

## CHAPTER 162

## STATE-AID SYSTEM

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**162.01** Subdivision 1. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

Subd. 2. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

Subd. 3. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

Subd. 4. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

Subd. 5. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

Subd. 6. MS 1949 [Repealed, 1951 c 120 s 1]

Subd. 7. MS 1949 [Obsolete]

Subd. 8. [Superseded by last sentence of subd 5]

Subd. 9. MS 1957 [Repealed, 1959 c 500 art 6 s 13]

**162.01 DEFINITIONS.**

For the purposes of this chapter the terms defined in section 160.02 shall have the same meaning.

**History:** 1959 c 500 art 3 s 1

**162.015** [Repealed, 1959 c 500 art 6 s 13]

## COUNTIES

**162.02** MS 1957 [Repealed, 1959 c 500 art 6 s 13]

**162.02 COUNTY STATE-AID HIGHWAY SYSTEM.**

Subdivision 1. **Creation.** There is created a county state-aid highway system which must be established, located, constructed, reconstructed, improved, and maintained as public highways by the counties under rules not inconsistent with this section made and promulgated by the commissioner as provided in this chapter. The counties are vested with the rights, title, easements, and their appurtenances, held by or vested in any of the towns or municipal subdivisions or dedicated to the public use prior to the time a road or portion of a road is taken over by the county as a county state-aid highway. If a county state-aid highway is established over a center portion of a street in a city having a population of 5,000 or more, then the remaining portion of the street may be established as a municipal state-aid street.

Subd. 2. **Rules; advisory committee.** The rules shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the several county boards acting through the officers of the statewide association of county

commissioners. The committee shall be composed of nine members so selected that each member shall be from a different state highway construction district. Not more than five of the nine members of the committee shall be county commissioners. The remaining members shall be county highway engineers. The committee expires as provided in section 15.059, subdivision 5. In the event that agreement cannot be reached on any rule the commissioner's determination shall be final. The rules shall be printed and copies thereof shall be forwarded to the county auditors and the county engineers of the several counties.

**Subd. 3. Rules have force of law.** The rules shall have the force and effect of law upon compliance with the provisions of sections 14.05 to 14.28.

**Subd. 3a. Variances from rules and engineering standards.** The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.021 or 162.07, subdivision 2. A political subdivision in which a county state-aid highway is located or is proposed to be located may submit a written request to the commissioner for a variance for that highway. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

**Subd. 4. Location and establishment; commissioner's review.** The county boards of the several counties shall by resolution and subject to the concurrence of the commissioner locate and establish a system of county state-aid highways in accordance with the rules made and promulgated by the commissioner. It shall be the duty of the commissioner to review each system considering the availability of funds and the desirability of each system in relation to an integrated and coordinated system of highways. After review the commissioner shall by written order approve each system or any part thereof which in the commissioner's judgment is feasible and desirable. A certified copy of the order shall be filed with the county auditor and the county engineer.

**Subd. 5. Acquisition of necessary property.** The several county boards shall have power to acquire by purchase, gift, or condemnation in accordance with the provisions of chapter 117, and acts supplemental thereto, lands and properties necessary for the establishment, location, relocation, construction, reconstruction, improvement, and maintenance of the county state-aid highway system or as in section 163.12, subdivisions 1 to 10 inclusive.

**Subd. 6. System includes certain roads.** The system shall include all roads and extensions thereof which were designated on June 30, 1957, as state-aid roads, and which were on June 30, 1957, under the jurisdiction of the counties, and shall include all roads which were designated on June 30, 1957, as state-aid parkways; provided, that with the consent and approval of the commissioner, any roads made a part of the county state-aid highway system by the provision of this subdivision may be abandoned, changed, or revoked by the county board having jurisdiction over such roads.

**Subd. 7. Establishment in new location or over established roads.** The county board of any county may establish and locate any county state-aid highway on new location where there is no existing road, or it may establish and locate the highway upon or over any established road or street or a specified portion thereof within its limits. Except as provided in subdivision 8a, no county state-aid highway shall be established or located within the corporate limits of any city without the approval of the governing body of the city, except that when a county state-aid highway is relocated the approval of the plans by the governing body shall be deemed to be a transfer of the

previous location of the highway to the jurisdiction of the city. The approval shall be in the manner and form required by the commissioner.

Subd. 7a. **Prohibition against certain designations.** Notwithstanding Laws 1997, chapter 238, section 3, a county must follow the procedures established in this chapter for the establishment and designation of a county state-aid highway.

Subd. 8. **Approval by city.** Except as provided in subdivision 8a, no portion of the county state-aid highway system lying within the corporate limits of any city shall be constructed, reconstructed, or improved nor the grade thereof changed without the prior approval of the plans by the governing body of such city and the approval shall be in the manner and form required by the commissioner.

Subd. 8a. **Dispute resolution board.** If a city has failed to approve establishment, construction, reconstruction, or improvement of a county state-aid highway within its corporate limits under subdivision 7 or 8, the county board may, by resolution, request the commissioner to appoint a dispute resolution board consisting of one county commissioner, one county engineer, one city council member or city mayor, one city engineer, and one representative of the department of transportation. The board shall review the proposed change and make a recommendation to the commissioner. Notwithstanding any other law, the commissioner may approve the establishment, construction, reconstruction, or improvement of a county state-aid highway recommended by the board.

Subd. 9. **Commissioner's power.** When it shall be made to appear to the commissioner that the county board of any county has refused to locate and establish a county state-aid highway which in the opinion of the commissioner is necessary to provide an integrated and coordinated highway system, the commissioner may, until the county state-aid highway is located and established, withhold from the county so much of the county's share of the county state-aid highway fund as the commissioner deems advisable.

Subd. 10. **Abandonment or revocation.** County state-aid highways may be abandoned, changed, or revoked by joint action of the county board and the commissioner. If a county state-aid highway is established or located within the limits of a city, it shall not be abandoned, changed, or revoked without the concurrence of the governing body of such city; provided, that any county state-aid highway established or located within a city may be abandoned, or revoked without concurrence if the city refuses or neglects for a period of one year after submittal to approve plans for the construction of such highway which plans conform to the construction standards provided in the commissioner's rules.

Subd. 11. **Reverted trunk highways.** The county state-aid highway system is hereby increased in extent by the addition thereto of the mileage of all trunk highways reverted or turned back to the jurisdiction of the counties pursuant to law on and after July 1, 1965.

Subd. 12. **Former municipal state-aid streets.** Former municipal state-aid streets located in a city that previously received money from the municipal state-aid street fund but whose population fell below 5,000 under the 1980 or 1990 federal census must be included in the county state-aid highway system, subject to the approval of the governing bodies of the city and the county. An action taken by a county board approving the inclusion of a former municipal state-aid street in the county state-aid highway system must also include a resolution taking over the street as a county highway under section 163.11. The county state-aid highway system is increased in extent by the addition of the mileage of municipal state-aid streets reverting or turned over to the jurisdiction of the counties under this subdivision.

**History:** 1959 c 500 art 3 s 2; 1967 c 320 s 1; 1969 c 63 s 1; 1973 c 123 art 5 s 7; 1976 c 2 s 172; 1979 c 167 s 2; 1980 c 509 s 53; 1982 c 424 s 130; 1984 c 465 s 1,2; 1985 c 248 s 70; 1986 c 444; 1988 c 629 s 38; 1991 c 233 s 58; 1991 c 298 art 4 s 5; 1995 c 233 art 2 s 56; 1996 c 455 art 7 s 1-3; 1997 c 238 s 1

**162.021 NATURAL PRESERVATION ROUTES.**

Subdivision 1. **Establishment.** (a) The commissioner shall establish a natural preservation routes category within the county state-aid highway system.

(b) Natural preservation routes include those routes that possess particular scenic, environmental, or historical characteristics, such as routes along lakes or through forests, wetlands, or flood plains, that would be harmed by construction or reconstruction meeting the engineering standards under section 162.07 or the rules adopted under that section.

(c) The commissioner shall adopt rules establishing minimum construction and reconstruction standards that address public safety and reflect the function, lower traffic volume, and slower speed on natural preservation routes. The rules may not establish standards for natural preservation routes that are higher than the standards for national forest highways within national forests and state park access roads within state parks. Design standards specifying the width of vehicle recovery areas on forest highways, forest and park roads, and on natural preservation routes must minimize harmful environmental impact.

