

CHAPTER 83.

STATE HIGHWAYS.

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83.01 State highway systems. (1) The systems of prospective state highways heretofore selected by the several county boards and approved by the state highway commission are hereby validated and confirmed as the systems of prospective state highways, but without prejudice to the exercise of the power given to change such systems; and all acts by which parts of said systems were heretofore adopted or declared to be state highways are confirmed and validated.

(2) The highway commission, on petition of at least one hundred freeholders residing in a county, or in an adjoining county, praying for a change in the system of prospective state highways, in such county, may, after investigation, make such alterations as it shall deem necessary to serve the public interest.

(4) The county clerk shall file with the state highway commission and with each town clerk an accurate copy of the county road map showing the county systems of prospective state highways. The county board may alter such systems with the consent of the state highway commission.

(5) All portions of the systems of prospective state highways including the bridges thereon improved pursuant to the provisions of this chapter shall become state highways when the improvement shall have been accepted by the state highway commission and the improved portions declared by the commission to be state highways, which declaration shall be filed with the county clerks of the counties in which the highways are located; and all portions of said systems of prospective state highways heretofore adopted as state highways by county boards or declared to be such by the state highway commission are hereby declared to be state highways.

(6) Each county board shall, on or before the annual meeting of November, 1925, select a system of county trunk highways, exclusive of the state trunk highway system, which shall be marked, signed and maintained by the county. The systems of county trunk highways selected by county boards prior to such annual meeting are hereby validated and confirmed. Any city or village street or portion thereof may be selected as a portion of such system, and any such village or city street so selected prior to May 1, 1939, shall be a portion of such system. All streets and highways in any city or village over which is routed a county trunk highway or forming connections through such city or village between portions of such county trunk highway system shall be considered a part of such system unless the governing body of such city or village shall by resolution require that the county shall remove such street or highway from the county trunk system. No county shall be responsible for the construction and maintenance of any such city or village street to a greater width than those portions of the county trunk system outside of such village or city limits and connecting with such street. Any road so selected shall, by virtue of such selection, become a portion of the county system of prospective state highways. Each county board, or the county highway committee, shall, by conference with the boards or highway committees of adjoining counties, or otherwise, cause their respective systems to join so as to make continuous lines of travel between the counties. Where the portion of any such continuous trunk highway in any county contains less mileage than is practicable for a patrol section, such portion shall be patrolled by the county which contains the major portion of such highway, and each county shall bear its proportionate share of the expense of maintenance, payable monthly. A map of the county trunk system so selected in each county shall be filed with the county clerk, and copies thereof with the state highway commission, not later than April 1, 1926. The system so selected shall be subject to the approval of the state highway commission, and after the

map herein required has been filed with the commission and approved, the system shall be altered or increased only with the consent of the commission. The marking and signing of the county trunk highway systems shall be uniform throughout the state, as prescribed by the highway commission. [1939 c. 355]

Note: Town or county in removing snow from highways is performing governmental function, and throwing of snow against fences by snow plows, causing fences to break, does not give right of action against town or county. 24 Atty. Gen. 246.

There is no statute for apportionment of cost of county trunk highways located on county lines, but 83.01 and 83.03 (6) seem to contemplate that adjoining counties may make agreements with respect thereto. 26 Atty. Gen. 241.

Special committee appointed by county board to work out reapportioning of county trunk system of highways with county committee and commissioner is without power to alter system without approval of state highway commission. 28 Atty. Gen. 15.

A county board may add all town roads within the county to the county trunk system. 28 Atty. Gen. 588.

Ch. 355, Laws 1939, amending 83.01 (6) and 83.06 (1), considered and construed. 29 Atty. Gen. 23.

83.02 State to assume town's obligations outstanding in certain cases. Any town obligation, outstanding and unpaid, together with interest, shall be assumed and paid by the state from the highway funds, where such obligation was incurred by the town in the building of a highway or an interstate free bridge which subsequently is made a part of the state trunk highway system. The provisions of this section shall apply to such outstanding town obligations incurred in the building of a highway or an interstate free bridge where such highway or bridge was made a part of the state trunk highway system before the effective date of this section. [1935 c. 439; 1937 c. 240]

83.03 County aid generally; donations to counties. (6) The county board may construct or improve or repair or aid in constructing or improving or repairing any road or bridge in the county. If any county board shall determine to improve any portion of the system of county trunk highways with county funds, it may assess not more than forty per cent of the cost of such improvement against the town, village or city in which the improvement is located as a special tax, provided that the amount of such tax shall not exceed one thousand dollars in any one year; provided, that no assessment under this subsection shall be made against any town in which the combined appropriation of the town and county for the improvement of county highways in such year shall exceed two mills on the assessed valuation of such town. The county clerk shall certify such tax to the town, village or city clerk who shall put the same in the next tax roll, and the same shall be collected and paid into the county treasury as other county taxes are levied, collected and paid. A portion or all of such special assessment may be paid by subscription or donation.

