and accessory works at the expense of the bridge owner; and suit for such expense may be brought in the name of the United States against such bridge owner and recovery had for such expense in any court of competent jurisdiction. The removal of any bridge erected or maintained in violation of the provisions of this subchapter or the order or direction of the Secretary made in pursuance thereof, and compliance with any order of the Secretary made with respect to any bridge in accordance with the provisions of this subchapter, may be enforced by injunction, mandamus, or other summary process upon application to the district court of any district in which such bridge may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary.

(June 21, 1940, ch. 409, § 9, 54 Stat. 500.)

§ 520. Review of findings and orders

Any order made or issued under section 516 of this title may be reviewed by the court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order is issued. The judgment of any such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certification or certiorari, in the manner provided in section 1254 of title 28. The review by such Court shall be limited to questions of law, and the findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. Upon such review, such Court shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require. Proceedings under this section shall not operate as a stay of any order of the Secretary issued under provisions of this subchapter other than section 516 of this title, or relieve any bridge owner of any liability or penalty under such provisions.

(June 21, 1940, ch. 409, § 10, 54 Stat. 501; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

Editorial Notes

CODIFICATION

“Section 1254 of title 28” substituted in text for “sections 239 and 240 of the Judicial Code, as amended” on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial

Procedure. Prior to the enactment of Title 28, sections 239 and 240 of the Judicial Code were classified to sections 346 and 347 of Title 28.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals”.

§ 521. Regulations and orders

The Secretary is authorized to prescribe such rules and regulations, and to make and issue such orders, as may be necessary or appropriate for carrying out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 11, 54 Stat. 501.)

§ 522. Existing provisions of law

The first sentence of section 494 of this title, and section 502 of this title, shall be inapplicable with respect to any bridge to which the provisions of this subchapter are applicable.

(June 21, 1940, ch. 409, § 12, 54 Stat. 501; Pub. L. 116–283, div. G, title LVXXXV [LXXXV], § 8507(b), Jan. 1, 2021, 134 Stat. 4754; Pub. L. 117–263, div. K, title CXVIII, § 11805(a), (c), Dec. 23, 2022, 136 Stat. 4164, 4165.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–263, § 11805(c), struck out “, except to the extent provided in this section” before period at end.

Pub. L. 117–263, § 11805(a), reinstated section 12(a) of the act of June 21, 1940, as it appeared before repeal by Pub. L. 116–283, and redesignated it as the sole text of section 12.

2021—Pub. L. 116–283 repealed this section. Text of subsec. (a) was reinstated by Pub. L. 117–263 and redesignated as text of entire section. See above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. K, title CXVIII, § 11805(b), Dec. 23, 2022, 136 Stat. 4165, provided that: “The provision reinstated under subsection (a) [this section] shall be treated as if such section 8507(b) [of Pub. L. 116–283, which had repealed this section] had never taken effect.”

§ 523. Relocation of bridges

If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and