Subd. 2. **Signs.** Signs must be posted at entry points to and at regular intervals along natural preservation routes. Signs posted must conform to the commissioner's manual of uniform traffic devices. Properly posted signs are prima facie evidence that adequate notice of a natural preservation route has been given to the motoring public.

Subd. 3. **Liability.** Where a county state-aid highway has been designated a natural preservation route and signs have been posted under subdivision 2, the state and the county with jurisdiction over the road and their officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to its design standards for construction or reconstruction, if the design standards comply with the standards established by the commissioner under subdivision 1. This subdivision does not preclude an action for damages arising from negligence in the construction, reconstruction, or maintenance of a natural preservation route.

Subd. 4. **Public information.** A county proposing a project on a county state-aid highway that is a natural preservation route that requires removal of the entire surface of the highway shall send to owners of property abutting the highway a written notice that describes the project. The county shall hold a public meeting to discuss design and construction alternatives.

Subd. 5. **Designation.** (a) The commissioner may designate a county state-aid highway as a natural preservation route only on petition of the county board of the county having jurisdiction over the road. Within 60 days after a county board receives a written request to designate a county state-aid highway as a natural preservation route, the county board shall act on the request.

(b) The commissioner shall appoint an advisory committee for each construction district consisting of seven members: one member of the department of natural resources, one county commissioner, one county highway engineer, one representative of a recognized environmental organization, and three members of the public. The commissioner shall refer each petition received under this subdivision to the appropriate advisory committee. The advisory committee shall consider the petition for designation and make a recommendation to the commissioner. Following receipt of the committee's recommendation, the commissioner may designate the highway as a natural preservation route.

**History:** 1991 c 298 art 4 s 6

**162.03 MS 1945 [Local, Ramsey county]**

**162.03 ESTABLISHMENT ALONG COMMON BOUNDARY LINES.**

The county boards of two or more counties may with the consent of the commissioner establish and locate a county state-aid highway along or near the

common boundary line of the counties. The county boards of the counties may enter into agreements providing for the division of costs and responsibility to be borne by each for right-of-way, construction, improvement, and maintenance of such county state-aid highway.

**History:** 1959 c. 500 art 3 s 3

**162.04 MS 1957** [Repealed, 1959 c 500 art 6 s 13]

**162.04 LIMITATION ON PAYMENT OF CONTRACT PRICE.**

Whenever the construction or improvement of any county state-aid highway is to be done by contract, and the construction or improvement is not financed in whole or in part by federal aid highway money, the county board shall agree in the contract to pay the contractor on account an amount not to exceed 95 percent of the value of the work from time to time actually completed as shown by monthly estimates thereof, made by the county engineer on the basis of the contract prices, and shall further agree that when the work is 95 percent or more completed upon the recommendation of the county engineer such portions of the retained price shall be released as the county board determines are not required to be retained to protect the county's interest in completion of the contract. In such case it shall be lawful for the county auditor to issue a warrant on the county treasurer to the contractor for an amount consistent with the above prescribed limitations of the value of the work so completed and specified in the engineer's monthly estimate without allowance of a claim therefor by the county board. Failure to pay any amount due and payable under the terms of the contract within 30 days of a monthly estimate or 90 days after the final estimate of the value of the work completed shall obligate the county to pay to the contractor simple interest on the past due amount at an annual rate equal to the monthly index of long term United States bond yields for the month prior to the month in which this obligation is incurred plus an additional one percent per annum. Interest shall not be imposed with respect to any amount which a county may legally withhold as a result of breach of contract or other contractual claim, or if the delay is caused by the contractor.

**History:** 1959 c 500 art 3 s 4; 1973 c 437 s 1; 1977 c 144 s 1; 1980 c 464 s 6

**162.05 MS 1957** [Repealed, 1959 c 500 art 6 s 13]

**162.05 PAYMENT INTO COUNTY STATE-AID HIGHWAY FUND.**

In addition to the 29 percent of the net highway user tax distribution fund there shall be paid into the county state-aid highway fund all money accruing from the income derived from the investments in the internal improvement land fund.

**History:** 1959 c 500 art 3 s 5

**162.06 MS 1957** [Repealed, 1959 c 500 art 6 s 13]

**162.06 ACCRUALS TO COUNTY STATE-AID HIGHWAY FUND; ACCOUNTS.**

Subdivision 1. **Estimate.** By December 15 of each year the commissioner shall estimate the amount of money that will be available to the county state-aid highway fund during that fiscal year. The amount available must be based on actual receipts from July 1 through November 30, the unallocated fund balance, and the projected receipts for the remainder of the fiscal year. The total available, except for deductions as provided herein, shall be apportioned by the commissioner to the counties as hereinafter provided.

Subd. 2. **Administrative costs of department.** A sum of 1-1/2 percent shall be deducted from the total amount available in the county state-aid highway fund, set aside in a separate account, and used for administrative costs incurred by the state transportation department in carrying out the provisions relating to the county state-aid highway system.

Subd. 3. **Disaster account.** After deducting administrative costs as provided in subdivision 2, the commissioner shall set aside each year a sum of money equal to one percent of the remaining money in the county state-aid highway fund to provide for a disaster account; provided that the total amount of money in the disaster account shall never exceed one percent of the total sums to be apportioned to the counties. This sum shall be used to provide aid to any county encountering disasters or unforeseen events affecting its county state-aid highway system, and resulting in an undue and burdensome financial hardship. Any county desiring aid by reason of such disaster or unforeseen event shall request the aid in the form required by the commissioner. Upon receipt of the request the commissioner shall appoint a board consisting of two representatives of the counties, who must be either a county engineer or member of a county board, from counties other than the requesting county, and a representative of the commissioner. The board shall investigate the matter and report its findings and recommendations in writing to the commissioner. Final determination of the amount of aid, if any, to be paid to the county from the disaster account shall be made by the commissioner. Upon determining to aid any such county the commissioner shall certify to the commissioner of finance the amount of the aid, and the commissioner of finance shall thereupon issue a warrant in that amount payable to the county treasurer of the county. Money so paid shall be expended on the county state-aid highway system in accordance with the rules of the commissioner.

Subd. 4. **Research account.** (a) Each year the screening board, provided for in section 162.07, subdivision 5, may recommend to the commissioner a sum of money that the commissioner shall set aside from the county state-aid highway fund and credit to a research account. The amount so recommended and set aside shall not exceed one-half of one percent of the preceding year's apportionment sum.

(b) Any money so set aside shall be used by the commissioner for the purpose of:

(1) conducting research for improving the design, construction, maintenance and environmental compatibility of state-aid highways and appurtenances;

(2) constructing research elements and reconstructing or replacing research elements that fail; and

(3) conducting programs for implementing and monitoring research results.

(c) Any balance remaining in the research account at the end of each year from the sum set aside for the year immediately previous, shall be transferred to the county state-aid highway fund.

Subd. 5. **State park road account.** After deducting for administrative costs and for the disaster account and research account as heretofore provided from the remainder of the total sum provided for in subdivision 1, there shall be deducted a sum equal to the three-quarters of one percent of the remainder. The sum so deducted shall be set aside in a separate account and shall be used for (1) the establishment, location, relocation, construction, reconstruction, and improvement of those roads included in the county state-aid highway system under Minnesota Statutes 1961, section 162.02, subdivision 6, which border and provide substantial access to an outdoor recreation unit as defined in section 86A.04 or which provide access to the headquarters of or the principal parking lot located within such a unit, and (2) the reconstruction, improvement, repair, and maintenance of county roads, city streets, and town roads that provide access to public lakes, rivers, state parks, and state campgrounds. Roads described in clause (2) are not required to meet county state-aid highway standards. At the request of the commissioner of natural resources the counties wherein such roads are located shall do such work as requested in the same manner as on any county state-aid highway and shall be reimbursed for such construction, reconstruction, or improvements from the amount set aside by this subdivision. Before requesting a county to do work on a county state-aid highway as provided in this subdivision, the commissioner of natural resources must obtain approval for the project from the county state-aid screening board. The screening board, before giving its approval, must obtain a written comment on the project from the county engineer of the county requested to undertake the project. Before requesting a county to do work on a county road, city street, or a

town road that provides access to a public lake, a river, a state park, or a state campground, the commissioner of natural resources shall obtain a written comment on the project from the county engineer of the county requested to undertake the project. Any sums paid to counties or cities in accordance with this subdivision shall reduce the money needs of said counties or cities in the amounts necessary to equalize their status with those counties or cities not receiving such payments. Any balance of the amount so set aside, at the end of each year shall be transferred to the county state-aid highway fund.

