An unexpended balance raised by a town under Sec. 83.14, Stats., and remaining in the county treasury may be expended by the county for construction work designated by the town board. 22 Atty. Gen. 174.

Where a town strictly follows Sec. 83.14, Stats., for improving county aid highways, county aid is mandatory. Otherwise it is discretionary with the county to grant aid under Sec. 83.03 (1), except that the county may not reimburse the town for funds already expended. 24 Atty. Gen. 253.

Funds raised by a village and matched by county funds under Sec. 83.14 (6) for improvement on a county aid highway in the village may be used for such improvement although it consists of extending the width of the highway, now being paved by the county, beyond 18 feet. 24 Atty. Gen. 469.

A 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 the county's share to towns. 26 Atty. Gen. 11.

A county board is obligated to appropriate under Sec. 83.14, Stats., a minimum of $3,000 for improvement of prospective state (county aid) highways only when the petition of the town is filed at a regular meeting of the county board next following the voting by the town of tax for such improvement and the obligation of the county to make such appropriation is limited to that amount. A county is not obligated to appropriate any sum for such improvement where a town raises money for such improvement by issuance of bonds. 26 Atty. Gen. 107.

See note to Sec. 83.03, citing 27 Atty. Gen. 98.

County aid to a town is mandatory only where the improvement is on a designated portion of a county aid highway as defined in Sec. 83.03, Stats. 1940. 30 Atty. Gen. 139.

See note to Sec. 83.03, citing 42 Atty. Gen. 59.

Sec. 83.15 History: 1897 c. 49; Stats. 1901 s. 1325d; 1923 c. 108 s. 254; Stats. 1923 c. 67; 1929 c. 334 s. 116; Stats. 1943 c. 83.15; 1965 c. 223.

The procedure for the construction of bridges over state boundary waters is outlined and discussed in 9 Atty. Gen. 211.

Sec. 83.16 History: 1903 c. 94 s. 1; Suppl. 1905 s. 1335a; 1923 c. 108 s. 255; Stats. 1923 c. 67; 1929 c. 334 s. 111; Stats. 1943 c. 83.16; 1965 c. 228.

Sec. 83.17 History: 1935 c. 490; Stats. 1935 s. 83.05d; 1943 c. 334 s. 112; Stats. 1943 c. 83.17.

Sec. 83.18 History: 1943 c. 334 s. 113; Stats. 1943 s. 83.18.

Sec. 83.19 History: 1943 c. 334 s. 114; Stats. 1943 s. 83.19.

If a county has adopted a town road in connection with the establishment of a detour as a county road, its liability for injury to a traveler would be under 91.15, Stats. 1931. 21 Atty. Gen. 955.

Sec. 83.20 History: 1917 c. 215; Stats. 1917 s. 670 (13); 1919 s. 698 s. 37; Stats. 1919 s. 59.07 (14); 1955 s. 651 s. 9; 22; Stats. 1955 s. 83.30.
and consent thereto, is likewise a legal meeting. 14 Atty. Gen. 469.

The state highway commission has power to enter into a contract with an oil company for discounts on gasoline needed by the commission to perform its statutory duties. 16 Atty. Gen. 672.

An appointive member of the state highway commission vacates his office as such member by acceptance, while holding it, of the office of town chairman and member of the county board. 17 Atty. Gen. 194.

The commission may not adjudicate the merits of claims filed under the provisions of s. 289.53, but must withhold a sufficient amount to pay such claims pending adjudication thereof. 20 Atty. Gen. 496.

A request by a county board to the state highway commission to appoint a county highway commissioner from a list of persons specified by the county board is not effective under s. 83.01 (1) and 84.01 (14), Stats. 1946, because of the limitation imposed. 36 Atty. Gen. 946.

84.01 History: 1925 c. 120; Stats. 1925 s. 82.02 (1) (last sentence); 1929 c. 81 s. 2; Stats. 1929 s. 82.02 (11); 1943 c. 334 s. 117; Stats. 1943 s. 84.011; 1953 c. 202.

