

## CHAPTER 162

## COUNTY ROADS

**162.01 POWERS OF COUNTY BOARD.**

**HISTORY.** 1873 s. 5 s. 56; G.S. 1878 c. 13 s. 56; 1891 c. 19 s. 1; 1893 c. 161 ss. 1, 2; G.S. 1894 ss. 1846, 1847, 1853, 1854; 1895 c. 287 ss. 1, 2; 1899 c. 192 s. 1; 1899 c. 211; 1903 c. 236 s. 1; 1903 c. 292; R.L. 1905 ss. 1202 to 1205, 12.10; 1907 c. 423 ss. 1, 2; 1913 c. 233 ss. 30, 31; G.S. 1913 ss. 2517, 2518; 1917 c. 119 ss. 18, 19; 1919 c. 263 s. 6; 1919 c. 482 s. 1; 1921 c. 323 s. 24; 1923 c. 439 s. 4; G.S. 1923 s. 2565; M.S. 1927 s. 2565; 1929 c. 179; M. Supp. s. 2565; 1941 c. 29; 1945 c. 591 s. 1.

Laws 1921, Chapter 323, Section 29, provides that county engineers are to be appointed by the county board except that in counties having a population in excess of 225,000 the county surveyors shall be ex officio highway engineers. This section is not unconstitutional as special legislation. *Malmberg v County of Hennepin*, 156 M 389, 194 NW 765.

Laws 1921, Chapter 323, Section 41, providing for the establishment by the district court of a highway running into more than one county, does not delegate legislative powers to the judiciary; and the district court in opening such highway may, under authority of the statute, direct the manner of opening the road and require the counties to make certain provisions for the safety of the public. Alteration of highway in Fillmore and Houston counties. 158 M 302, 197 NW 741.

The Hennepin county board may employ, in a proper case, engineering services for the construction of approaches to a bridge. Such services should ordinarily be performed by the county surveyor, and the employment of the engineer directly by the board may be an irregularity; but advantage cannot be taken of the possible irregularity after the services are performed. *Tousley v Thompson*, 166 M 261, 207 NW 624.

Laws 1927, Chapter 147, providing for the funding by certain counties of road and bridge indebtedness, and the issuance of bonds, is remedial in character, and intended to provide temporary relief for an unusual condition. It is not invalid because based in part on area and part on assessed valuation of the counties; or because outstanding warrants on the road and bridge fund are included in refunding bonds; or because the counties must pass the initiatory resolution within 90 days. *Thorpe Bros. v County of Itasca*, 171 M 312, 213 NW 914.

Part of the salary of the county highway engineer or his helpers, may be paid out of the county aid fund in direct proportion to the services rendered in the construction, improvement, and maintenance of county aid roads. 1934 OAG 247, June 28, 1933 (122b-6).

Roads established by judicial proceedings are county roads rather than town roads, and the county board has control and supervision of such roads and may appropriate from the county road and bridge fund for their construction and maintenance. 1934 OAG 474, Feb. 3, 1934 (380b-2).

The county board, with the consent of the commissioner of highways, may abandon all state aid roads and designate them as county aid roads. If such change be made, the county board has authority to continue county tax levies, the money to be used by the county board for the construction and maintenance of county aid roads. 1934 OAG 482, Nov. 14, 1933 (379e-11).

The county board may make regulations for pole lines within the limits of roads under their jurisdiction, and this extends to the right of removal of telephone poles and their replacement in different positions. 1936 OAG 238, May 4, 1935 (378b).

Primarily the duty to construct and repair bridges on town roads rests with the town rather than the county; but this section authorizes the county board

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to appropriate from the county road and bridge fund to certain municipalities in the county, such sums of money as are available, and which the county board deem it advisable to use. 1938 OAG 264, June 3, 1938 (377b-10h).

The Houston county board granted a petition for the establishment of a county road passing through two townships. The burden of constructing such road falls on the county; the expense of maintaining it falls on the townships through which it passes; the statute provides that the damages must be assessed and awarded before a county road is opened and worked. After a county road is established and damages awarded, and if no appeal is taken, the rights of the landowner and the county are fixed. Proceedings under section 162.21 are complete and sufficient, and the county need not resort to proceedings under the right of eminent domain. 1940 OAG 131, Nov. 2, 1940 (377b-3).

