

in the county jail not less than thirty days nor more than ninety days.

SECTION 3. This act shall take effect upon passage and publication.

Approved May 18, 1915.

No. 388, S.]

[Published May 19, 1915.

CHAPTER 106.

AN ACT to amend sections 1276, 1277, 1279 and 1280 of the statutes, relating to appeals in highway proceedings, and to repeal sections 1278 and 1281 of the statutes, relating to the same subject.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 1276 of the statutes is amended to read: Section 1276. Any person who shall consider himself aggrieved by any order laying out, altering, widening, or discontinuing any highway or by any refusal so to do under the preceding provisions may, within thirty days after such determination, appeal therefrom and apply * * * to the county judge for the appointment of commissioners to review such order or determination. Failure of the supervisors to act upon the application required by section 1267 within sixty days after the same was filed in town clerk's office shall be deemed a refusal to lay out, alter, widen, or discontinue the highway; and any person who shall consider himself aggrieved by such refusal, may appeal therefrom in the manner herein provided for an appeal from the order refusing to lay out, alter, widen, or discontinue the highway. Such application shall be in writing and shall briefly state the grounds upon which it is made, and whether it be made to reverse entirely such order or determination or only a part, and in the latter case it shall state what part; provided that in case of highways upon a line between two or more counties such application may be made * * * to the county judge of either county bounded in whole or in part by such highway.

SECTION 2. Section 1277 of the statutes is amended to read: Section 1277. Upon filing such application and a bond executed to the town or towns, or town, city or village, as the case may require, with sufficient sureties to be approved by the judge * * * conditioned to pay all costs arising from such appeal, provided such order or determination of the supervisors or supervisors and commissioners shall not be reversed, such judge * * * shall issue a notice specifying therein a time and place

for the appointment of commissioners which shall be served on two or more of the supervisors of each town and on two or more commissioners of the city or village, in a proper case; at least six days before such time.

SECTION 3. Section 1278 of the statutes is repealed.

SECTION 4. Section 1279 of the statutes is amended to read: Section 1279. At the time and place named therein and upon proof of service of such notice the judge * * * to whom the application was made * * * as soon thereafter as he shall receive the papers transmitted to him, shall make a list of eighteen disinterested freeholders of the county, and each party shall strike six names from the list, and in case none of the supervisors or commissioners be present the judge * * * shall strike off the names for them, and out of the number not struck off the judge * * * shall by lot select three as such commissioners; and shall thereupon annex to the application a warrant, under his hand, directed to the persons so selected, requiring them to appear personally at a time and place fixed therein, not more than ten days from the date thereof, and directing them to view and examine the highway described in such application and review the order or determination appealed from, and make return of their decision thereon to the town, city or village clerk, as the case may require, within twenty days after the date thereof; such warrant shall be served at least three days before the time fixed therein for their meeting by some officer or other person by reading the same to each of said commissioners and delivering it to one of them. If for any reason one or more of said commissioners shall fail to act, the judge * * * making the appointment shall, on receiving notice of such failure, by lot and without notice to either party select from the number not struck off or drawn from said list one or more commissioners, as the case may require, to fill the vacancy or vacancies in the commission. And in case this list is exhausted before three commissioners are obtained who can and will act, then, without notice to either party, a number of commissioners sufficient to supply the deficiency and having the qualifications above required shall be summoned by order of the appointing officer in the same manner that talesmen are summoned to complete juries in courts held by justices of the peace, to the end that said appeal may have effect. Whenever a new commissioner is drawn or summoned to fill a deficiency the time for the commissioners to appear, view and examine the highway may be enlarged by the appointing officer to not exceeding ten days, and the time for making return of their decision to not more than twenty days from the date of filling such vacancy.

Any commissioner may be excused from acting by the officer appointing him for good cause; and if any commissioner, after due service upon him of the warrant by which he was appointed and not so excused, shall, without good cause, refuse to act he shall forfeit ten dollars and shall also be liable to the party having the costs of the appeal to pay for the additional costs made in consequence of such refusal.

SECTION 5. Section 1280 of the statutes is amended to read: SECTION 1280. Before proceeding to act under said warrant said commissioners shall be duly sworn justly and impartially to discharge their duties as such commissioners; they shall meet at the time and place mentioned in such warrant and proceed to examine such highway; they shall hear the parties interested therein and any proofs offered by them; their decision shall be reduced to writing, signed by them, annexed to the warrant, and, together with the same, be filed with the town, city or village clerk, as the case may require, within the time directed in such warrant. Each commissioner shall receive one dollar per day and ten cents per mile for his actual travel and the * * * judge two dollars for his fees, to be paid by the party appealing; and if the order or determination appealed from be reversed he shall be reimbursed such expenses by the town, city or village, or if it be a town line road the same shall be reimbursed equally by such towns or by the town and city or village. The judge * * * shall cause to be filed with the town clerk all the other papers and proceedings relating to such appeal, duly certified by him. If such highway be on a line between two towns or between a town, city or village they shall make a duplicate of their decision with a copy of the warrant and application annexed, which shall be filed with the town clerk of the other town or of the city or village as the case may be. * * *

SECTION 6. Section 1281 of the statutes is repealed.

SECTION 7. This act shall take effect upon passage and publication.

Approved May 18, 1915.