84.015 History: 1969 c. 152 s. 98; R. S. 1878 s. 1312; Stats. 1898 s. 1312; 1917 c. 175 s. 1, 2; 1923 c. 20; 1923 c. 108 s. 106; 1923 c. 89; 1923 s. 11 s. 4, 7; 1923 c. 22 s. 5; 1943 c. 834 s. 119; Stats. 1943 s. 84.018; 1960 c. 69; 1969 c. 500 s. 30 (3) (6).

State authorities having power to purchase compensation insurance covering persons working on a survey financed by the U.S. government may purchase such insurance out of federal moneys, in view of 84.01 and 82.02 (6), Stats. 1925. 25 Atty. Gen. 363.

84.02 History: 1896 c. 152 s. 93; R. S. 1878 s. 1313; Stats. 1898 s. 1313; 1917 c. 175 s. 1, 2; 1919 c. 313 s. 2, 3; 1921 c. 106; 1923 c. 108 s. 169; 1923 c. 330 s. 3; 1923 c. 446 s. 1; Stats. 1923 s. 84.02; 1925 c. 11 s. 4, 7; 1925 c. 473 s. 29; 1931 c. 22 s. 1; 1931 c. 45 s. 14; 1931 c. 78 s. 14; 1931 c. 476 s. 4; 1933 c. 186; 1935 c. 137; 1947 c. 304; 1947 c. 220; 1947 c. 384 s. 119 to 121; 1947 c. 373; 1953 c. 75, 318, 800; 1953 c. 631 s. 48; 1953 c. 228 s. 64; 1961 c. 49; 1965 c. 426, 469; 1969 c. 1976; 1969 c. 500 ss. 6, 30 (2) (3) (4) (5) (6).

The test imposed by the legislature is whether public welfare be promoted or public travel benefited by a change in route. Agnew v. Hotchkiss, 189 W. 1, 206 NW 949.

There may be relocation without abandonment of an old highway. Boshard v. Hotchkiss, 190 W 20, 207 NW 695.

A guideboard erected at a road intersection and designating a different route to a city than that adopted as a state trunk highway is illegal unless approved by the state highway commission. 13 Atty. Gen. 539.

Proceedings to change the state trunk highway system may be instituted under 84.02, Stats. 1925. Minor changes in the state trunk highway system may be made under this section without notice to the localities concerned. The “due notice” required must be determined in connection with particular facts in each case. 17 Atty. Gen. 91.

A state trunk highway is subject to relocation, whether originally laid out as a territorial, town or county highway. A state trunk highway is simply a route superimposed upon an existing highway. The state highway commission has no power to order vacation and discontinuance of a highway as such; its power is to discontinue a highway as a route, not to discontinue it as a highway. 18 Atty. Gen. 576.

Relocation of a state trunk highway effects closing of such portions of an old road as are rendered unnecessary thereby; but where there is any need for such old road it reverts to its former status as a town road and may be vacated by town action only. 18 Atty. Gen. 521.

Where the state highway commission prior to the passage of 84.02 (2), Stats. 1937, apportioned a state trunk highway on a county line between 2 counties such apportionment was ratified and confirmed by 84.02 (2) and the cost of construction of a bridge on the portion apportioned to one county is properly chargeable to that county’s allotment of state aid if the bridge does not span a stream forming part of the boundary between 2 counties. 26 Atty. Gen. 322.

Where a town road is made a part of the county trunk highway system then becomes a part of the state trunk highway system which is subsequently changed as to location, although the old road continues to be used, such road reverts to its prior status as a county trunk road. 37 Atty. Gen. 539.

Where the commission institutes proceedings under 84.02 (3) (a), Stats. 1940, to relocate a portion of the state trunk highway system involving a deviation from the existing location exceeding 2.5 miles in 2 counties, and one county board has approved the change but the other one has not, the latter may give its approval later in the absence of any county board rule of procedure to the contrary. 29 Atty. Gen. 137.