There is no limit upon the amount which a county may appropriate to a town. OAG June 6, 1929.

Where a road extending into two counties over a bridge crossing a river boundary between the counties, was designated as a state aid road by both counties, each county is chargeable with maintenance of that part of the bridge within its territorial limits and no more. The county may, however, spend money if it cares to do so, for the maintenance of a bridge or road in another county. OAG Aug. 18, 1930.

Safety isles on University Avenue in St. Paul are an integral part of the street itself, and Ramsey County may lawfully expend funds in remodeling them. OAG Feb. 26, 1931.

Individual members of the county board authorized an employee to travel and register the unemployed in the county under the public relief works program. The compensation and expense incurred by the employee may be paid out of the road and bridge fund. OAG Dec. 9, 1933.

The county board may appropriate money out of the road and bridge fund for incidental expenses in connection with road work performed in cooperation with federal program. OAG March 2, 1934.

The county board having appropriated money to a town for town roads cannot rescind the appropriation without the consent of the town. OAG March 3, 1933.

County board may appropriate a limited amount of money to aid in building and repairing streets in cities of the third and fourth class. OAG Feb. 28, 1944 (125b-30).

County board may aid in construction of a bridge designated by a town board. OAG June 3, 1944 (125b-6).

It being clearly for the benefit of a county, the county board may aid in construction or repair of a road in an adjoining county. OAG July 6, 1944 (125a-46).

## 162.015 ESTABLISHMENT OF COUNTY ROADS WITH FEDERAL AID.

HISTORY. 1941 c. 320.

## 162.02 APPROPRIATIONS FROM COUNTY ROAD AND BRIDGE FUND FOR BRIDGES IN CERTAIN MUNICIPALITIES.

HISTORY. 1925 c. 232 s. 1; M.S. 1927 s. 2565-1; 1935 c. 343; M. Supp. s. 2565-1.

Under Laws 1943, Chapter 10, a general law of local application, the appropriation must not be greater than 40 per cent of the annual tax levy for road and bridge purposes levied in certain cities and thereafter collected. OAG Feb. 28, 1944 (125b-30).

## 162.03 COUNTY BOARD MAY APPROPRIATE MONEY TO CITIES IN CERTAIN CASES.

HISTORY. 1931 c. 264 s. 1; M. Supp. s. 2565-4.

The county has no authority to add 5 per cent "handling charge" and must confine itself to the amount actually expended by the county. OAG June 15, 1932.

The village council is limited to the selection of the particular street or bridge upon which the money expended by the county board may be expended, while the employment supervision and control over those making the improvement rests with the county board. OAG Aug. 4, 1932.

**162.04 COUNTY BOARDS MAY LEVY ANNUAL TAX ON UNORGANIZED TERRITORY FOR ROAD AND BRIDGE PURPOSES NOT TO EXCEED 15 MILLS ON THE DOLLAR.**

HISTORY. 1915 c. 44 s. 1; G.S. 1923 s. 2565-6; M.S. 1927 s. 2565-6.

**162.05 DUTY OF AUDITOR IN EXTENDING THE TAX LEVY.**

HISTORY. 1915 c. 44 s. 2; G.S. 1923 s. 2565-7; M.S. 1927 s. 2565-7.

**162.06 COLLECTED AMOUNT SET APART AS A SEPARATE ROAD AND BRIDGE FUND.**

HISTORY. 1915 c. 44 s. 3; G.S. 1923 s. 2565-8; M.S. 1927 s. 2565-8.

**162.07 EXPENDITURE OF FUND IN ADJOINING OR OTHER TOWNSHIPS AUTHORIZED.**

HISTORY. 1915 c. 44 s. 4; 1919 c. 528 s. 1; G.S. 1923 s. 2565-9; M.S. 1927 s. 2565-9; Ex. 1927 c. 30; M. Supp. s. 2565-9.

The fund used by this act must be used in the congressional township, the territory of which was taxed to create the fund. Section 163.10 is not applicable. OAG Oct. 8, 1925.

