

CHAPTER 161

DEPARTMENT OF TRANSPORTATION AND
TRUNK HIGHWAY SYSTEM

161.081	Highway user tax, distribution of portion of proceeds.	161.28	Alteration of public drainage ditch affecting trunk highway.
161.082	County turnback account, expenditure.	161.34	Claims against the state arising out of contract.
161.125	Sound abatement along highways.	161.43	Relinquishment of highway easements.
161.1419	Mississippi River parkway commission.	161.431	Leasing of highway easements.
161.202	Replacement of public lands.	161.44	Relinquishment of lands owned in fee.
161.241	Relocation of railroad tracks, acquisition of land.	161.46	Reimbursement of utilities.
		161.465	Reimbursement for fire services.

161.081 HIGHWAY USER TAX, DISTRIBUTION OF PORTION OF PROCEEDS.

Pursuant to article 14, section 5, of the constitution, five percent of the net highway user tax distribution fund is set aside, and apportioned as follows:

- (1) 51 percent to the trunk highway fund;
- (2) 41 percent to a separate account in the county state-aid highway fund to be known as the county turnback account, which account in the state treasury is hereby created;
- (3) 8 percent to a separate account in the municipal state-aid street fund to be known as the municipal turnback account, which account in the state treasury is hereby created.

History: 1983 c 17 s 1

161.082 COUNTY TURNBACK ACCOUNT, EXPENDITURE.

[For text of subs 1 and 2, see M.S.1982]

Subd. 2a. An amount equal to 20 percent of the county turnback account must be expended, within counties having two or more towns, on town road bridge structures that are 10 feet or more in length and on town road culverts that replace existing town road bridges. The expenditures on bridge structures and culverts may be on a matching basis, and if on a matching basis, not more than 90 percent of the cost of a bridge structure or culvert may be paid from the county turnback account.

An amount equal to 37 percent of the county turnback account must be set aside as a town road account and distributed as provided in section 162.081.

History: 1983 c 17 s 2

161.125 SOUND ABATEMENT ALONG HIGHWAYS.

Subdivision 1. The commissioner of transportation shall, in accordance with the department's program, implement sound abatement measures within or along the perimeter of any interstate or trunk highway within incorporated areas located within the metropolitan area or any municipality whenever the noise level attributable to vehicular traffic at the abutting residential property line is in excess of the federal noise standards. The commissioner shall utilize federal matching funds available for constructing and maintaining sound abatement measures. No standard adopted by any state agency for limiting levels of noise in terms of sound pressure in the outdoor atmosphere shall apply to any interstate highway, or to

any trunk highway segment constructed or reconstructed with federal interstate substitution funds, provided that all reasonable mitigating measures are used to abate noise.

[For text of subd 3, see M.S.1982]

History: 1983 c 326 s 1

161.1419 MISSISSIPPI RIVER PARKWAY COMMISSION.

[For text of subs 1 to 7, see M.S.1982]

Subd. 8. The commission shall expire on the date provided by section 15.059, subdivision 5.

History: 1983 c 260 s 44

161.202 REPLACEMENT OF PUBLIC LANDS.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. **Acquisition of replacement lands for the affected agency.** When the affected agency is unable to acquire the replacement lands, or if the acquisition of such lands by the affected agency would result in undue delay in the completion of the highway project, upon a request of an affected agency which shall include a recommendation as to the replacement land to be acquired within its jurisdiction, the commissioner of transportation by gift, purchase, or condemnation proceedings, may acquire the designated replacement lands if the commissioner deems that the acquisition would reduce the cost to the state of the highway project and would otherwise be in the public interest. The affected agency shall relinquish to the commissioner its interests in the lands required for the highway project upon its completion of the acquisition of the replacement lands or upon conveyance by the commissioner to the affected agency of the replacement lands designated in the agreement between the affected agency and the commissioner. The commissioner shall convey the lands or interests designated in the agreement to the affected agency.

[For text of subd 5, see M.S.1982]

History: 1983 c 143 s 2

161.241 RELOCATION OF RAILROAD TRACKS, ACQUISITION OF LAND.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. The commissioner shall convey to the railroad company, by quit claim deed, lands or interests in lands acquired by the state pursuant to the provisions of subdivisions 1 to 3.