(7) The county board of any county may accept for the county any gift or donation to the county of money or lands given or donated for highway or bridge purposes, and to apply such gift or donation in accordance with the wishes of the donor as nearly as is practicable. The act of any county board which has heretofore accepted for the county any gift or donation of moneys or lands for highway or bridge purposes is hereby validated. [1939 c. 214]

Note: Section 83.03 (6), Stats. 1935, authorizes a county board to construct a minor bridge with county funds alone or with the aid of the town, village, or city in which the bridge is to be located, but does not authorize the construction thereunder of a bridge eligible to construction under 87.02 (1) (b). *Schaettle v. State Highway Commission*, 223 W 528, 271 NW 63.

State is responsible for operating movable bridge located on state trunk highway system and constructed under 1317m-5, I, (a), Stats. 1921 [83.03]. 22 Atty. Gen. 240.

See note to 83.14, citing 24 Atty. Gen. 253. County may not take over or maintain town roads without making them part of county trunk system. 25 Atty. Gen. 702.

Where county in May voted tax to improve county trunk highway in town of S under 83.03 and assessed portion thereof to town and town had voted tax in excess of town's assessment to improve same high-

way, town levy cannot be used in lieu of assessment against town provided by county. Town may use tax levied in April as basis for county aid under 83.14 and under 83.14 (4) may compel county to appropriate only difference between \$2,000 and county's share of improvement initiated under 83.03. County may appropriate such amount, greater amount or amount in excess of \$2,000 but cannot be compelled to do so. Town may request county aid in amount in excess of that which county can be compelled to appropriate. If town wishes to have construction commenced before town and county funds are in county treasury under 83.14 (6) it must borrow money in anticipation of its own and county's share of improvement and pay said amount into county treasury. 27 Atty. Gen. 603.

County does not have power to correct defects in state trunk highway constructed by state. 29 Atty. Gen. 378.

83.04 Contract construction; noncontract work; payments. (1) All highway improvements made pursuant to this chapter shall be by contract, unless the county highway committee and the state highway commission shall agree that some other method would better serve the public interest. The manner of advertising for bids and the forms of bids, contracts and bonds shall be prescribed by the state highway commission and shall be uniform. In letting a contract the county highway committee shall act for the county, but no contract shall be awarded without the written approval of the state highway commission.

(2) If it shall be deemed inadvisable to let a contract for highway construction, the

county highway committee may with the approval of the state highway commission direct the county highway commissioner to proceed with the construction as noncontract work, and he shall have authority, under the supervision of the committee, to employ and purchase the necessary labor and materials.

(3) During construction the work and materials shall be inspected by the county highway commissioner or by inspectors employed by him with the approval of the county highway committee and to the satisfaction of the state highway commission. If the inspection proves unsatisfactory to the state highway commission, it may appoint inspectors who shall be paid as though employed by the county highway commissioner. Upon the completion of any highway job for which state aid has been granted it shall be inspected by the state highway commission, and if found in conformity with the plans and specifications, the commission shall so find and notify the county highway commissioner and the county clerk thereof and that the improved portion has been accepted as a state highway.

(4) Upon contract construction payment shall be made according to the terms of the contract, but final payment shall not be made until the work has been accepted as complete by the state highway commission. In case of noncontract work payment shall be made monthly upon verified, detailed, statements and pay rolls prepared by the county highway commissioner and approved and allowed by the county highway committee, and all payments shall be made by orders on the county treasurer in the ordinary form signed by the chairman of the county board and the county clerk, unless the county has adopted some different method of making disbursements, in which event it shall be according to such method and all orders shall be drawn upon and paid out of the fund provided for such construction. Said statements and pay rolls shall be filed with the county clerk.