**162.08 TAX LEVY.**

HISTORY. 1915 c. 44 s. 5; 1919 c. 528 s. 2; G.S. 1923 s. 2565-10; M.S. 1927 s. 2565-10.

**162.09 COUNTY BONDS FOR PAVING.**

HISTORY. 1921 c. 326 s. 26; G.S. 1923 s. 2566; M.S. 1927 s. 2566.

**162.10 COUNTY BOND REIMBURSEMENT FUND; MONEY TAKEN FROM TRUNK HIGHWAY FUND PLACED IN.**

HISTORY. 1925 c. 250 ss. 1, 2; M.S. 1927 ss. 2568-1, 2568-2.

**162.11 COUNTY HIGHWAY ENGINEER.**

HISTORY. 1921 c. 323 s. 29; G.S. 1923 s. 2569; M.S. 1927 s. 2569; 1941 c. 462; 1945 c. 90 ss. 1, 2.

Section 29 of the highway act provides that county highway engineers be appointed by the county board, except that by proviso in counties having a population in excess of 225,000 the county surveyor acts as highway engineer. This is not special legislation, and the law is valid. *Malmberg v County of Hennepin*, 156 M 389, 194 NW 765.

The county highway engineer is under section 29 of the highway act and is not within the operation of the soldiers' preference employment act. *Michi v Walleen*, 185 M 329, 241 NW 318.

Special legislation and municipal home rule in Minnesota. 16 MLR 664.

Members of the county board of Hennepin County are entitled to reasonable allowance for the use of their automobiles, limited to five cents per mile, and limited to a total of \$2,000 per year for the entire board. Their appeals for mileage setting forth the amount of miles traveled, the rate per mile, and the total sum claimed, duly ratified, may be presented each month. 1934 OAG 244, May 22, 1933(124j).

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A part of the salary of the county highway engineer, or his employees, may be paid out of the county aid fund in direct proportion to the services rendered in the construction and maintenance of county aid roads. 1934 OAG 247, June 28, 1933, (122b-6).

The county board is invested with the power of appointment and removal of a county highway engineer. The board has authority to remove at any time and without a hearing. The board has no authority to fix a term for such officer. 1934 OAG 248, Nov. 17, 1933 (229f).

It is not required of the county engineer that he be a university graduate, or registered in this state. 1934 OAG 246, March 4, 1933(104a).

The duties of the county engineer are in a large part the care and maintenance of roads other than those supported by the county aid fund. Consequently, only such part of his salary as is comparable to services he may have rendered to county aid roads, is chargeable to the county aid fund. 1934 OAG 472, June 21, 1934 (380b-3).

The county board of Rice County, having employed an unregistered engineer and without the approval of the commissioner of highways, further payment of state aid should be withheld from Rice County until they have an engineer who has a right to certify to the required statements. 1936 OAG 244, Sept. 12, 1935 (122b).

The county highway engineer must be selected from a list of eligibles furnished by the commissioner of highways. OAG Feb. 4, 1935 (229f).

The salary of the engineer may be increased during the term of his appointment. OAG May 9, 1938 (122b).

Expenses of the county highway engineer outside of the county while cooperating with state and federal governments on relief programs, may be paid only if the trip be authorized by the county board and the engineer designated as the county agent. OAG Jan. 24, 1935 (125a-31).

If the county board requires it, the county engineer must assist in construction and maintenance of town road without charge. OAG May 23, 1939.

### **162.12 COUNTY HIGHWAY ENGINEER, HENNEPIN COUNTY; QUALIFICATIONS.**

HISTORY. 1925 c. 369 ss. 1, 2; M.S. 1927 ss. 2569-1, 2569-2.

The insurer issued a liability policy containing an omnibus clause covering an employee while driving the county's automobile with its consent. The insurer, for lack of interest in that question, will not be heard to question the rights of the county to permit its employee to use the automobile. *Schultz v Krosch*, 204 M 585, 284 NW 782.

### **162.13 BOND OF COUNTY HIGHWAY ENGINEER.**

HISTORY. 1925 c. 369 s. 3; M.S. 1927 s. 2569-3.

Engineer may be required to furnish a new bond for each term for which he is appointed. OAG March 17, 1934(12).