84.025 History: 1955 c. 4; Stats. 1955 s. 84.055; 1965 c. 6; 1969 c. 276; 1969 c. 500 s. 30 (2) (5).

84.03 History: 1896 c. 152 s. 94, 95; R. S. 1878 s. 1314; Stats. 1898 s. 1314; 1917 c. 175 s. 1, 2; 1919 c. 270 s. 2; 1919 c. 315 s. 2; 1923 c. 20 s. 1; 1933 c. 108 s. 161; 1933 c. 414 s. 1; Stats. 1923 s. 84.03; 1923 c. 11 s. 4, 7; 1927 c. 316 s. 2; 1927 c. 473 s. 30; 1929 c. 338 s. 3; 1931 c. 322 s. 2; 1931 c. 346; 1931 c. 391 s. 4; 1937 c. 50; 1931 c. 117; 1943 c. 384 s. 122; 1943 c. 831, 564; 1945 c. 214, 297, 361; 1947 c. 549; 1953 c. 303, 318, 347, 625; 1965 c. 375, 458; 1969 c. 673; 1961 c. 357; 1965 c. 432 ss. 6, 6; 1965 c. 595; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 306 s. 348; 1969 c. 500 s. 30 (2) (6).

Counties are required to pay from the allotment under 84.02 (3), Stats. 1931, the principal and interest of bonds, but counties may use such allotment for retirement of bonds only to the amount of the original cost of construction. 20 Atty. Gen. 1055.

Where a county board makes an appropriation for acquiring a right of way on a federal aid relocation project under 84.03 (5) and the state highway commission is induced thereby to proceed with relocation at considerable expense the county board cannot thereafter law-

Issuance of bonds by a county pursuant to allotment provisions of 84.03 (4) does not give such allotments continued until said bonds are retired. 27 Atty. Gen. 126.

84.04 History: 1941 c. 117 s. 2; Stats. 1941 s. 84.03 (9a); 1943 c. 332 s. 125; 1945 c. 381 s. 24; 1947 c. 549; 1953 c. 318 s. 20; 1953 c. 625; Stats. 1953 s. 84.04; 1969 c. 432 s. 6; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 500.

84.05 History: 1917 c. 175 s. 2; Stats. 1917 s. 1316 sub. 3; 1923 c. 108 s. 163; 1923 s. 24; 1949 c. 334 s. 154; 1960 c. 476; 1969 c. 500 s. 30 (2) (d).

The state, in the exercise of its police power to promote public safety, may require a railroad company to pay a reasonable portion of the expenses of rearranging and reconstructing highways to minimize the danger of grade crossings. The benefit to the railroad resulting from diversion of highway traffic from grade crossings is not measured by the business done by the company, but is determined by the operating advantages which result therefrom. The state's power to assess benefits against the railroads for this work is unaffected by the federal transportation act, Chicago, M. & St. P. R. Co. v. Railroad Comm. 187 W 364, 204 NW 606.

Upon the relocation of a through-line road to divert the through traffic from grade crossings, the railroad company was assessed for certain benefits a sum less than the cost of the new road and the new route. The state was not restricted to the benefits realized from elimination of grade crossings, but was allowed to charge the railroad company to pay a reasonable portion of the cost of relocation. Chicago & North Western R. Co. v. Railroad Comm. 187 W 375, 204 NW 616.

A county and not a railroad company was liable for land taken by a county highway committee for construction of an overhead crossing to eliminate a railroad crossing, since the taking was not exclusively for railroad purposes. Ulrich v. Kenosha County, 219 W 83, 501 NW 747.

See notes to sec. 1, art. IV, on delegation of power, citing Chicago & N. W. R. Co. v. Public Service Comm. 43 W (2d) 570, 169 NW (2d) 65.