Subd. 4. The commissioner shall convey to a railroad company, by quit-claim deed, lands owned by the state in fee for trunk highway purposes, but no longer needed for such purposes, when the lands are needed by a railroad company for the relocation of its tracks which is required by the construction, reconstruction, or improvement of a trunk highway. The consideration must be set forth in a voluntary agreement between the railroad company and the commissioner of transportation and must be as provided in subdivision 2.

History: 1983 c 143 s 3,4

161.28 ALTERATION OF PUBLIC DRAINAGE DITCH AFFECTING TRUNK HIGHWAY.

Subdivision 1. **Petition.** Upon the filing of a petition by the commissioner with the appropriate county auditor setting forth that it would be advantageous or desirable in the construction or maintenance of a trunk highway to make a minor alteration or change in a public drainage system directly affecting a trunk highway and that the alteration or change will not affect the functioning or efficiency of the public drainage system, the auditor shall fix a time and place for hearing and give notice of the hearing by publication, as defined in section 106.171. Upon the filing of the petition the commissioner shall also file a plan showing in detail the alteration or change petitioned for. If upon the hearing it appears to the county board or joint county ditch authority that the alteration or change in the public drainage system will not affect or impair the efficiency of the drainage system, the board or authority shall make its order allowing the commissioner to make the alteration or change petitioned for. Upon the making of the order by the county board or the joint county ditch authority, the commissioner may proceed at the sole cost and expense of the state to make the alterations or changes as may be in the order allowed, damages, if any, for any additional lands necessary for the change or alteration being first duly paid or secured. Upon completion of the alteration or change the commissioner shall file with the appropriate auditor a map drawn to scale showing the change or alteration made and shall also file a profile of all lines of the alteration or change in the ditch showing graphically the elevation of the ground and gradient, whether open or tiled, the size of tile, and the bottom width and side slope of open ditch sections, and such other information as may appear necessary for understanding. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include such alteration or change as a part of it with the same force and effect as though it had been originally so constructed and established.

[For text of subd 2, see M.S.1982]

History: 1983 c 143 s 5

161.34 CLAIMS AGAINST THE STATE ARISING OUT OF CONTRACT.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. **Appeal.** An appeal from any final order of judgment in the action shall lie as in other civil cases.

History: 1983 c 247 s 66

161.43 RELINQUISHMENT OF HIGHWAY EASEMENTS.

The commissioner of transportation may relinquish and quitclaim to the fee owner an easement or portion of an easement owned but no longer needed by the transportation department for trunk highway purposes, upon payment to the transportation department of an amount of money equal to the appraised current market value of the easement. If the fee owner refuses to pay the required amount, or if after diligent search the fee owner cannot be found, the commissioner may convey the easement to an agency or to a political subdivision of the state upon terms and conditions agreed upon, or the commissioner may acquire the fee title to the land underlying the easement in the manner provided in section 161.20, subdivision 2. After acquisition of the fee title, the lands may be sold to the highest responsible bidder upon three weeks published notice of the sale in a

newspaper or other periodical of general circulation in the county where the land is located. All bids may be rejected and new bids received upon like publication. If the lands remain unsold after being offered for sale to the highest bidder, the commissioner may retain the services of a licensed real estate broker to find a buyer. The sale price may be negotiated by the broker, but must not be less than 90 percent of the appraised market value as determined by the commissioner. The broker's fee must be established by prior agreement between the commissioner and the broker, and must not exceed ten percent of the sale price. The broker's fee must be paid to the broker from the proceeds of the sale.

History: 1983 c 143 s 6

161.431 LEASING OF HIGHWAY EASEMENTS.

The commissioner may lease to the fee owner for a fair rental rate and upon terms and conditions that the commissioner deems proper, an easement in real estate acquired for trunk highway purposes and not then needed for trunk highway purposes. If the fee owner refuses to lease or if after diligent search the fee owner cannot be found, the commissioner may lease the easement to an agency or to a political subdivision of the state on terms and conditions agreed upon, or the commissioner may lease the easement to the highest responsible bidder upon three weeks published notice of the lease offering in a newspaper or other periodical of general circulation in the county where the easement is located. All bids may be rejected and new bids received upon like publication. All rents received from the lease must be paid into the state treasury. Seventy percent of any rent received is to be credited to the trunk highway fund. The remaining 30 percent is to be paid to the county treasurer of the county where the easement is located for distribution in the same manner as real estate taxes.