### **162.14 REPORTS AND RECOMMENDATIONS TO COUNTY BOARD.**

HISTORY. 1925 c. 369 s. 4; M.S. 1927 s. 2569-4.

### **162.15 REPORTS TO COUNTY BOARD AND COMMISSIONER OF HIGHWAYS.**

HISTORY. 1925 c. 369 s. 5; M.S. 1927 s. 2569-5.

### **162.16 ANNUAL REPORT TO COUNTY BOARD AND COMMISSIONER OF HIGHWAYS.**

HISTORY. 1925 c. 369 s. 6; M.S. 1927 s. 2569-6.

**162.17 TRANSFER OF DUTIES.**

HISTORY. 1925 c. 369 s. 7; M.S. 1925 s. 2569-7.

**162.18 PAYMENT OF LABOR.**

HISTORY. 1921 c. 323 s. 30; G.S. 1923 s. 2570; M.S. 1927 s. 2570.

Time checked may be issued for equipment rental, when not operated by the owner, and based upon a resolution adopted by the board, without an audit by the county auditor. OAG Feb. 17, 1944 (107b-16).

**162.19 ROAD LABOR, HENNEPIN COUNTY.**

HISTORY. 1925 c. 367 s. 1; M.S. 1927 s. 2570-1.

**162.20 ESTABLISHMENT OF ROAD BY JUDICIAL PROCEEDINGS.**

HISTORY. 1872 c. 40 ss. 1 to 5; 1873 c. 6 s. 1; 1873 c. 70 ss. 1, 2; G.S. 1878 c. 13 ss. 76 to 82; 1883 c. 21 s. 2; 1883 c. 64 ss. 1, 2; 1889 c. 179; G.S. 1894 ss. 1883 to 1889; 1895 c. 47; 1901 c. 213 ss. 1 to 5; 1905 c. 245 s. 1; R.L. 1905 ss. 1156 to 1163; 1907 c. 263 s. 1; 1909 c. 117 s. 1; 1913 c. 235 ss. 24 to 29; G.S. 1913 ss. 2511 to 2516; 1921 c. 323 s. 41; G.S. 1923 s. 2581; M.S. 1927 s. 2581.

In proceedings for laying out and altering public highways running into two counties, the order of confirmation should not cast upon the town organization the obligation of opening them for public travel, nor relieve the counties from that duty. Realteration of road in Fillmore and Houston Counties, 154 M 246, 191 NW 598.

The petition for a judicial road is sufficient if it states that it begins at a given point and extends due south along section lines to a given point, although there may be correction lines which vary the road from a due south course. Mahoney v Kelly, 156 M 327, 194 NW 775.

Where part of the suggested road runs on a township line over an existing road already constructed, there is no need to make a formal survey or long estimate of costs or damages. Mahoney v Kelly, 156 M. 327, 194 NW 775.

When a highway has been established in a manner authorized by the legislature, the necessity for it is presumed, and this presumption can be overcome only by showing conclusively that it will serve no public purpose. Mahoney v Kelly, 156 M 327, 194 NW 775.

This section in no way delegates legislative powers to the judicial; and the district court may direct the time and manner of opening the road and may require the counties to make the road safe for public travel. Alterations of highway in Fillmore County, 158 M 302, 171 NW 741.

To sustain a decision denying a petition and dismissing the proceedings, it is not necessary that the evidence be found to be practically conclusive against the propriety of establishing the road. The findings have the same force and effect as the findings of fact in an ordinary civil action, and are not to be disturbed by the supreme court if there is evidence reasonably adequate to support the findings. Establishment of Judicial Road, Scott and Dakota Counties, 176 M 94, 224 NW 578.

The power to establish a highway on the line between two counties is vested in the district court. Its final order establishing the highway has the force and effect of a judgment. The county boards cannot nullify the court's action by inaction; they must comply with it. Hauschild v Counties of Lyon and Lincoln, 182 M 123, 223 NW 827.