The public service commission's authority to apportion the cost of maintenance of new railroad crossing improvements, given pursuant to 84.05 and 195.29 (2), Stats. 1967, is not restricted to benefits received standard. Chicago & N. W. R. Co. v. Public Service Comm. 43 W (2d) 570, 169 NW (2d) 65.

Jurisdiction of the railroad (now public service) commission over highways crossings and relocation is discussed in 11 Atty. Gen. 214.

84.06 History: 1899 c. 152 s. 99; R. S. 1878 s. 90; Stats. 1881 s. 1316; Stats. 1889 s. 1316; 1917 c. 175 s. 1; 1919 c. 370 s. 1; 1921 c. 449; 1923 c. 108 s. 164; 1925 c. 518 s. 6; 1927 c. 333; 1943 c. 334 s. 125; 1945 c. 297; 1951 c. 247, 446; 1959 c. 659 s. 65; 1997 c. 351 s. 6; 1999 c. 338; 1999 c. 500 s. 30 (2) (d), (e).

Money appropriated by the state for highway purposes does not constitute a trust fund for the benefit of highway contractors. State ex rel. McDonald v. Nemachek, 199 W 13, 235 NW 170.

A contract for highway construction, entered into under 84.06, Stats. 1939, on behalf of the state by the highway commissioner after a letting by competitive bids, and containing a provision that supplemental agreements pursuant to the rules and specifications of the commission shall constitute a part of such contract, requires the signed approval of the governor, but a supplemental agreement of the type provided for in the rules and specifications of the commission is merely a modification of the partly executed original contract by an adjustment of compensation to the contractor for particular items of work, and does not require the approval of the governor or that of the state chief engineer. State ex rel. Lathers v. Smith, 238 W 291, 238 NW 43.

It is within the discretion of the state highway commission to require bids at unit prices for the excavation of different types of materials in the process of building a highway, and to provide for supplemental agreements in its standard specifications and its contracts for highway construction so as to permit of adjustments of compensation to the contractor where the commission's engineer may make such alterations in the plans or quantity of work as may be necessary and the quantities of any items of work may vary from the quantities scheduled on the plans and in the proposals due to unforeseen conditions, such agreements being necessary in the economy of highway construction and primarily for the protection of the state, in order that the unit price as applied to much larger quantities than estimated may not run the cost of the project into unreasonable sums. State ex rel. Lathers v. Smith, 236 W 291, 238 NW 43.

Fees for the publication of notices outside the state, if reasonable, may be paid under sec. 1316 (1), Stats. 1917, 7 Atty. Gen. 540.

The state highway commission has authority, under 84.06 (6), Stats. 1941, to enter into contracts with counties for the performance of highway construction or reconstruction which provide for the counties being compensated at maximum unit price rate of compensation—overall maximum compensation for the job. County highways committees have power to enter into such contracts on behalf of counties. A county is not entitled to extra compensation merely because a contract proves to be an improvident one. The commission may not increase compensation rates provided for in a contract except pursuant to the terms of some provision in a contract authorizing some subsequent adjustment. 31 Atty. Gen. 206.

84.07 History: 1899 c. 152 s. 99; R. S. 1878 s. 1317; Stats. 1898 s. 1317; 1917 c. 175 s. 1, 2; 1919 c. 313 s. 1, 2, 3; 1921 c. 409; 1923 c. 108 s. 165 to 169; Stats. 1923 s. 467, 469; 1927 c. 55; 1927 c. 478 s. 1; 1931 c. 22 s. 3; 1931 c. 283 s. 2; 1933 c. 500 s. 408; 1941 c. 177; 1943 c. 443 s. 126; Stats. 1943 s. 86.07; 1945 c. 297.
The state highway commission may acquire a limited easement on lands adjoining a highway for drainage purposes under 84.09 (1), 36 Atty. Gen. 686.