**Subd. 6. County state-aid highway revolving loan account.** A county state-aid highway revolving loan account is created in the transportation revolving loan fund. The commissioner may transfer to the account the amount allocated under section 162.065. Money in the account may be used to make loans. Funds in the county state-aid highway revolving loan account may be used only for aid in the construction, improvement, and maintenance of county state-aid highways. Funds in the account may not be used for any toll facilities project or congestion-pricing project. Repayments and interest from loans from the county state-aid highway revolving loan account must be credited to that account. Money in the account is annually appropriated to the commissioner and does not lapse. Interest earned from investment of money in this account must be deposited in the county state-aid highway revolving loan account.

**History:** 1959 c 500 art 3 s 6; 1963 c 75 s 1; 1963 c 589 s 1; 1965 c 239 s 1; 1967 c 335 s 1; 1969 c 1129 art 3 s 1; 1973 c 492 s 14; 1974 c 172 s 1; 1976 c 166 s 7; 1985 c 248 s 70; 1986 c 444; 1986 c 454 s 7; 1Sp1986 c 1 art 8 s 2; 1988 c 635 s 1; 1989 c 268 s 3; 1991 c 339 s 4; 1994 c 635 art 1 s 4,5; 1997 c 141 s 2; 1999 c 230 s 10-12

**NOTE:** Subdivision 6, as added by Laws 1997, chapter 141, section 2, is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11.

#### **162.065 ALLOCATING MATCHING FUNDS FOR CSAH REVOLVING LOAN ACCOUNT.**

The screening board appointed under section 162.07, subdivision 5, may recommend to the commissioner that the commissioner allocate a portion of county state-aid highway funds to the county state-aid highway revolving loan account. The commissioner may allocate no more than the amount recommended by the screening board.

**History:** 1997 c 141 s 3

**NOTE:** This section, as added by Laws 1997, chapter 141, section 3, is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11.

**162.07 MS 1957 [Repealed, 1959 c 500 art 6 s 13]**

#### **162.07 APPORTIONMENT OF MONEY TO COUNTIES.**

Subdivision 1. **Formula.** After deducting for administrative costs and for the disaster account and research account and state park roads as heretofore provided, the remainder of the total sum provided for in section 162.06, subdivision 1, shall be identified as the apportionment sum and shall be apportioned by the commissioner to the several counties on the basis of the needs of the counties as determined in accordance with the following formula:

(1) An amount equal to ten percent of the apportionment sum shall be apportioned equally among the 87 counties.

(2) An amount equal to ten percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its motor vehicle registration for the calendar year preceding the one last past, determined by residence of registrants, bears to the total statewide motor vehicle registration.

(3) An amount equal to 30 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its total lane-miles of approved county state-aid highways bears to the total lane-miles of approved statewide county state-aid highways. In 1997 and subse-

quent years no county may receive, as a result of an apportionment under this clause based on lane-miles rather than miles of approved county state-aid highways, an apportionment that is less than its apportionment in 1996.

(4) An amount equal to 50 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its money needs bears to the sum of the money needs of all of the individual counties; provided, that the percentage of such amount that each county is to receive shall be adjusted so that each county shall receive in 1958 a total apportionment at least ten percent greater than its total 1956 apportionments from the state road and bridge fund; and provided further that those counties whose money needs are thus adjusted shall never receive a percentage of the apportionment sum less than the percentage that such county received in 1958.

**Subd. 2. Money needs defined.** For the purpose of this section, money needs of each county are defined as the estimated total annual costs of constructing, over a period of 25 years, the county state-aid highway system in that county. Costs incidental to construction, or a specified portion thereof as set forth in the commissioner's rules may be included in determining money needs. To avoid variances in costs due to differences in construction policy, construction costs shall be estimated on the basis of the engineering standards developed cooperatively by the commissioner and the county engineers of the several counties. Any variance granted pursuant to section 162.02, subdivision 3a shall be reflected in the estimated construction costs in determining money needs.

**Subd. 3. Computation for rural counties.** An amount equal to a levy of 0.01596 percent on each rural county's total taxable market value for the last preceding calendar year shall be computed and shall be subtracted from the county's total estimated construction costs. The result thereof shall be the money needs of the county. For the purpose of this section, "rural counties" means all counties having a population of less than 175,000.

**Subd. 4. Computation for urban counties.** An amount equal to a levy of 0.00967 percent on each urban county's total taxable market value for the last preceding calendar year shall be computed and shall be subtracted from the county's total estimated construction costs. The result thereof shall be the money needs of the county. For the purpose of this section, "urban counties" means all counties having a population of 175,000 or more.

**Subd. 5. Screening board.** On or before September 1 of each year the county engineer of each county shall forward to the commissioner, on forms prepared by the commissioner, all information relating to the mileage, in lane-miles, of the county state-aid highway system in the county, and the money needs of the county that the commissioner deems necessary in order to apportion the county state-aid highway fund in accordance with the formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board consisting of the following county engineers:

- (1) two county engineers from the metropolitan highway construction district;
- (2) one county engineer from each nonmetropolitan highway district; and
- (3) one additional county engineer from each county with a population of 175,000 or more.

No county engineer shall be appointed under clause (1) or (2) so as to serve consecutively for more than four years. The board shall investigate and review the information submitted by each county and shall on or before the first day of November of each year submit its findings and recommendations in writing as to each county's lane-mileage and money needs to the commissioner on a form prepared by the commissioner. Final determination of the lane-mileage of each system and the money needs of each county shall be made by the commissioner.

**Subd. 6. Estimates to be made if information not provided.** In the event that any county shall fail to submit the information provided for herein, the commissioner shall

estimate the lane-mileage and the money needs of the county. The estimate shall be used in determining the apportionment formula. The commissioner may withhold payment of the amount apportioned to the county until the information is submitted.

**History:** 1959 c 500 art 3 s 7; 1963 c 589 s 2; 1973 c 123 art 5 s 7; 1973 c 773 s 1; 1979 c 167 s 3; 1985 c 248 s 70; 1985 c 299 s 4-6; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 12,13; 1996 c 455 art 7 s 4-6

NOTE: Subdivision 1 was amended by Laws 1997, chapter 141, section 4, to add in the first paragraph, after "provided," the phrase "and for any allocation made under section 162.065.". The amendment to subdivision 1 is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11.

162.071 [Repealed, 1985 c 299 s 43]

162.08 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

### 162.08 ALLOCATION OF APPORTIONMENTS.

Subdivision 1. **Allocation for cities having less than 5,000 population.** Upon determining the sum of money to be apportioned to each county as hereinbefore provided, the commissioner shall allocate a percentage of such sum for expenditure solely on those portions of each county's county state-aid highways located within cities having a population of less than 5,000, according to the last federal decennial census, or, if incorporated during the ten-year period between federal decennial censuses, according to their incorporation census. The percentage so allocated shall equal the percentage that the total needs of the county state-aid highway system in such cities bears to the total county state-aid highway needs in each county. Money so allocated shall be set apart and credited to the municipal account of each county.

Subd. 2. **Statement of amount apportioned and allocated.** Upon determining the amount of money to be apportioned to each of the counties and the sum of such amount to be allocated for expenditure on those county state-aid highways located within cities having a population of less than 5,000, the commissioner shall forthwith send a statement of the amount to the commissioner of finance, and the county auditor and county engineer of each county. The amounts so apportioned and allocated to each county shall be paid by the state to the treasurer of each county out of the county state-aid highway fund as hereinafter provided, and in accordance with rules made and promulgated by the commissioner not inconsistent herewith.