(6) When final payment has been made upon any highway improvement, any funds remaining in the county treasurer's hands which were provided by the state or by any subdivision of the county for that particular improvement, shall be placed together with the county's balance available for that job to the credit of such subdivision of the county, and shall be used to increase the funds available for the next construction job in said subdivision, and any such balance in the bridge fund may be transferred to the road fund or vice versa by the town or village board with the approval of the state highway commission.

(7) No order shall be drawn on the county road or bridge fund for any amount in excess of the funds available for the particular piece of construction, without the authority of the county board or the county highway committee.

(10) The county highway committee of each county may construct cattle passes on such portions of the federal aid highway systems, laid out in accordance with the act of congress relating to federal aid highways dated November 9, 1921, and completed to date in such county, as in the opinion of said committee are necessary and practical. Such construction work shall be done as soon as possible and in accordance with the provisions of chapter 83, and the expense thereof may be paid from any construction or surplus maintenance funds accruing to such county under the provisions of section 20.49 and from any funds allotted to such county as state aid under the provisions of subsection (9) of section 84.03. If such funds are insufficient, the county board may provide for the necessary additional funds by tax levy.

Note: Money in county treasury representing unexpended balance of village money, matched by county money for improvement of specific portion of prospective state trunk highway system, which is not required for particular improvement for which fund was raised, can be expended for construction, or maintenance of highway of different class than that for which money was originally made available only by separate action of both village and county boards and approval of state highway commission. 27 Atty. Gen. 373.

83.05 Roadways over eighteen feet wide, extra expense paid by city and village.

(1) Whenever it shall have been determined to improve a portion of the county system of prospective state highways in any city, and the funds from the city, county or state are available therefor, the city may determine that the roadway shall be improved to a greater width than eighteen feet. If it shall so decide, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee and the state highway commission. And said committee and commission shall fix the amount per linear foot of said improvement to be paid out of the county treasury. The city shall then proceed to improve said street in the manner provided generally for making street improvements. The work shall be done under the supervision of the city, but subject to the inspection of the county highway commissioner and the state highway commission.

(2) Upon the completion of the work the county's share of the cost shall be paid to the contractor in the same manner as though the county had been an immediate party to the contract. In no case shall such payment from the county treasury exceed the cost of eighteen feet of the width of the pavement, plus a share of the grading, draining, and

appertaining structures, which share shall be determined by dividing the whole cost of these items by the width of the pavement expressed in feet and multiplying the quotient by eighteen. The balance of the expense of the improvement shall be borne by the city, and shall be provided in the manner in which expense of street improvement is ordinarily met. Assessments of benefits may be made by the city against abutting property in the manner provided where the improvement is done solely under the authority and at the expense of the city, but such assessments of benefits shall not exceed the difference between the cost of the improvement and the amount contributed thereto by the county and state.

(3) Whenever it shall have been determined to improve a part of the system of prospective state highways or the state trunk highway system in a village, the village board may determine to improve the same to a greater width of pavement, and may pay the additional cost out of the general funds of the village, or assess a part or all of such costs to the abutting property as provided by sections 61.40 and 61.41. Joint contract covering the whole work may be entered into between the state, county and village officials and the contractor, and the general procedure in regard to such improvement shall be the same as if the improvement had been made in the usual way and the village was not a party to the contract, except that the amount due to the contractor for the additional width of pavement shall be paid by the village. The village board shall determine in what manner the special assessments shall be paid, whether in one, three or five years, and the rate of interest on deferred payments.

Note: County may not grant highway aid to village for construction of curbs and sidewalks along highways by reason of limitations in (3). 25 Atty. Gen. 675.

83.06 Maintenance of state highways. (1) All city and village streets and highways improved with state or county aid under the provisions of this chapter shall be maintained by the cities and villages in which they lie but this provision shall not diminish or otherwise affect the duty of the county with respect to any street which is a portion of the county trunk system. All other state highways shall be maintained at the expense of the county in which situated, and the county board shall make adequate provisions therefor.

(2) If, in the judgment of the state highway commission, state highways in any county are not properly maintained, all further allotments to that county from the appropriation for state aid for highways shall cease until such time as said highways shall be put in a state of repair acceptable to the state highway commission.

(3) The county shall provide the necessary machinery for the construction and maintenance of state highways, and the state highway commission shall make fair allowance to a county to be paid out of the joint construction funds for the use of labor saving machinery provided by a county over and above the machinery commonly provided by counties for work of like character, and said allowance when paid shall be credited to the road and bridge fund.