84.08 History: 1917 c. 175 s. 2; Stats. 1917 s. 1317 sub. 7; 1923 s. 108 s. 167; Stats. 1923 s. 84.08; 1937 c. 365; 1943 c. 234 s. 127; 1969 c. 500 s. 30 (2) (d).

84.09 History: 1943 c. 334 s. 128; Stats. 1943 s. 84.09; 1946 c. 341; 1947 c. 76, 254, 373; 1949 c. 630; 1953 c. 264, 308, 643; 1955 c. 530; 1957 c. 329, 597; 1959 c. 640; 1965 c. 248; 1967 c. 291 s. 14; 1969 c. 500 s. 30 (2) (d), (e).

The state highway commission has power to condemn property owned by school districts and to condemn property of public utilities engaged in interstate commerce subject to the rights of such utilities under 86.16 and 86.17. (1) Previous opinions of the attorney general (39 Atty. Gen. 538 and 30 Atty. Gen. 266) to the contrary are no longer applicable because of statutory changes. 41 Atty. Gen. 219.
If that specific purpose. 22 Atty. Gen. 113.

2. ... and let contracts, which have been partially

notwithstanding thereof. ... .

bond issue may be rescinded and the county's

designated under 84.11, Stats.

commission has certified the same as payable

ways by a proper zoning ordinance under

stricting the use of land along certain high­

mission's exercise of power in a way that

liable for damages to persons and property in

properly be considered as operating costs sub­

ject to reimbursement by the state. 34 Atty.

of the provisions which permit it to arrange

with the city for such operation and mainte­

ance, and a contract is made whereby the city
takes over such activity under the supervision
and control of the state with reimbursement to
the city of the cost thereof, the city is not
liable for damages to persons and property in
the discharge of such function. The expenses
of the city in defending any such claim may
properly be considered as operating costs sub­
ject to reimbursement by the state. 34 Atty. Gen. 968.

Where a city has acquired a right-of-way for
a bond issue to build a bridge as certified by the state highway commis­

mission pursuant to 84.25 (3) at the junction
of the provisions for its proportion of the cost of a
bridge as certified by the state highway commis­

mission. The county clerk and county board
may be compelled by mandamus to make
such provision. 11 Atty. Gen. 841.

A county may not lawfully refuse to make
provision for its proportion of the cost of a
bridge as certified by the state highway commis­

mission. A toll bridge acquired by the state under
87.04, Stats. 1927, and made a free bridge may
be insured by the state in the state insurance
fund without levying a county tax for
the costs of such insurance may be
debited to the appropriation made to the state

State highway commission has certified the same as payable
by the state, with respect to a particular
bridge. 8 Atty. Gen. 554.

When a municipality petitions for aid, and the physical and other conditions named in
the statute are present, aid may be granted,
notwithstanding the petition is to receive
donations from a nearby city. 8 Atty. Gen. 794.

Funds provided by a county board through a bond issue for construction of a bridge at a
designated site may be used for the construc­
tion of a bridge at a new site determined up­
on by the state highway commission. 16 Atty. Gen. 369.

Where a city has acquired a right-of-way and
let contracts, which have been partially
executed, for construction of a bridge, it is too
late to apply for apportionment of the costs
thereof. 21 Atty. Gen. 908.

Money raised by a bond issue to build a
bridge cannot be used for any other purpose.
If the bonds have not been sold action for a
bond issue may be rescinded and the county's
share of the bridge may be paid out of the
general fund without levying a county tax for
that specific purpose. 22 Atty. Gen. 113.

See note to 227.15, citing Nick v. State High­
way Comm. 13 W (2d) 511, 109 NW (2d) 71.

The state designates a section of highway as non-access, but takes no land from the
owner, and the owner has access to another highway, no compensation is payable. Nick v. State Highway Comm. 13 W (2d) 511, 109 NW (2d) 71.