Subd. 3. **Aid to towns.** Any county having within its boundaries organized town governments may, by resolution, allocate to the towns within its boundaries so much of the money apportioned to it under the provisions of sections 162.01 to 162.181, that it deems necessary to aid the townships in the construction of town roads. The resolution shall set forth the amount of money or the percentage of its apportionment that the county has allocated to the towns. A certified copy of the resolution shall be forwarded to the commissioner on or before the second Tuesday of January of each year. Upon receipt of such resolution and upon determining the amount of money to be apportioned to the county, the commissioner shall certify to the commissioner of finance the amount of money, as set forth in the resolution, that is to be paid out of the county's apportionment for distribution to the towns. The commissioner of finance shall thereupon issue a warrant in that amount payable to the county treasurer, and the proceeds thereof shall be distributed by the county to the towns. All money so allocated and distributed shall be used by the towns solely for the construction of town roads. Each county board so allocating such funds may devise a formula taking into account each town's levy for road and bridge purposes, its mileage of town roads and population outside the corporate limits of all cities within the township, and such other factors as the county board shall deem advisable as a means of dividing the allocation among the several towns in order that such division among the towns be as equitable as possible. No part of the money allocated for expenditure solely within cities having a population of less than 5,000 shall be allocated or distributed to the towns. The commissioner of transportation shall maintain a permanent record of the allocations of county state-aid highway funds to the townships in each county. In making the annual

apportionments of county state-aid highway funds; the commissioner shall reduce the money needs of said counties in the amounts necessary to equalize their status with those counties not making such township allotments.

Subd. 4. **Purposes; other uses of municipal account allocation.** (a) Except as provided in subdivision 3, money so apportioned and allocated to each county shall be used for aid in the establishment, location, construction, reconstruction, improvement, and maintenance of the county state-aid highway system within each county, including the expense of sidewalks, commissioner-approved signals and safety devices on county state-aid highways, and systems that permit an emergency vehicle operator to activate a green traffic signal for the emergency vehicle; provided, that in the event of hardship, or in the event that the county state-aid highway system of any county is improved to the standards set forth in the commissioner's rules, a portion of the money apportioned other than the money allocated for expenditures within cities having a population of less than 5,000, may be used on other roads within the county with the consent and in accordance with the commissioner's rules.

(b) If the portion of the county state-aid highway system lying within cities having a population of less than 5,000 is improved to the standard set forth in the commissioner's rules, a portion of the money credited to the municipal account may be used on other county highways or other streets lying within such cities. Upon the authorization of the commissioner, a county may expend accumulated municipal account funds on county state-aid highways within the county outside of cities having a population of less than 5,000. The commissioner shall authorize the expenditure if:

(1) the county submits a written request to the commissioner and holds a hearing within 30 days of the request to receive and consider any objections by the governing bodies of cities within the county having a population of less than 5,000; and

(2) no written objection is filed with the commissioner by any such city within 14 days of that hearing as provided in this subdivision.

The county shall notify all of the cities of the public hearing by certified mail and shall notify the commissioner in writing of the results of the hearing and any objections to the use of the funds as requested by the county.

(c) If, within 14 days of the hearing under paragraph (b), a city having a population of less than 5,000 files a written objection with the commissioner identifying a specific county state-aid highway within the city which is requested for improvement, the commissioner shall investigate the nature of the requested improvement. Notwithstanding paragraph (b), clause (2), the commissioner may authorize the expenditure requested by the county if:

(1) the identified highway is not deficient in meeting minimum state-aid street standards;

(2) the county shows evidence that the identified highway has been programmed for construction in the county's five-year capital improvement budget in a manner consistent with the county's transportation plan; or

(3) there are conditions created by or within the city and beyond the control of the county that prohibit programming or constructing the identified highway.

(d) Notwithstanding any contrary provisions of paragraph (b) or (c), accumulated balances in excess of two years of municipal account apportionments may be spent on projects located outside of municipalities under 5,000 population when approved solely by resolution of the county board.

(e) Authorization for use of municipal account funds on county state-aid highways outside of cities having a population of less than 5,000 shall be applicable only to the county's accumulated and current year allocation. Future municipal account allocations shall be used as directed by law unless subsequent requests are made by the county and approved by the commissioner, or approved by resolution of the county board, as applicable, in accordance with the applicable provisions of this section.

Subd. 5. **Advances to municipal account.** Any county may make advances from any available funds, including funds made available by a city pursuant to subdivision 6 to the municipal account for the purpose of completing work on any portion of its county state-aid highway system within cities having a population of less than 5,000. Any advances shall be repaid by deducting an amount equal thereto from money accruing to the municipal account. Advances heretofore made shall be repaid in like manner.

Subd. 6. **Advances of city funds; financing.** Any city having a population of less than 5,000 may, by agreement with the county pursuant to section 162.17, subdivision 2, and under rules of the commissioner and with the commissioner's consent, use available funds for the purpose of accelerating construction of any portion of the county state-aid highway system within its limits. To finance such construction, the city may issue its obligations to the same extent and in the same manner as for financing construction of any other street. By such agreement, the county may pledge itself to use any part of one or more future allotments to its municipal account to reimburse the city for all or any portion of the money so spent by the city, not including interest on obligations issued to finance the project. A copy of the agreement shall be filed with the commissioner. Thereafter, as allotments are credited annually to the municipal account of the county, the commissioner shall certify to the commissioner of finance that payments to the county may be made in the amounts and at the times specified in the agreement within the limits of the amounts so credited. The county shall pay funds so received to the city in accordance with the terms of the agreement.

Subd. 7. **Advances other than to municipal account.** Any county may make advances from any available funds for the purpose of expediting the construction, reconstruction, improvement and maintenance of its county state-aid highway system. Advances made by any county as provided herein, other than advances made to the municipal account, shall be repaid out of subsequent apportionments to the county's maintenance or construction account in accordance with the commissioner's rules.

Subd. 8. **County may appropriate additional money.** The amount of money to be appropriated by the counties from other funds for use in the establishment, location, construction, reconstruction, improvement, and maintenance of the county state-aid highway system is left to the discretion of the individual county boards. Nothing contained herein shall restrict or prohibit a county board from using money collected from county road and bridge levies to provide, by mutual agreement, financial assistance or services not otherwise prohibited by law to townships and municipalities within its borders.

Subd. 9. **Maintenance.** Not more than 40 percent of the money so apportioned and allocated to each county shall be set aside in separate accounts for the maintenance of the county state-aid highway system in the counties; provided, that upon good cause shown and in accordance with the commissioner's rules, the commissioner may set aside an additional percentage for the maintenance of any county state-aid highway system. Money so set aside shall be paid to the several counties in accordance with the rules of the commissioner.

Subd. 10. **Project approval, reports.** When the county board of any county determines to do any construction work on a county state-aid highway or other road eligible for the expenditure of state aid funds within the county, and desires to expend on such work a portion of the money apportioned or allocated to it out of the county state-aid highway fund, the county shall first obtain approval of the project by the commissioner. Thereafter the county engineer shall make such reports in such manner as the commissioner requires under rules of the commissioner. Upon receipt of satisfactory reports, the commissioner shall certify to the commissioner of finance the amount of money that is eligible to be paid from the county's apportionment or allocation for the work under contract or actually completed. The commissioner of finance shall thereupon issue a warrant in that amount payable to the county treasurer. In no event shall the warrant with all other warrants issued exceed the amount apportioned and allocated to the county.

Subd. 11. **Certification required to issue warrants.** The commissioner of finance shall not issue any warrants without the certification of the commissioner.

**History:** 1959 c 500 art 3 s 8; 1961 c 563 s 4; 1963 c 244 s 1; 1963 c 734 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1975 c 193 s 1; 1976 c 166 s 7; 1978 c 686 s 1; 1Sp1981 c 4 art 1 s 84; 1985 c 248 s 70; 1986 c 444; 1993 c 92 s 1; 1996 c 455 art 3 s 15,16; 1996 c 456 s 19

## TOWNS

### 162.081 TOWN ROAD ACCOUNT.

Subdivision 1. **Account created.** A town road account is created in the county state-aid highway fund.

Subd. 2. **Formula for distribution to counties.** Funds in the town road account must be apportioned to each county so that each county receives the percentage that the total miles of town road in the county bears to the total miles of town roads in the state.