(4) The county board shall annually levy a tax of not more than two mills on the dollar, which tax shall be in addition to all other taxes, and shall be kept in a fund known as the "County Road and Bridge Fund;" and expenditures from said fund shall be made only for the purposes of constructing and maintaining highways and bridges under the provisions of this chapter and for the purpose of purchasing, operating, renting and repairing machinery, quarries and gravel pits used in such construction and maintenance. [1939 c. 355]

Note: Where portion of state trunk highway system is located within city same may be relocated by county; county may acquire necessary right of way. Highway so constructed is under jurisdiction of city except as to matters committed by statute to county, and city is responsible for maintenance and is liable for damages to same extent as with respect to other streets. 20 Atty. Gen. 471.

When city or village street which has been improved with local moneys is made part of county highway system without be-

ing improved city or village merely continues its maintenance of it. 23 Atty. Gen. 612.

County may enter upon lands adjoining highway and restore original watercourse grades, blocking up of which causes periodic flooding of highway, but landowner is entitled to damages in such case. 26 Atty. Gen. 344.

Ch. 355, Laws 1939, amending 83.01 (6) and 83.06 (1), considered and construed. 29 Atty. Gen. 23.

83.07 Acquisition of lands, quarries, gravel pits; eminent domain. (1) The county or town board may acquire any lands or interest therein needed to carry out the provisions of this chapter. Whenever the county or town board is unable to acquire the same by purchase such property may be acquired by condemnation under chapter 32 of the statutes.

(2) In case the county highway committee or town board shall deem it desirable to acquire any lands or the right to take stone, gravel or clay or other material, from private lands for use of the public in the execution of the committee's or board's duty, or to acquire the right of access to or from any lands, or the right of drainage across any lands, said committee or board may purchase such lands or right and take title thereto in the name of the county or town, as the case may be, and the cost thereof shall be paid out of the public funds provided for the improvement of highways.

(2a) Whenever lands are acquired to relocate or straighten any highway or to provide easier curves at any highway intersection, and, in such acquisition, tracts of an area of not more than two acres remain separated from the main body of land from which such lands are acquired, the county highway committee or town board may, if it deems the acquisition of such tracts advisable or necessary to beautify the highway or to protect public travel thereon, acquire such tracts and hold the same in the name of the county or the town. Tracts in excess of two acres of like character may be acquired as herein provided if the owner agrees to convey the same. Any such tract heretofore paid for by any county or town shall be deemed to have been acquired by the county or town as provided in this subsection.

(3) In case the committee or board is unable to acquire such land or right by contract the committee or board may acquire the same in the name of the county or town, as the case may be, by the exercise of the right of eminent domain, as provided in chapter 32 of the statutes or in the following manner: They may, upon not less than five days' notice in writing, exclusive of Sundays and holidays, to such owner, describing the property and stating the time and place of hearing the application, apply to the county judge of said county to appraise the value of the property sought to be taken. At the time set therefor such judge shall hear the parties, and in such manner as he may in his discretion determine, inform himself in respect to the matter, and within five days, make his award in writing and file the same in his office. The county committee or town board may then pay the sum awarded to the owner by delivering to him a county or town order, or tender the same, and the title to the property and rights sought to be acquired shall thereupon vest in the county or town board for the uses and purposes of the acquirement, and such committee or board may cause a certificate under the hand and official seal of such judge, stating the facts, to be recorded in the office of the register of deeds.

(4) If the owner shall deem himself aggrieved he may, within thirty days after the award is made, file with such judge a notice of appeal to the circuit court, whereupon such judge shall certify all the papers in the proceedings to such court, and thereupon such matter shall be regarded as at issue, and the proceedings shall be as provided in section 32.11.

(5) In case the committee or board shall deem the county or town aggrieved by the award, it may appeal to the circuit court in the same manner, and the subsequent procedure shall be like that upon the owner's appeal. Payment or tender of the award shall not defeat the county's or town's right to appeal. [1931 c. 363]

Note: Arbitration is not authorized. No judgment and no proceeding whatsoever is authorized in court upon an application to the county judge; if the landowner deems himself aggrieved and desires a review of the judge's determination, he is not required to appeal as from a judgment, but is entitled to a retrial in the circuit court of the matter at issue. The judgment in the county court having been entered without jurisdiction is void, and it was proper to appeal therefrom, although if the county judge had merely filed an award instead of entering judgment, there could not have been a review thereof on an appeal directly to the supreme court. Breckheimer v. Dane County, 209 W 131, 244 NW 534.