History: 1983 c 143 s 7

161.44 RELINQUISHMENT OF LANDS OWNED IN FEE.

[For text of subd 1, see M.S.1982]

Subd. 2. **Reconveyance when remainder of tract owned by vendor or surviving spouse.** If the lands were part of a larger tract and the remainder of the tract is still owned by the person or the person's surviving spouse from whom the lands were acquired, or if the lands constituted an entire tract, the lands must first be offered for reconveyance to the previous owner or the owner's surviving spouse. When lands are offered for reconveyance, the amount of money to be repaid for those lands must be the appraised current market value of the lands to be reconveyed. The offer must be made by certified mail addressed to the person at the person's last known address. The person or the person's surviving spouse shall have 60 days from the date of mailing the offer to accept and to tender to the commissioner the required sum of money.

[For text of subds 3 to 6, see M.S.1982]

Subd. 6a. **Services of a licensed real estate broker.** If the lands remain unsold after being offered for sale to the highest bidder, the commissioner may retain the services of a licensed real estate broker to find a buyer. The sale price may be negotiated by the broker, but must not be less than 90 percent of the appraised market value as determined by the commissioner. The broker's fee must be established by prior agreement between the commissioner and the broker,

161.44 DEPARTMENT OF TRANSPORTATION AND TRUNK HIGHWAY SYSTEM

6

and must not exceed ten percent of the sale price. The broker's fee must be paid to the broker from the proceeds of the sale.

[For text of subds 7 and 8, see M.S.1982]

Subd. 9. **Receipts paid into trunk highway fund.** Moneys received from the sale of such lands and properties less any fees paid under subdivision 6a, must be paid into the trunk highway fund.

[For text of subd 11, see M.S.1982]

History: 1983 c 143 s 8-10

161.46 REIMBURSEMENT OF UTILITIES.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. **Acquisition of relocated facilities for utility.** When the project requires a utility to relinquish lands or interests in lands owned by the utility and the utility is unable to acquire lands or interests in lands necessary to enable it to relocate its facilities, or if the acquisition of the lands or interests in lands by the utility would result in undue delay thereby delaying the interstate highway project, the commissioner, by purchase, gift, or eminent domain proceedings, may acquire the lands or interests in lands necessary for the relocation if the commissioner deems that the acquisition would reduce the cost to the state of the project. The lands necessary for the relocation to be acquired by the commissioner must be designated in an agreement between the utility and the commissioner. The agreement must also provide that without cost to either party to the agreement, the utility will relinquish to the state its interests in the lands required for the interstate project in consideration of the conveyance by the state to the utility of the substitute lands designated in the agreement to be acquired by the state. The interest or estate acquired by the commissioner must be substantially similar to the interest or estate that the utility owned in the lands to be relinquished by it to the state. The commissioner may convey the lands or interests in lands to the utility.

[For text of subd 5, see M.S.1982]

History: 1983 c 143 s 11

161.465 REIMBURSEMENT FOR FIRE SERVICES.

Ordinary expenses incurred by a municipal or volunteer fire department in extinguishing a grass fire within the right-of-way of a trunk highway must be reimbursed upon certification to the commissioner of public safety from the trunk highway fund. In addition, ordinary expenses incurred by a municipal or volunteer fire department in extinguishing a fire outside the right-of-way of any trunk highway if the fire originated within the right-of-way, upon approval of a police officer or an officer or employee of the department of public safety must, upon certification to the commissioner of public safety by the proper official of the municipality or fire department within 60 days after the completion of the service, be reimbursed to the municipality or fire department from funds in the trunk highway fund. The commissioner of public safety shall take action practicable to secure reimbursement to the trunk highway fund of money expended under this section from the person, firm, or corporation responsible for the fire or danger of fire.

The provisions of this section shall not be construed to admit state liability for damage or destruction to private property or for injury to persons resulting from a fire originating within a trunk highway right-of-way.

History: 1983 c 301 s 140