Subd. 3. **Apportionment.** Upon determining the amount of money to be apportioned to each county under section 162.07, the commissioner shall also determine the amounts in the town road account to be apportioned under subdivision 2. The apportionment under subdivision 2 must be included in the statement sent to the commissioner of finance and the county auditor and county engineer of each county under section 162.08, subdivision 2. The amounts so apportioned and allocated to each county from the town road account must be paid by the state to the treasurer of each county at the same time that payments are made under section 162.08, subdivision 2, provided that the amounts must be paid in a sufficient time to allow the county to distribute the amounts to each town by March 1, annually.

Subd. 4. **Formula for distribution to towns; purposes.** Money apportioned to a county from the town road account must be distributed to the treasurer of each town within the county, according to a distribution formula adopted by the county board. The formula must take into account each town's levy for road and bridge purposes, its population and town road mileage, and other factors the county board deems advisable in the interests of achieving equity among the towns. Distribution of town road funds to each town treasurer must be made by March 1, annually, or within 30 days after receipt of payment from the commissioner. Distribution of funds to town treasurers in a county which has not adopted a distribution formula under this subdivision must be made according to a formula prescribed by the commissioner by rule. A formula adopted by a county board or by the commissioner must provide that a town, in order to be eligible for distribution of funds from the town road account in a calendar year, must have levied before the deduction of homestead and agricultural credit aid certified under section 273.1398, subdivision 2, for taxes payable in the previous year for road and bridge purposes at least 0.04835 percent of taxable market value. For purposes of this eligibility requirement, taxable market value means taxable market value for taxes payable two years prior to the aid distribution year.

Money distributed to a town under this subdivision may be expended by the town only for the construction, reconstruction, and gravel maintenance of town roads within the town.

**History:** 1983 c 17 s 3; 1984 c 410 s 1; 1984 c 535 s 2; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 268 s 4; 1989 c 277 art 4 s 14; 1991 c 278 s 1,2; 1993 c 117 s 1; 1994 c 553 s 1; 1998 c 372 art 2 s 5

## MUNICIPALITIES

162.09 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

### 162.09 MUNICIPAL STATE-AID STREET SYSTEM.

Subdivision 1. **Creation; mileage limitation; rules.** There is created a municipal state-aid street system within statutory and home rule charter cities having a population

of 5,000 or more. The extent of the municipal state-aid street system for a city shall not exceed: (1) 20 percent of the total miles of city streets and county roads within the jurisdiction of that city, plus (2) the mileage of all trunk highways reverted or turned back to the jurisdiction of the city pursuant to law on and after July 1, 1965, plus (3) the mileage of county highways reverted or turned back to the jurisdiction of the city pursuant to law on or after May 11, 1994. For purposes of this subdivision, the total miles of city streets and county roads within the jurisdiction of a city includes all miles of county highways turned back to that city's jurisdiction on or after May 11, 1994. The system shall be established, located, constructed, reconstructed, improved, and maintained as public highways within such cities under rules, not inconsistent with this section, made and promulgated by the commissioner as hereinafter provided.

**Subd. 2. Rules; advisory committee.** The rules shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the governing bodies of such cities, acting through the officers of the statewide association of municipal officials. The committee shall be composed of 12 members, so selected that there shall be one member from each state highway construction district and in addition one member from each city of the first class. Not more than six members of the committee shall be elected officials of the cities. The remaining members of the committee shall be city engineers. The committee expires as provided in section 15.059, subdivision 5. In the event that agreement cannot be reached on any rule the commissioner's determination shall be final. The rules shall be printed and copies thereof shall be forwarded to the clerks and engineers of the cities.

**Subd. 3. Rules have force of law.** The rules shall have the force and effect of law upon compliance with the provisions of sections 14.05 to 14.28.

**Subd. 3a. Variances from rules and engineering standards.** The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.13, subdivision 2. A political subdivision in which a municipal state-aid street is located or is proposed to be located may submit a written request to the commissioner for a variance for that street. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

**Subd. 4. Federal census is conclusive.** (a) In determining whether any city has a population of 5,000 or more, the last federal census shall be conclusive, except as otherwise provided in this subdivision.

(b) A city that has previously been classified as having a population of 5,000 or more for the purposes of chapter 162 and whose population decreases by less than 15 percent from the census figure that last qualified the city for inclusion shall receive the following percentages of its 1981 apportionment for the years indicated: 1982, 66 percent and 1983, 33 percent. Thereafter the city shall not receive any apportionment from the municipal state-aid street fund unless its population is determined to be 5,000 or over by a federal census. The governing body of the city may contract with the United States Bureau of the Census to take one special census before January 1, 1986. A certified copy of the results of the census shall be filed with the appropriate state authorities by the city. The result of the census shall be the population of the city for the purposes of any law providing that population is a required qualification for distribution of highway aids under chapter 162. The special census shall remain in effect until the 1990 federal census is completed and filed. The expense of taking the special census shall be paid by the city.

(c) If an entire area not heretofore incorporated as a city is incorporated as such during the interval between federal censuses, its population shall be determined by its incorporation census. The incorporation census shall be determinative of the population of the city only until the next federal census.

(d) The population of a city created by the consolidation of two or more previously incorporated cities shall be determined by the most recent population estimate of the metropolitan council or state demographer, until the first federal decennial census or special census taken after the consolidation.

(e) The population of a city that is not receiving a municipal state-aid street fund apportionment shall be determined, upon request of the city, by the most recent population estimate of the metropolitan council or state demographer. A municipal state-aid street fund apportionment received by the city must be based on this population estimate until the next federal decennial census or special census.

**Subd. 5. Joint county state-aid highway and municipal state-aid street.** In the event that any county establishes and locates a county state-aid highway upon and over a center portion of a street within such city, the remaining portion of the street may be a municipal state-aid street.

**Subd. 6. Location and establishment; commissioner's review.** The governing bodies of such cities shall by resolution and subject to the concurrence of the commissioner locate and establish a system of municipal state-aid streets in accordance with the rules of the commissioner. A certified copy of the resolution shall be transmitted to the commissioner. Upon receipt of the resolution it shall be the duty of the commissioner to review each system, considering the availability of funds and the desirability of each system in relation to an integrated and coordinated system of highways. After review, the commissioner shall, by written order, approve each system or any portion thereof which in the commissioner's judgment is feasible and desirable. A certified copy of the order shall be filed with the clerk and the engineer of the city.

**Subd. 7. Acquisition of necessary property.** The governing bodies of such cities shall have the power to acquire by purchase, gift, or eminent domain proceedings, lands and properties necessary for the establishment, location, relocation, construction, reconstruction, improvement, and maintenance of the municipal state-aid street system.

**Subd. 8. Establishment over existing streets or new location.** The governing body of any such city, subject to the concurrence of the commissioner, may establish and locate any municipal state-aid street on new locations where there is no existing street, or it may establish and locate such street upon and over any established street or specified portion of any street within its limits.

**Subd. 9. Abandonment or revocation.** Any municipal state-aid street may be abandoned, changed, or revoked as such by joint action of the commissioner and the governing body of the city within which the street is located.

**Subd. 10. Establishment on common boundary line.** The governing bodies of two or more of such cities, with the consent of the commissioner, may establish and locate a municipal state-aid street along or near the common boundary line of the cities. The governing bodies of the cities may enter into agreements providing for the division of costs and responsibilities to be borne by each for right-of-way, construction, improvement, and maintenance of such municipal state-aid streets.