In proceedings before the county judge under 83.07 (3) to appraise the value of land taken by the county highway committee for the relocation of a state highway under 83.08, an order "by the court" dismissing the proceedings was entered without jurisdiction and was void, and an appeal

therefrom directly to the supreme court was proper. The committee's right under 83.08 to resort to condemnation proceedings in the manner provided by 83.07 is not limited by (2) and (2a) of 83.07 to land taken but to the purposes mentioned in those subsections, nor to an area of two acres mentioned in (2a) with reference to land taken for beautifying a highway. The county judge has no power to award costs in proceedings under this section. Highway Committee of Jefferson County v. Guist, 235 W 18, 292 NW 226.

County highway committee may discontinue condemnation proceedings brought before county judge at any time before payment or deposit of amount of award. Such discontinuance is not bar to new proceedings to acquire same land. 19 Atty. Gen. 99.

Section 253.07 authorizes affidavit of prejudice against county judge in performance of jurisdiction given to appraise property taken for highway purposes. 20 Atty. Gen. 346.

83.08 Relocation; acquisition of right of way. (1) Whenever the state highway commission shall deem it necessary for the proper construction, improvement or maintenance of any state trunk highway or prospective state highway or state highway or any bridge thereon to change or relocate the same, the commission shall so order, and shall prepare a plat or map showing the old and new locations, and shall file a copy of such order and plat with the county clerk and the county highway committee. It shall thereupon be the duty of the county highway committee to negotiate for and obtain an easement, conveyance or deed, if possible, from the owners of and any other persons having an interest in the land required for and the premises to be affected by such change, and to make provision for such change within ninety days after the filing of said copy. The easement, conveyance or deed shall be in writing, shall name the county as grantee of the lands acquired, and shall be filed with the county clerk and may be recorded in the office of the register of deeds. Such easement, conveyance or deed shall not be binding until approved by the state highway commission. The price of lands acquired, including any damages allowed and other expenses connected with the matter, shall be paid out of the funds available for such construction, improvement or maintenance, except

in case of federal aid projects in which case payment shall be made as provided in section 84.04.

(2) If for any reason the needed lands cannot be acquired by easement, conveyance or deed for a reasonable price, the county highway committee shall acquire the same either by condemnation proceedings in the manner provided by chapter 32 of the statutes or by section 83.07, or shall make and sign an award of damages to the landowner and, when approved by the state highway commission, shall file the same with the county clerk; and thereupon the amount so awarded shall be payable the same as when the land is acquired by easement, conveyance or deed; and the landowner may receive the same without prejudice to his right to claim and to contest for a greater sum. When such award shall have been made, approved and filed, the highway authorities and their contractors and employes may take possession of the premises and proceed with the contemplated highway improvement and construction. A copy of the award shall be promptly delivered or mailed to the owner if his address be known and if not known then to the occupant of the land. If the land is unoccupied and the address of the owner is unknown, the award shall promptly be published for three successive weeks in a newspaper having general circulation in the county. The landowner may, within a period of two years after the filing of the award with the county clerk, proceed as provided in chapter 32 to have his damages appraised, or may within said period apply to the county judge, on five days' written notice to any member of the county committee, to appraise the owner's damages and thereafter the proceedings shall be as provided in section 83.07 and the provisions of said section shall apply.

(3) Section 80.03 shall not apply to the proceedings under this section.

(4) Whenever a relocation is made of a section of highway previously constructed with joint county and town or state funds, the benefits assessed against any town for construction thereof under the provisions of section 84.03 shall not exceed five hundred dollars per mile of road so relocated. [1931 c. 22 s. 2; 1937 c. 393]

Note: Under (2), the county highway committee has no right to review its award, and the landowner may retain the same if satisfied, but when the landowner exercises the option to contest such award by proceeding under the condemnation chapter (ch. 32, Stats.), he subjects himself to its provisions, which involve an award by commissioners, and, in case of an appeal therefrom by either party to the circuit court, a trial de novo; and the issues on such trial in circuit court are not limited to the question whether the landowner should have a higher award, but the question whether the award should be reduced is also in issue. Where, on the trial in circuit court, the value of the land taken is found to be less than the award made by the county highway committee, judgment in favor of the highway committee for the difference is proper. *Carisch v. County Highway Committee*, 216 W 375, 257 NW 11.