In pursuance to establishing a judicial highway, the commissioners made their award of damages, which was confirmed by the court. There were four parcels belonging to the same owner. Eight years later Blue Earth County petitioned the court for privilege of depositing money in court to cover the award as to one of the parcels. The landowner asked payment of the entire award, covering the four parcels. The original award was in effect a judgment, and the county having acknowledged the jurisdiction of the court for the purpose of having the

landowner's award settled, could not defeat the landowner's claim to have the entire award for damages settled and determined by the court in that proceeding. *County of Blue Earth v Williams*, 196 M 501, 265 NW 329.

In a judicial proceeding to establish a road under this section, the function of the court is limited to confirmation or ratification of the commissioner's report. To "lay out" a road means to designate its width as well as its other dimensions. In *re* Judicial Highway in Sibley and Renville Counties, 213 M 313, 6 NW(2d) 626.

The failure of the commissioners, appointed in a judicial proceeding to establish a road, to state the width of the proposed road rendered their report and the order confirming the same, invalid and ineffective. In *re* Judicial Highway in Sibley and Renville Counties, 213 M 313, 6 NW(2d) 626.

A judicial road was established under General Statutes 1894, Sections 1883 to 1893, on the line between Sibley and Nicollet counties. Part of the road was constructed, but a very substantial part was never built. The road, having been established, can only be abandoned by non-use, and the fact of the non-use can only be determined by the facts involved in each particular case. 1934 OAG 460, June 21, 1933 (50b).

Road having been laid out between the town of Grass Lake in Kanabec County and the town of Royalton in Pine County, as a town road, said road being on the boundary line between the counties, and between the townships, and the towns having maintained the road for a period of 15 years, may continue to spend town funds to maintain and keep said road in repair. 1938 OAG 267, Feb. 17, 1938 (377B-10d).

Roads may be established in unorganized towns pursuant to either of sections 162.20, 162.21 or 160.15. OAG April 14, 1932.

Even if there is in existence a road on the county line built through the joint action of two towns, a county road may be established through judicial proceedings. OAG Jan. 18, 1945 (379c-8-b).

#### 162.21 ESTABLISHMENT, ALTERATION, OR VACATION BY COUNTY BOARDS.

**HISTORY.** 1873 c. 5 ss. 49, 50, 51, 54, 55, 58; 1873 c. 70 s. 3; G.S. 1878 c. 13 ss. 49, 50, 51, 54, 55, 58, 83; 1883 c. 64 s. 3; 1885 c. 14 s. 1; 1887 c. 45; 1891 c. 150 s. 1; G.S. 1894 ss. 1838, 1839, 1840, 1943, 1844, 1856, 1890; 1897 c. 199 ss. 1 to 7, 13; 1899 c. 202 ss. 1 to 3; 1903 c. 166; R.L. 1905 ss. 1155, 1164 to 1169; 1909 c. 394 ss. 1 to 4; 1913 c. 235 ss. 32 to 37; G.S. 1913 ss. 2519 to 2524; 1915 c. 116 ss. 6, 7; 1921 c. 323 s. 42; 1923 c. 439 s. 7; G.S. 1923 s. 2582; 1927 c. 227 s. 2; M.S. 1927 s. 2582.

The description of the road as contained in the petition in connecting with specific calls indicated therein, stated the distance as "approximately." This was sufficiently definite to confer jurisdiction to lay the road. Laws 1913, Chapter 235, as amended by Laws 1915, Chapter 116, is sufficient to authorize the board of county commissioners to lay out and establish a county road, being a cross road connecting two parallel roads extending through the county. *Appeal of Ondraček*, 154 M 178, 191 NW 418.

When a road is established and damages awarded under section 162.21, and no appeal is taken, the rights of the respective parties are fixed and payment of the award may be compelled, although the land may not have physically been taken. *McFarland v Erskine*, 165 M 303, 206 NW 447.

When a permanent trunk highway is located, the old road is not thereby vacated but reverts to the control of the county or town board, as the case may be. *State ex rel v Lambert*, 171 M 369, 214 NW 653.

An award of damages in a county highway proceeding was made to the estate of a deceased person as owner, and the award thereafter paid to the administrator of the estate. The county is liable to make the payment again to the mortgagee of record, the mortgage having been foreclosed, and there being a deficiency to which the amount of the award could be applied. *Stemper v Houston County*, 187 M 135, 244 NW 690.

