

CHAPTER 162

COUNTY ROADS

162.01 POWERS OF COUNTY BOARD.

Subd. 5, amended by L. 1947 c. 434 s. 1.

Subd. 6. HISTORY. 1947 c. 115 s. 1.

Obligations to construct and maintain in suitable repair for public use safe crossings at streets and highways laid out over a railroad right of way after the construction of the road rests on the railroad company, and contracts with municipalities, by which the company is relieved from that obligation, and the municipality deprived of the right of enforcing it as a police regulation, are void. State ex rel v Northern Pacific, 98 M 429, 108 NW 269.

Liability of county is not limited to positive trespass. As respects adjacent property, the county in possession of a highway stands in the position of owner, with the same liability as a private owner for damages to adjacent lands caused by acts done in the management and control of the highway. A complaint alleging the county while opening a county road set fire to brush, which spread and damaged adjacent property, states a cause of action. Newman v County of St. Louis, 145 M 130, 176 NW 191.

Award of damages to land owners sustained, and injunction against county's continuing to gather surface water and cast it onto lands approved, where caused by reconstructing and maintaining a county road with adjoining ditch, without providing a culvert to carry away the waters. Ostlund v Stearns Co., 221 M 329, 22 NW(2d) 173.

If a town fails to repair bridges on town roads, the county is not compelled to do so, but if the county does repair them, one-half of the expense may be charged to and collected from the town. OAG June 8, 1945 (642-a-12).

A qualified county may levy for road and bridge within statutory limitations. The total for road and bridge purposes cannot exceed 15 mills, nor may the total average mill rate exceed 114 mills. OAG Nov. 28, 1945 (519-K).

It is the duty of the town to maintain county roads, but the county board may appropriate money to the town for road purposes. OAG Aug. 27, 1946 (377-B-3).

(1) No duty on part of county to unite with owners in making private ditch;

(2) Statement of rule relating to diversion of surface water;

(3) Remedy for damage to roadway and bridge caused by private parties. OAG Oct. 28, 1946 (602).

Cottonwood County may appropriate and expend money for the construction and maintenance of a road leading to Killen Woods State Park in Jackson County. OAG May 15, 1947 (125-A-46).

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

Amended by L. 1947 c. 344 s. 1.

162.11 COUNTY HIGHWAY ENGINEER.

County is not authorized to purchase residence for county highway engineer. OAG Sept. 8, 1944 (122-B).

While a county highway engineer may serve as drainage engineer, he cannot receive compensation beyond his stated salary. OAG Sept. 21, 1945 (148a-10).

County engineers not under civil service may retain fees paid to them in drainage cases, but the fees of those under civil service must be credited to the fund from which the engineer's salary is paid. OAG June 13, 1946 (148-A-10).

The salary of a county engineer is fixed by the county board. The mileage allowance is fixed by statute and cannot be modified by the board. OAG June 11, 1947 (122-B-6).

162.18 PAYMENT OF LABOR.

Subd. 3, amended by L. 1947 c. 109 s. 1.

Subd. 8, amended by L. 1947 c. 203 s. 1.

162.20 ESTABLISHMENT OF ROAD BY JUDICIAL PROCEEDINGS.

The establishment of highways is primarily a legislative function, exercised with respect to local roads by county and town boards, and in cases governed by the provisions of section 162.20 by commissioners appointed by the district court; and in each proceeding the function of the court is limited to confirmation or rejection of the report of the commissioners. Re Establishment of Judicial Highway, 213 M 314, 6 NW(2d) 626.

Where the lines are common to both, a road may be established between towns in different counties under the provisions of sections 162.20 or 163.17. OAG June 15, 1943 (377-B-10).

After a highway has been completed, the county board is not compelled to build an approach by which a landowner may connect with the highway. OAG May 19, 1945 (379-a-1).

162.21 ESTABLISHMENT, ALTERATION, OR VACATION BY COUNTY BOARDS.

A county board may declare a town road a county road, but the care of that part of a county road within a town devolves on the town board. The county at the board's discretion may improve the road. OAG Oct. 31, 1946 (377-B-3).

To establish a new road the board must proceed in accordance with the provisions of section 162.21; but when the board desires to straighten or widen an existing road they may proceed under chapter 117. OAG Jan. 29, 1947 (817-n).

162.22 OPENING AND IMPROVEMENT OF HIGHWAYS LEADING TO MEANDERED LAKES.

Road to a lake may be acquired by gift. OAG April 15, 1942 (125-A-42).

162.24 IMPASSABLE ROADS.

Taxpayer may petition county board under section 162.24 for the improvement of an impassable cartway without first petitioning the town, under section 163.15, for an allocation of funds. The remedies are concurrent. There is no inconsistency. OAG Sept. 13, 1946 (377-B-1).

162.25 CERTAIN COUNTIES TO IMPROVE ROADS OUTSIDE OF COUNTY.

L. 1929, c. 365, is valid and constitutional and authorizes a county within a specified class to expend funds for the construction and improvement of roads within a city of the fourth class lying outside the county where such roads connect with a street in a city of the first class within the county expending the funds. *Tousley v Heffelfinger*, 182 M 447, 234 NW 673.

The electorate of a school district may by vote authorize the school board to deed district owned property to the county, or the county may acquire the property by condemnation proceedings where the acquisition is for highway purposes. OAG March 8, 1944 (622-A-3).