See note to 32.10, citing *Leininger v. County Highway Committee*, 217 W 61, 258 NW 368.

See note to 84.05, citing *Ullrich v. County of Kenosha*, 219 W 65, 261 NW 747.

Subsection (4) is applicable only where portion of trunk highway system which was previously constructed with county and town or state funds is relocated with federal aid. 19 Atty. Gen. 117.

Relocation of state trunk highway effects closing of such portions of old road as are

rendered unnecessary thereby; but where there is any need for such old road it reverts to its former status as town road and may be vacated by town action only. 19 Atty. Gen. 421.

Word "owner" as used in 83.07 and this section includes mortgagee and other lien holders having vested property right in land to be acquired. It is proper that compensation for taking land for highway purposes be paid to clerk of circuit court for benefit of interested parties in cases where fee holder and lien claimants cannot agree upon division thereof. 20 Atty. Gen. 411.

When award is made for highway easement under (2) conveyance by landowner cannot be required as condition of paying award. Landowner who conveys easement may not contest for increase in amount of damages. 20 Atty. Gen. 318.

Where award is made and filed county obtains easement and no formal conveyance is necessary. 21 Atty. Gen. 553.

Copy of award made under (2) should be served on fee owner of land and his wife and on all mortgagees and other lien holders. 24 Atty. Gen. 275.

Where county highway committee has made award for right-of-way, highway authorities and their contractors and employes are entitled to immediate possession and may apply for injunction restraining owner from interfering with them in taking possession. 27 Atty. Gen. 645.

83.09 Repairs, washouts, etc. (1) Whenever by reason of flood or other casualty any state highway shall be rendered dangerous for travel, the town chairman shall immediately close it and notify the county highway commissioner thereof, and the commissioner shall promptly make repairs necessary to render the highway safe for travel. If there shall not be sufficient funds available in the county maintenance fund, the commissioner may, with the consent of the chairman of the county board or of the county highway committee, make the necessary repairs, and the cost thereof shall be paid as soon as funds can be made available.

(2) If any town chairman shall fail to discharge the duties herein imposed upon him he shall be liable to the county for damages that the county may suffer by reason of such lack of repairs.

(3) Whenever the surface, guard rail, or ditch of any state highway or culvert or bridge thereon shall require immediate repair to insure its proper maintenance or the safety of the public travel, the chairman of the town in which the highway lies may make such repairs as shall be immediately necessary and advisable, and may expend of town funds not exceeding five dollars for any one repair, and not exceeding twenty dollars on

any mile of road in any year. Such expenditure shall constitute a claim in favor of the town and against the county, and such claim shall be presented and acted upon as ordinary claims against the county are presented and acted upon.

83.10 Depositing rubbish or digging in highways or using bridges for advertising, forbidden. (1) Any person who shall throw, leave or deposit in any state highway or any state trunk highway any weeds, sod, brush or other waste or rubbish shall be liable to a forfeiture of not less than five dollars nor more than twenty-five dollars; and every person other than a county or state officer or employe who shall draw, paint, print or paste upon any culvert, bridge or guard rail on any state highway shall be liable to a like forfeiture.

(2) No person shall make any excavation in any road or street or shall in any manner disturb any road, street or bridge, which has been or shall hereafter be constructed under the provisions of this chapter, unless he shall first have secured a permit therefor from the county highway committee. Such permit shall contain the statement and be subject to the condition that such road, street or bridge shall be restored to its former condition, and that the work shall be constructed subject to such rules and regulations as may be prescribed by said committee, and be performed and completed to the satisfaction of said committee, and that the person obtaining said permit shall be liable to said county for all damages which may occur during the progress of said work or as a result thereof. Nothing herein shall be construed as abridging the right of the county board or its highway committee to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed necessary and proper for the preservation of said roads, streets or bridges, or for the safety of the public, and to make the granting of any such permit conditional thereon. Any person who shall violate the provisions of this subsection shall upon conviction thereof be punished by a fine of not less than five dollars or more than one hundred dollars, or by imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

83.11 Marking section and quarter section corners in highways. Any county board may provide that section and quarter section corners in any highway constructed in whole or in part with county funds may be marked with suitable permanent monuments or markers; and the expense of putting in and maintaining such markers shall be paid out of the county road and bridge fund or other county fund as may be determined by the county board.