The counties of Le Sueur and Rice constructed a road but did not designate it as a state aid or county aid road. Prior to this action it was a town road.

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The question arises if the towns must maintain the road hereafter. As this road was established by judicial proceedings, it is a county road, and the county board has control and supervision. 1934 OAG 474, Feb. 3, 1934 (380a-2).

A judicial highway having been established through Itasca Park by Hubbard County, and a portion of this road taken over by trunk highway No. 4, the portion not taken over would remain a county road, and if it is desired to close it to travel, the county commissioners must take the necessary statutory proceedings. 1934 OAG 495 Aug. 1, 1934 (377a).

State road No. 2 was superseded by trunk highway No. 1 and was virtually vacated, but used by a few. The county board in attempting to vacate state road No. 2 must obtain the consent of the village council through which part of the road runs, otherwise vacation proceedings are void. 1934 OAG 492, May 26, 1933 (379c-14).

A road may be laid out to any lake by ordinary road proceedings by the town board, county board, or district court, according to the circumstances, the same as a road running anywhere else. 1934 OAG 458, Aug. 15, 1933 (377b-2).

As either the town or the county may construct a road leading to a meandered lake, the township could not request reimbursement from the county should the township construct the road. 1934 OAG 459, Feb. 6, 1934 (379c-7).

The question of abandonment by non-use of a judicially established road can only be determined by the facts involved in each particular case. 1934 OAG 460, June 21, 1933 (50b).

The county may establish roads in unorganized towns and in towns previously organized but dissolved. If the roads follow section lines, the county board may take this action on their own motion; but in the event the roads do not follow section lines, a petition must be filed in accordance with section 162.21. 1936 OAG 242, Dec. 20, 1935 (377b-10d).

The county board is authorized to act on a petition in all cases without the approval of the council of any village, except in those cases where the road referred to in the petition lies partly in the unplatted portion of any village in the county, in which event a certified copy of a resolution of the village approving the road should be filed. 1936 OAG 242, Sept. 24, 1938 (377a-15).

Burden of constructing the county road falls upon the county. The expense of maintaining it falls upon the towns through which the road passes. The damages must be assessed and awarded before a county road can be opened. 1940 OAG 131, Nov. 2, 1940 (377b-3).

A judicial road on a county line remains open for its entire width although only part of the width was constructed. OAG June 21, 1933.

An order was made in regular proceedings establishing a county road on a section line, and the road was made and traveled for many years but deviated from the established highway because a growth of trees stood on the section line. The passage of time and use does not prevent the county at any time from straightening the highway, giving due notice to the owner of the trees of their intention to remove them. OAG Oct. 30, 1935 (229i).

The county board may proceed under this section and establish a county road over lands forfeited to the state for non-payment of taxes; but if the road runs through any state park or state forest, consent must be obtained from the director of forestry. OAG March 13, 1937 (377b-2).

A school district may, by vote of the electors, authorize the conveyance of land to the county for road purposes, or the county may acquire it by condemnation proceedings. OAG March 8, 1944 (622i-7).

## **162.22 OPENING AND IMPROVEMENT OF HIGHWAYS LEADING TO MEANDERED LAKES.**

**HISTORY.** 1929 c. 142; M. Supp. s. 2582-1.

The title to the bed of a stream, navigable but not meandered, is not conveyed to a private guaranty by a government patent; the Otter Tail River at the point involved, is navigable. The county board has power under section 162.22 to lay

out a road, although it is wholly within a township. County of Becker v Shevlin Land Co. 186 M 401, 243 NW 433.

The county may construct a road not longer than one mile to connect a meandered lake or navigable stream with an established highway. OAG March 31, 1939 (379c-7).

**162.23 COUNTIES MAY PAY FOR GASOLINE AND OIL.**

HISTORY. 1933 c. 154; M. Supp. s. 2596-1.

**162.24 IMPASSABLE ROADS.**

HISTORY. 1921 c. 323 s. 67; 1923 c. 439 s. 13; G.S. 1923 s. 2607; M.S. 1927 s. 2607; 1929 c. 24 s. 1; 1931 c. 40; M. Supp. s. 2607.