The closing of a street by the highway commis­
sion pursuant to 84.25 (3) at the junction of its intersection with a controlled-access
highway is not a free bridge as certified by the state highway commis­


The statute does not provide for a hearing on
the application of a property owner to
the state highway commission for a permit to
build a driveway from his premises to a
controlled-access highway. Nick v. State High­
way Comm. 21 W (2d) 498, 124 NW (2d) 674.

See note to 80.13, citing 42 Atty. Gen. 320.

Highway zoning and roadside protection in
Wisconsin. Levin, 1951 WLR 197.

84.27 History: 1925 c. 371; Stats. 1925 s.
...20.49 (6a); 1927 c. 493 s. 1; 1933 c. 140 s. 4; 1941 c. 49 s. 60; 1941 c. 317; 1945 c. 329, 391; 1953 c. 318 s. 8; Stats. 1953 s. 94.45; 1955 c. 366; 1961 c. 531; 1965 c. 432 s. 6; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 726 ss. 602 (1), 603 (2); 1969 c. 500 s. 30 (2) (e).

The Grand Army Home for Veterans at King, Wisconsin, is a state charitable institution and entitled to benefits under 20.49 (5a), Stats. 1967. 36 Atty. Gen. 191.

...84.52. 84.51. 84.41; 1967 c. 134; 1967 c. 221; 1922 c. 444 s. 4; Stats. 1923 s. 86.02; 1943 c. 334 s. 134.

The provision in 86.02, Stats. 1929, relative to treble damages is penal in nature, and the legislature must be strictly construed. Where the legislature authorized building of a dam which caused damage to highways, the act of defendant in constructing the dam was unlawful and the treble damage feature is eliminated. Oconto County v. Union M. Co. 190 W 44, 250 NW 969.

86.03. Stats. 1930, so far as imposing treble damages in case of injury to a highway, has no application where the act resulting in damage was expressly authorized by the legislature. Where damage is caused by the manner in which the dam was constructed, maintained or operated, the basis of liability of the proprietor is negligence, and there is no absolute liability. Wausauke v. Lauer, 240 W 358, 3 NW (2d) 362.

86.01 History: 1919 c. 294; Stats. 1919 s. 4446; 1925 c. 4; Stats. 1925 s. 343.483; 1955 c. 596 s. 13; Stats. 1955 s. 86.02.

86.02 History: 1869 c. 132 s. 101; R. S. 1878 c. 1326; Stats. 1869 c. 1326 pub. 1; 1869 c. 143; 1923 c. 106 s. 214; Stats. 1923 c. 4444d; 1925 c. 4; Stats. 1925 s. 343.484; 1931 c. 376; 1955 c. 596 s. 124; Stats. 1955 s. 86.02. See also Wyman v. State, 13 W 663.

A barn occupying less than one-half the width of a street in a populous village, though room for travel is left, is an obstruction. State v. Leaver, 62 W 387, 22 NW 576. Sec. 1326, R. S. 1676, applies only to obstructions intentionally, wilfully or maliciously placed in a highway. Puerner v. Albrecht, 72 W 416, 39 NW 771.

A fence which intrudes into a highway without hindering or rendering dangerous the travel thereon is not an obstruction but a mere encroachment. State v. Penney, 73 W 694, 41 NW 726. A barbed wire fence intentionally placed nearly lengthwise the traveled portion of a highway is an obstruction. Bartlett v. Beardmore, 77 W 356, 46 NW 494.

A strip of land dedicated to the public use as and for a highway, and which the municipality has a right to open as such, but which in fact has never been opened or made capable of public use, is not a highway. State v. Paine L. Co. 80 W 205, 54 NW 593.

A post 3 feet from the traveled track of the highway may constitute an obstruction. Neale v. State, 138 W 494, 120 NW 345. Any object unlawfully placed within the limits of a highway is an obstruction if it impedes or seriously inconveniences public travel or renders it dangerous and it is not necessary that such object should stop travel in order