83.12 [*Repealed by 1937 c. 365*]

83.13 Guideboards. The county board of any county may erect and maintain guideboards on prospective state highways and state highways which do not constitute part of the state trunk highway system, the cost to be paid out of such fund as the board shall direct.

83.14 Improvement on town and village initiative. (1) Any town meeting or village board may vote a tax of not less than five hundred dollars to improve a designated portion of the system of prospective state highways. The town or village board may accept cash donations for such purposes, and when accepted subsequent proceedings shall be the same as if a tax of like amount had been voted. Highways in villages shall not be eligible to improvement under this section wherever the buildings fronting the highways average more than one to each sixty lineal feet of highway. The tax voted shall not exceed the rate of one mill on the dollar on the taxable property provided that every town and village may vote five hundred dollars, and such tax shall be collected as other taxes, and shall be paid to the county treasurer when the county taxes are paid.

(2) When a tax has been voted under this section the town board or village board shall petition the county board at its next annual meeting to appropriate at least an equal amount as the county's share of the cost of the proposed improvement. The petition shall designate the highway to be improved and state the character of the improvement and the amount which has been voted therefor.

(3) The county board shall thereupon appropriate for the improvement a sum equal to or greater than the amount voted therefor by the town; and shall raise the same by tax on all the taxable property of the county.

(4) No county shall be required to appropriate in any year over two thousand dollars for work in any town or village.

(5) The improvement shall be performed, supervised and paid for and accepted in the same manner as state aid work.

(6) Construction shall not begin until the funds to pay for the same are in the county treasury and the plans and specifications have been approved by the state highway commission. After any town shall have voted the tax required by subsection (1), such town may borrow money for such improvement in anticipation of such tax levy and the appropriation to be made by the county board, and pay the same into the county treasury as an advance, after which construction may proceed. The county shall reimburse the town for such advance when the necessary funds become available.

(7) Towns may also take the initiative in the improvement of prospective state highways by issuing bonds under the authority and subject to the conditions contained in section 67.16; and the funds produced by such bond issue shall be handled and expended as though raised by taxation.

(8) The county clerk shall, on or before the first day of January of each year, file with the state highway commission a written statement setting forth the petitions granted by the county board and the improvements determined upon under section 83.03, the location, character and contemplated cost of each improvement, and the amount to be paid by the county, town and state for making each of such improvements.

Note: Where town has voted to construct road, has petitioned for county aid, county aid has been granted, and construction has been actually begun, town meeting cannot delay completion of project. 21 Atty. Gen. 676.

Unexpended balance raised by town under this section and remaining in county treasury may be expended by county for construction work in town designated by town board. 22 Atty. Gen. 174.

Where town strictly follows this section for improving prospective state highways county aid is mandatory. Otherwise it is discretionary with county to grant aid under 83.03 (6), except that county may not reimburse town for funds already expended. 24 Atty. Gen. 253.

Funds raised by village under (1) and matched by county funds under (3) for improvement on prospective state trunk highway in village may be used for such

improvement although it consists of extending width of highway, now being paved by county, beyond eighteen feet. 24 Atty. Gen. 469.

County board cannot by resolution compel towns to issue bonds for road purposes to cover both towns' and county's shares of improvements subject to later repayment of county's share to town. 25 Atty. Gen. 11.

County board is obliged to appropriate under 83.14, Stats. 1937, minimum of \$2000 for improvement of prospective state highways only when petition of town is filed at regular meeting of county board next following voting by town of tax for such improvement and obligation of county to make such appropriation is limited to that amount. County is not obliged to appropriate any sum for such improvement where town raises money for such improvement by issuance of bonds. 26 Atty. Gen. 167.

See note to 83.03, citing 27 Atty. Gen. 603.

83.15 Rights of bonded towns saved. From the state highway aid available for use in any town which has issued bonds that were voted prior to July, 1917, under section 1317m-13, statutes of 1921, the county board shall annually set aside the state's share of the cost of the improvement which was made with said bond issue and apply it to repaying the town until the bonds shall have been paid. The amount so set aside annually shall not be less than the yearly average state aid paid to the town on said bond issue during the years preceding 1918. Any town which issued supplementary town bonds anticipating state aid shall receive annually an amount at least equal to the principal of such supplementary bonds retired that year.