The determination of whether or not a precautionary device is necessary and the selection of the type best suited rests with the commissioner of highways and an abutting landowner has no right to construct or maintain any device on the highway. Otten v Big Lake Ice Co. 198 M 356, 270 NW 133.

Classification of liability. U. S. v Wheeler, 66 F(2d) 977.

Where the township cuts and piles brush on the right of way, the town board can be compelled to remove the brush and remove snow which accumulates in large quantities, blocking a driveway. 1934 OAG 484, Jan. 24, 1934 (377a-5).

Contract between two towns, the towns being located in different counties, dividing their district and each maintaining their share of same, is valid, and in this case the contract may be enforced under provisions of section 162.24. 1936 OAG 231, Nov. 2, 1936 (434a-7).

In the absence of an agreement or contract, there is no statutory provision by which one town can compel another to maintain its half of a town line road. The only remedy is application to the county board under section 162.24. OAG June 27, 1930.

A township may be compelled to keep roads in reasonably passable condition. OAG Oct. 27, 1938 (377b-10h).

**162.25 CERTAIN COUNTIES TO IMPROVE ROADS OUTSIDE OF COUNTY.**

HISTORY. 1925 c. 255 s. 1; M.S. 1927 s. 2620-1; 1929 c. 189 s. 2; M. Supp. s. 2620-1.

Need for constitutional revision. 11 MLR 209.

**162.26 APPROPRIATIONS BY COUNTY BOARDS.**

HISTORY. 1925 c. 255 s. 2; M.S. 1927 s. 2620-2; 1929 c. 189 s. 2; M. Supp. s. 2620-2.

**162.27 APPROPRIATIONS IN SPECIAL FUND.**

HISTORY. 1925 c. 255 ss. 3, 4; M.S. 1927 ss. 2620-3, 2620-4; 1929 c. 189 s. 2; M. Supp. ss. 2620-3, 2620-4.

**162.28 ACQUISITION OF RIGHT OF WAY.**

HISTORY. 1929 c. 189 s. 2; M. Supp. s. 2620-4½.

**162.29 FUNDING AND PAYMENT OF OUTSTANDING INDEBTEDNESS OF CERTAIN COUNTIES REPRESENTED BY WARRANTS AGAINST ROAD AND BRIDGE FUNDS.**

HISTORY. 1927 c. 147 s. 1; M.S. 1927 s. 2620-5.

Sections 162.29 to 163.36 are remedial in character and provide temporary relief for an unusual condition and the law is constitutional. Thorpe Bros. v County of Itasca, 171 M 312, 213 NW 914; State ex rel v Peterson, 180 M 375, 230 NW 830.

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## **162.30 WARRANTS VALIDATED; BOND ISSUE TO REFUND.**

HISTORY. 1927 c. 147 s. 2; M.S. 1927 s. 2620-6.

## **162.31 TAX LEVY TO PAY BONDS.**

HISTORY. 1927 c. 147 s. 3; M.S. 1927 s. 2620-7.

A ten-mill levy for road and bridge fund, and the levy for the school districts, and the levy of one-tenth of one mill by the city of International Falls for volunteer fire department was properly made. The levy of a tax for "band" purposes was irregular. State v Kives, 188 M 79, 246 NW 547.

## **162.32 AMOUNT OF TAX LEVY.**

HISTORY. 1927 c. 147 s. 4; M.S. 1927 s. 2620-8.

## **162.33 COUNTY BOARD TO DETERMINE AMOUNT NECESSARY.**

HISTORY. 1927 c. 147 s. 5; M.S. 1927 s. 2620-9; 1931 c. 337 s. 1; M. Supp. s. 2620-9.

## **162.34 RECORDS KEPT.**

HISTORY. 1927 c. 147 s. 6; M.S. 1927 s. 2620-10.

## **162.35 CLAIMS AGAINST COUNTIES.**

HISTORY. 1927 c. 147 s. 7; M.S. 1927 s. 2620-11.

## **162.36 OFFENSES; PENALTIES.**

HISTORY. 1927 c. 147 s. 8; M.S. 1927 s. 2620-12.