**History:** 1959 c 500 art 3 s 9; 1961 c 19 s 1; 1967 c 874 s 2; 1969 c 214 s 1; 1973 c 123 art 5 s 7; 1979 c 167 s 1,4; 1981 c 357 s 52; 1Sp1981 c 4 art 4 s 60; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 444; 1988 c 629 s 39; 1991 c 298 art 4 s 7; 1994 c 635 art 1 s 6; 1995 c 186 s 46; 1995 c 233 art 2 s 56; 1995 c 265 art 2 s 17; 1997 c 159 art 2 s 8; 1998 c 372 art 2 s 6

162.10 MS 1953 [Repealed, 1957 c 584 s 1]

**162.10 LIMITATION ON PAYMENT OF CONTRACT PRICE.**

Whenever the construction or improvement of any municipal state-aid street is to be done by contract, and the construction or improvement is not financed in whole or in part by federal aid highway money, the governing body of the city shall agree in the contract to pay the contractor an amount not exceeding 95 percent of the value of the work from time to time actually completed, as shown by monthly estimates thereof made by the engineer of the city on the basis of the contract prices, and shall further agree that when the work is 95 percent or more completed upon the recommendation of the city engineer such portions of the retained price shall be released as the governing body of the city determines are not required to be retained to protect the city's interest in completion of the contract. In such case it shall be lawful for the appropriate disbursing officers of the city to pay the contractor an amount consistent with the above prescribed limitations of the value of the work so completed and specified in the engineer's monthly estimate without allowance of a claim therefor by the governing body of the city. Failure to pay any amount due and payable under the terms of the contract within 30 days of a monthly estimate or 90 days after the final estimate of the value of the work completed shall obligate the city to pay to the contractor simple interest on the past due amount at an annual rate equal to the monthly index of long-term United States bond yields for the month prior to the month in which this obligation is incurred plus an additional one percent per annum. Interest shall not be imposed with respect to any amount which a city may legally withhold as a result of breach of contract or other contractual claim, or if the delay is caused by the contractor.

*History: 1959 c 500 art 3 s 10; 1973 c 123 art 5 s 7; 1975 c 259 s 1; 1977 c 144 s 2; 1980 c 464 s 7*

162.11 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

**162.11 PERCENTAGE PAID TO MUNICIPAL STATE-AID STREET FUND.**

Nine percent of the net highway user tax distribution fund shall be paid into the municipal state-aid street fund.

*History: 1959 c 500 art 3 s 11*

162.12 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

**162.12 ACCRUALS TO MUNICIPAL STATE-AID STREET FUND; ACCOUNTS.**

Subdivision 1. **Estimate of accruals.** By December 15 of each year the commissioner shall estimate the amount of money that will be available to the municipal state-aid street fund during that fiscal year. The amount available is based on actual receipts from July 1 through November 30, the unallocated fund balance, and the projected receipts for the remainder of the fiscal year. The total available, except for deductions as provided herein, shall be apportioned by the commissioner to the cities having a population of 5,000 or more as hereinafter provided.

Subd. 2. **Administrative costs.** A sum of 1-1/2 percent shall be deducted from the total available in the municipal state-aid street fund, set aside in a separate account, and used for administration costs incurred by the state transportation department in carrying out the provisions relating to the municipal state-aid street system.

Subd. 3. **Disaster account.** After deducting administrative costs as provided in subdivision 2, the commissioner shall set aside each year a sum of money equal to two percent of the remaining money in the municipal state-aid street fund to provide for a disaster account; provided, that the total amount of money in the disaster account shall never exceed five percent of the total sums to be apportioned to the statutory and home rule charter cities having a population of 5,000 or more. The disaster account shall be used to provide aid to any such city encountering disaster or unforeseen event affecting the municipal state-aid street system of the city, and resulting in an undue and burdensome financial hardship. Any such city desiring aid by reason of such disaster or

unforeseen event shall request aid in the form required by the commissioner. Upon receipt of the request the commissioner shall appoint a board consisting of two representatives of the cities, who must be either a city engineer or member of the governing body of a city, from cities other than the requesting city, and a representative of the commissioner. The board shall investigate the matter and report its findings and recommendations in writing to the commissioner. Final determination of the amount of aid, if any, to be paid to the city from the disaster account shall be made by the commissioner. Upon determining to aid the city, the commissioner shall certify to the commissioner of finance the amount of aid, and the commissioner of finance shall thereupon issue a warrant in that amount payable to the fiscal officer of the city. Money so paid shall be expended on the municipal state-aid street system in accordance with rules of the commissioner.

**Subd. 4. Research account.** (a) Each year the screening board, provided for in section 162.13, subdivision 3, may recommend to the commissioner a sum of money that the commissioner shall set aside from the municipal state-aid street fund and credit to a research account. The amount so recommended and set aside shall not exceed one-half of one percent of the preceding year's apportionment sum.

(b) Any money so set aside shall be used by the commissioner for the purpose of:

(1) conducting research for improving the design, construction, maintenance and environmental compatibility of municipal state-aid streets and appurtenances;

(2) constructing research elements and reconstructing or replacing research elements that fail; and

(3) conducting programs for implementing and monitoring research results.

(c) Any balance remaining in the research account at the end of each year from the sum set aside for the year immediately previous, shall be transferred to the municipal state-aid street fund.

**Subd. 5. Municipal state-aid street revolving loan account.** A municipal state-aid street revolving loan account is created in the transportation revolving loan fund. The commissioner may transfer to the account the amount allocated under section 162.125. Money in the account may be used to make loans. Funds in the municipal state-aid street revolving loan account may be used only for aid in the construction, improvement, and maintenance of municipal state-aid streets. Funds in the account may not be used for any toll facilities project or congestion-pricing project. Repayments and interest from loans from the municipal state-aid street revolving loan account must be credited to that account. Money in the account is annually appropriated to the commissioner and does not lapse. Interest earned from investment of money in this account must be deposited in the municipal state-aid street revolving loan account.

**History:** 1959 c 500 art 3 s 12; 1963 c 74 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1974 c 172 s 2; 1976 c 166 s 7; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 1 art 8 s 3; 1991 c 339 s 5; 1994 c 635 art 1 s 7,8; 1997 c 141 s 5; 1999 c 230 s 13-15

**NOTE:** Subdivision 5, as added by Laws 1997, chapter 141, section 5, is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11

## 162.125 MATCHING FUNDS FOR MSAS REVOLVING LOAN ACCOUNT.

The screening board appointed under section 162.13, subdivision 3, may recommend to the commissioner that the commissioner allocate a portion of municipal state-aid street funds to the municipal state-aid street revolving loan account. The commissioner may allocate no more than the amount recommended by the screening board.

**History:** 1997 c 141 s 6

**NOTE:** This section, as added by Laws 1997, chapter 141, section 6, is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11

162.13 MS 1949 [Repealed, 1951 c 192 s 1]

### 162.13 FORMULA FOR APPORTIONMENT TO CITIES.

Subdivision 1. **Factors in formula.** After deducting for administrative costs and for the disaster fund and research account as heretofore provided, the remainder of the total sum provided for in subdivision 1 of section 162.12 shall be identified as the apportionment sum, and shall be apportioned by the commissioner to the cities having a population of 5,000 or more, in accordance with the following formula:

(1) An amount equal to 50 percent of such apportionment sum shall be apportioned among the cities having a population of 5,000 or more so that each such city shall receive of such amount the percentage that its money needs bears to the total money needs of all such cities.

(2) An amount equal to 50 percent of such apportionment sum shall be apportioned among the cities having a population of 5,000 or more so that each such city shall receive of such amount the percentage that its population bears to the total population of all such cities.

Subd. 2. **Money needs defined.** For the purpose of this section money needs of each city having a population of 5,000 or more are defined as the estimated cost of constructing and maintaining over a period of 25 years the municipal state-aid street system in such city. Right-of-way costs and drainage shall be included in money needs. Lighting costs and other costs incidental to construction and maintenance, or a specified portion of such costs, as set forth in the commissioner's rules, may be included in determining money needs. When a county locates a county state-aid highway over a portion of a street in any such city and the remaining portion is designated as a municipal state-aid street only the construction and maintenance costs of the portion of the street other than the portions taken over by the county shall be included in the money needs of the city. To avoid variances in costs due to differences in construction and maintenance policy, construction and maintenance costs shall be estimated on the basis of the engineering standards developed cooperatively by the commissioner and the engineers, or a committee thereof, of the cities. Any variance granted pursuant to section 162.09, subdivision 3a shall be reflected in the estimated construction and maintenance costs in determining money needs.