## **162.37 COUNTY BOARD MAY REIMBURSE OTHER MUNICIPALITIES IN CERTAIN CASES.**

HISTORY. 1935 c. 12 s. 1; M. Supp. s. 2620-20.

The determination of whether or not to make reimbursement and the amount of a reimbursement, is vested in the county board. OAG Nov. 6, 1936 (377b-8).

## **162.38 PERMANENTLY IMPROVE.**

HISTORY. 1923 c. 320 s. 2; G.S. 1923 s. 2646; M.S. 1927 s. 2646.

## **162.39 COUNTY BOARDS MAY ISSUE BONDS FOR ROAD AND BRIDGE PURPOSES.**

HISTORY. 1923 c. 320 s. 1; G.S. 1923 s. 2645; M.S. 1927 s. 2645.

## **162.40 COMMISSIONER OF HIGHWAYS TO APPROVE ROUTES AND PLANS.**

HISTORY. 1923 c. 320 s. 3; G.S. 1923 s. 2647; M.S. 1927 s. 2647.

## **162.41 FORM OF BONDS; INTEREST; SALE OF BONDS.**

HISTORY. 1923 c. 320 s. 4; G.S. 1923 s. 2648; M.S. 1927 s. 2648.

## **162.42 USE OF PROCEEDS.**

HISTORY. 1923 c. 320 s. 5; G.S. 1923 s. 2649; M.S. 1927 s. 2649.

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 162.43 COUNTY ROADS

930

### 162.43 FUNDS TO BE CREDITED TO TRUNK HIGHWAY FUND.

HISTORY. 1923 c. 320 s. 6; G.S. 1923 s. 2650; M.S. 1927 s. 2650.

### 162.44 POWERS ADDITIONAL.

HISTORY. 1923 c. 320 s. 7; G.S. 1923 s. 2651; M.S. 1927 s. 2651.

### 162.45 COUNTIES TO BE REIMBURSED FROM STATE HIGHWAY FUND.

HISTORY. 1923 c. 320 s. 8; G.S. 1923 s. 2652; M.S. 1927 s. 2652.

Minnesota Constitution, Article 16, Sections 1, 2, permits the state to reimburse counties out of the trunk highway fund only for "manifestly improving roads," and the acquiring of a right of way for a new road is not "improving." State ex rel v Babcock, 186 M 132, 242 NW 474.

### 162.46 ROAD AND BRIDGE BONDS IN CERTAIN COUNTIES.

HISTORY. 1923 c. 397 s. 1; G.S. 1923 s. 2641-2; M.S. 1927 s. 2641-2.

### 162.47 ISSUE AND SALE OF BONDS.

HISTORY. 1923 c. 397 s. 2; G.S. 1923 s. 2641-3; M.S. 1927 s. 2641-3.

### 162.48 TAX LEVY.

HISTORY. 1923 c. 397 s. 3; G.S. 1923 s. 2641-4; M.S. 1927 s. 2641-4.

### 162.49 ROAD AND BRIDGE BONDS IN CERTAIN COUNTIES; AMOUNT OF ISSUE.

HISTORY. 1925 c. 365 s. 1; M.S. 1927 s. 2641-5.

Need for constitutional revision. 11 MLR 209.

### 162.50 ISSUE AND SALE OF BONDS.

HISTORY. 1925 c. 365 s. 2; M.S. 1927 s. 2641-6.

### 162.51 TAX LEVY.

HISTORY. 1925 c. 365 s. 3; M.S. 1927 s. 2641-7.

### 162.52 ROAD AND BRIDGE BONDS IN CERTAIN COUNTIES; AMOUNT OF ISSUE.

HISTORY. 1927 c. 148 s. 1; M.S. 1927 s. 2641-15.

### 162.53 ISSUE AND SALE OF BONDS.

HISTORY. 1927 c. 148 s. 2; M.S. 1927 s. 2641-16.

### 162.54 TAX LEVY.

HISTORY. 1927 c. 148 s. 3; M.S. 1927 s. 2641-17.

The money paid to the city of St. Paul by railroad company is construed to be an advancement and not an outright payment of the cost of a street improvement. In re Improvement of Third Street, 182 M 183, 233 NW 861.