Subd. 3. **Screening committee.** On or before September 1 of each year, the engineer of each city having a population of 5,000 or more shall forward to the commissioner on forms prepared by the commissioner, all information relating to the money needs of the city that the commissioner deems necessary in order to apportion the municipal state-aid street fund in accordance with the apportionment formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board of city engineers. The board shall be composed of one engineer from each state highway construction district, and in addition thereto, one engineer from each city of the first class. The board shall investigate and review the information submitted by each city. On or before November 1 of each year, the board shall submit its findings and recommendations in writing as to each city's money needs to the commissioner on a form prepared by the commissioner. Final determination of the money needs of each city shall be made by the commissioner. In the event that any city shall fail to submit the information provided for herein, the commissioner shall estimate the money needs of the city. The estimate shall be used in solving the apportionment formula. The commissioner may withhold payment of the amount apportioned to the city until the information is submitted.

**History:** 1959 c 500 art 3 s 13; 1973 c 123 art 5 s 7; 1979 c 167 s 5; 1985 c 248 s 70

**NOTE:** Subdivision 1 was amended by Laws 1997, chapter 141, section 7, to add in the first paragraph, after "provided," the words "and for any allocation made under section 162.125." The amendment to subdivision 1 is effective six months after the effective date of an increase in the gasoline excise tax rate or vehicle registration tax rates. Laws 1997, chapter 141, section 11.

162.14 MS 1949 [Repealed, 1951 c 192 s 1]

#### 162.14 APPORTIONMENT TO CITIES.

Subdivision 1. **Statement of apportionment to each city.** Upon determining the amount of money to be apportioned to each of the cities having a population of 5,000 or more, the commissioner shall forthwith send a statement of the amount to the commissioner of finance and to the clerk and engineer of each such city. The amount so apportioned to each city shall be paid by the state to the fiscal officer of the city out of the municipal state-aid street fund as hereinafter provided and in accordance with rules promulgated by the commissioner, not inconsistent herewith.

Subd. 2. **Purposes, other uses, other funds.** Money so apportioned to each such city shall be used for aid in the establishment, location, construction, reconstruction, improvement, and maintenance of the municipal state-aid street system within each city including the expense of sidewalks, signals and safety devices, including systems that permit an emergency vehicle operator to activate a green traffic signal for the emergency vehicle, on such system approved by the commissioner, provided that in the event of hardship or in the event that the municipal state-aid street system of any municipality is improved to the standards set forth in the commissioner's rules, and subject to the consent of the commissioner and under rules of the commissioner, a portion of the money so apportioned may be used on other streets or roads within the city. The governing body of any such city may, subject to the consent of the commissioner, and under the rules of the commissioner, use a portion of the money so apportioned on any state trunk highway or county state-aid highway within the city. The amount of money to be appropriated by such cities from other funds for use in the establishment, location, construction, reconstruction, improvement, and maintenance of the municipal state-aid street system within the city is hereby left to the direction of the individual governing bodies of the cities.

Subd. 3. **Maintenance.** The proportion of each such city's annual apportionment to be used for maintenance on its respective municipal state-aid street system shall be a joint determination of the commissioner and the governing body of each city. In the event that agreement cannot be reached, the determination of the commissioner shall be final.

Subd. 4. **Project approval and reports.** When the governing body of any such city determines to do any construction work on any municipal state-aid street or other streets within the city upon which money apportioned out of the municipal state-aid street fund may be used as provided in subdivision 2, the governing body shall first obtain the approval of the commissioner. Thereafter, the engineer of the city shall make reports in such manner as the commissioner requires in accordance with the commissioner's rules. Upon receipt of satisfactory reports the commissioner shall certify to the commissioner of finance the amount of money that is eligible to be paid from the city's apportionment for the work under contract or actually completed. The commissioner of finance shall thereupon issue a warrant in that amount payable to the fiscal officers of the city. In no event shall the warrant with all other warrants issued exceed the amount apportioned to the city.

Subd. 5. **Certification required to issue warrant.** The commissioner of finance shall not issue any warrants as provided for in subdivision 4 without the prior certification of the commissioner.

Subd. 6. **Advances.** Any such city may make advances from any funds available to it for the purpose of expediting the construction, reconstruction, improvement, or maintenance of its municipal state-aid street system; provided that such advances shall not exceed the city's total estimated apportionment for the three years following the year the advance is made. Advances made by any such city shall be repaid out of subsequent apportionments made to such city in accordance with the commissioner's rules.

**History:** 1959 c 500 art 3 s 14; 1963 c 309 s 1; 1967 c 85 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1985 c 248 s 70; 1986 c 444; 1986 c 454 s 8; 1991 c 298 art 4 s 8; 1996 c 455 art 3 s 17

## OTHER PROVISIONS

162.15 MS 1949 [Repealed, 1951 c 192 s 1]

**162.15 ADMINISTRATIVE COSTS.**

The necessary personal expenses of the members of any boards appointed by the commissioner shall be considered administrative costs of the department of transportation, and reimbursement of the expenses shall be made from the sums deducted for administrative costs as heretofore provided.

**History:** 1959 c 500 art 3 s 15; 1976 c 166 s 7

**162.155 RULES FOR VARIANCES.**

The commissioner shall adopt rules, no later than January 1, 1980, in accordance with sections 15.041 to 15.052, setting forth the criteria to be considered by the commissioner in evaluating requests for variances under sections 162.02, subdivision 3a and 162.09, subdivision 3a. The rules shall include, but are not limited to, economic, engineering and safety guidelines. The engineering standards adopted pursuant to section 162.07, subdivision 2, or 162.13, subdivision 2, shall be adopted pursuant to the requirements of chapter 15 by July 1, 1980.

**History:** 1979 c 167 s 6

162.16 MS 1949 [Repealed, 1951 c 192 s 1]

**162.16 INVESTMENT OF MONEY IN STATE-AID FUNDS.**

Upon the request of the commissioner, money in the county state-aid highway fund and money in the municipal state-aid street fund shall be invested by the state board of investment in those securities authorized for such purpose in section 11A.21. All interest and profits from the investments shall be credited to the fund on which the interest or profits are earned. The state treasurer shall be the custodian of all securities purchased under the provisions of this section.

**History:** 1959 c 500 art 3 s 16; 1963 c 567 s 5; 1965 c 113 s 2; 1967 c 404 s 6; 1980 c 607 art 14 s 46

162.17 MS 1949 [Repealed, 1951 c 192 s 1]

**162.17 AGREEMENTS BETWEEN COUNTY AND CITY.**

Subdivision 1. **Agreements with city having population of 5,000 or more.** The governing body of any city having a population of 5,000 or more may enter into cooperative agreements with the county board of the county in which the city is located, providing for the division of costs and responsibilities to be borne by each for right-of-way, construction, improvement and maintenance, including snow removal, of county state-aid highways and municipal state-aid streets established and located within such cities.

Subd. 2. **Agreement with city having less than 5,000 population.** The governing body of any city having a population of less than 5,000 may enter into an agreement with the county board of the county in which it is located for the construction of any county state-aid highway within the corporate limits of the city. The plans and specifications for the construction shall be prepared by the county engineer or by an engineer employed by the city as may be agreed upon by the governing body of the city and the county board; and shall be approved by the governing body and the county board. It may be agreed that the city shall perform the construction and that the county shall reimburse the city for its share thereof as may be agreed upon, or that the county shall perform the construction and that the city shall reimburse the county for its share thereof as may be agreed.

Subd. 3. **Maintenance agreement.** The governing body of any city having a population of less than 5,000 may enter into an agreement with the county board of the

county in which it is located for the maintenance of and snow removal from any county state-aid highway within the corporate limits of the city. The agreement may provide that the maintenance and snow removal be performed by the county board at the sole expense of the county, or that the city perform the snow removal and maintenance and the county pay to the city an amount determined in accordance with the provisions of subdivision 4 hereof.

**Subd. 4. Maintenance and snow removal; determination of cost.** It shall be the primary duty of the county to maintain and to remove snow from all county state-aid highways within the corporate limits of any city in the county. If no agreement therefor be made with the governing body of the city, the county board may elect as to such cities in the county, either that the county perform the snow removal and maintenance or, in lieu thereof, that the county pay to the city annually, an amount per mile of the county state-aid highway within the corporate limits thereof, not less than the average annual cost per mile of maintaining and removing snow from all county state-aid highways of the county outside the corporate limits of any such city therein. If the latter election be made by the county board of any county, the governing body of any city affected shall be responsible for and shall maintain and remove the snow from the county state-aid highways within its corporate limits. On or before September 1 of each year, the county board shall notify the governing body of each city affected within the county of its election for the ensuing calendar year made pursuant to the provisions of this section.

**Subd. 5. Effects on other law of public contract with county.** Whenever the governing body of a city enters into an agreement with a county as provided herein, it may appropriate to the county from any funds available such sums of money as it has agreed to pay. When a portion of the costs agreed to be paid by a city is to be assessed against benefited property, the letting of a public contract by the county for the work shall be deemed to be in compliance with statutory or charter provisions requiring the city:

- (1) to advertise for bids before awarding a contract for a public improvement;
- (2) to let the contract to the lowest responsible bidder; and
- (3) to require a performance bond to be filed by the contractor before undertaking the work.

**Subd. 6. Bond to inure to benefit of city.** The contract so let by the county and the performance bond required of the contractor by the county shall be considered to be the contract and bond of the city for purposes of complying with the requirements of any applicable law or charter provision, and the bond shall inure to the benefit of the city and operate for their protection to the same extent as though they were parties thereto. Nothing herein contained is a limitation of the power of any county to appoint the commissioner of transportation its agent to accept federal funds and award contracts for the construction, improvement, or maintenance of county state-aid highways pursuant to law, and any contract let by the commissioner of transportation as the agent of a county shall be construed hereunder as having been let by the county.

**History:** 1959 c 500 art 3 s 17; 1973 c 123 art 5 s 7; 1976 c 166 s 7

**162.18 MS 1957 [Repealed, 1959 c 500 art 6 s 13]**

### **162.18 BONDS; MUNICIPAL.**

**Subdivision 1. Limitation on amount.** Any city having a population of 5,000 or more may in accordance with chapter 475, except as otherwise provided herein, issue and sell its obligations for the purpose of establishing, locating, relocating, constructing, reconstructing, and improving municipal state-aid streets therein. In the resolution providing for the issuance of the obligations, the governing body of the municipality shall irrevocably pledge and appropriate to the sinking fund from which the obligations are payable, an amount of the moneys allotted or to be allotted to the municipality from its account in the municipal state-aid street fund sufficient to pay the principal of and the interest on the obligations as they respectively come due. The obligations shall

be issued in amounts and on terms such that the average annual amount of principal and interest due in all subsequent calendar years on the obligations, including any similar obligations of the municipality which are outstanding, shall not exceed 50 percent of the amount of the last annual allotment preceding the bond issue received by the municipality from the construction account in the municipal state-aid street fund; except that the municipality may issue general obligation bonds for said purpose, to be purchased by it for the account of any one or more of its own funds, including debt redemption funds, in which case such bonds shall mature in not exceeding five years from their respective dates of issue, in principal amounts not exceeding in any calendar year, with the principal amount of all other municipal state-aid street obligations maturing in such year, the total amount of the last annual allotment preceding the bond issue received by the municipality from the construction account in the municipal state-aid street fund. All interest on the obligations shall be paid out of the municipality's normal maintenance account in the municipal state-aid street fund. Any such obligations may be made general obligations, but if moneys of the municipality other than moneys received from the municipal state-aid street fund, are used for payment of the obligations, the moneys so used shall be restored to the appropriate fund from the moneys next received by the municipality from the construction or maintenance account in the municipal state-aid street fund which are not required to be paid into a sinking fund for obligations.

**Subd. 2. Not included in net debt limitation.** Obligations issued hereunder may be authorized by resolution of the governing body without authorization by the electors, and shall not be included in the net debt of the municipality for the purpose of any statutory or charter limitation on indebtedness. Expenditures made from the proceeds of the obligations shall not be considered as part of the cost of government of the municipality within the meaning of any statutory or charter limitation on expenditures.

**Subd. 3. Proceeds used for specific purposes.** Moneys received from the sale of the obligations shall be spent only in accordance with other provisions of law and the rules of the transportation commissioner relating to the establishment, location, relocation, construction, reconstruction, and improvement of municipal state-aid streets within the municipality issuing the obligations.

**Subd. 4. Certification to commissioner of money required.** Any municipality issuing and selling bonds pursuant to this section shall certify to the commissioner the amount of money required annually for the payment of principal and interest on the obligation. Upon receipt thereof, the commissioner shall certify to the commissioner of finance the sum of money needed annually by the municipality for the principal and interest, provided that the amount certified by the commissioner shall not exceed the limit heretofore specified. The commissioner of finance shall thereafter, until said bonds are retired, issue a warrant annually in the amount certified payable to the fiscal officer of the municipality, and the amount thereof shall be deposited by the fiscal officer in the sinking fund from which the obligations are payable.

**Subd. 5. Powers are in addition.** The powers granted in this section are in addition to all powers granted by charter or other laws.

**History:** 1959 c 500 art 3 s 18; 1961 c 604 s 1; 1965 c 228 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1976 c 166 s 7; 1985 c 248 s 70

### 162.181 BONDS; COUNTY.

**Subdivision 1. Limitation on amount.** Except as otherwise provided herein, any county may, in accordance with chapter 475, issue and sell its obligations, the total amount thereof not to exceed the total of the preceding two years state-aid allotments, for the purpose of establishing, locating, relocating, constructing, reconstructing, and improving county state-aid highways and constructing buildings and other facilities for maintaining county state-aid highways. In the resolution providing for the issuance of the obligations, the county board of the county shall irrevocably pledge and appropriate to the sinking fund from which the obligations are payable, an amount of the money allotted or to be allotted to the county from its account in the county state-aid highway

fund sufficient to pay the principal of and the interest on the obligations as they respectively come due. The obligations shall be issued in the amounts and on terms such that the amount of principal and interest due in any calendar year on the obligations, including any similar obligations of the county which are outstanding, shall not exceed 50 percent of the amount of the last annual allotment preceding the bond issue received by the county from the construction account in the county state-aid highway fund. All interest on the obligations shall be paid out of the county's normal maintenance account in the county state-aid highway fund. The obligations may be made general obligations, but if money of the county other than money received from the county state-aid highway fund, is used for payment of the obligations, the money so used shall be restored to the appropriate fund from the money next received by the county from the construction or maintenance account in the county state-aid highway fund which is not required to be paid into a sinking fund for obligations.

Subd. 2. **Not included in net debt limitation.** Obligations issued hereunder may be authorized by resolution of the county board without authorization by the electors, and shall not be included in the net debt of the county for the purpose of any statutory limitation on indebtedness. Expenditures made from the proceeds of the obligations shall not be considered as part of the cost of government of the county within the meaning of any statutory limitation on expenditures.

Subd. 3. **Proceeds used for specific purposes.** Money received from the sale of the obligations and spent for the establishment, location, relocation, construction, reconstruction, and improvement of county state-aid highways within the county shall be spent only in accordance with other provisions of law and the rules of the transportation commissioner relating to those purposes.

Subd. 4. **Certification to commissioner of money required.** Any county issuing and selling bonds pursuant to this section shall certify to the commissioner the amount of money required annually for the payment of principal and interest on the obligation. Upon receipt thereof, the commissioner shall certify to the commissioner of finance the sum of money needed annually by the county for the principal and interest, provided that the amount certified by the commissioner shall not exceed the limit heretofore specified. The commissioner of finance shall thereafter, until said bonds are retired, issue a warrant annually in the amount certified payable to the county treasurer of the county, and the amount thereof shall be deposited by the county treasurer in the sinking fund from which the obligations are payable.

Subd. 5. **Powers are in addition.** The powers granted in this section are in addition to all powers granted by other laws.

**History:** *Ex1961 c 7 s 1-5; 1965 c 227 s 1; 1973 c 492 s 14; 1976 c 166 s 7; 1985 c 248 s 70; 1997 c 159 art 2 s 9,10*

162.19 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

162.19 MS 1976 [Repealed, 1978 c 793 s 98]

162.20-162.24 [Repealed, 1959 c 500 art 6 s 13]

162.25-162.36 [Local]

162.37 [Repealed, 1957 c 536 s 1]

162.38-162.45 [Repealed, 1959 c 500 art 6 s 13]

162.46-162.54 [Local]