

ASSEMBLY BILL 678

SECTION 109

1 **SECTION 109.** 81.01 (3) of the statutes is renumbered 82.03 (2), and 82.03 (2)
2 (intro.) and (b), as renumbered, are amended to read:

3 82.03 (2) FUNDING AND EQUIPMENT. (intro.) Provide The town board shall
4 provide machinery, implements, material, and equipment needed to construct,
5 maintain, and repair ~~said~~ the highways and bridges under the town's jurisdiction,
6 and for ~~that purpose~~ those purposes may acquire by purchase or by condemnation
7 ~~in the manner provided by~~ under ch. 32 stone, gravel, sand, clay, earth, gravel pits
8 ~~and, stone quarries, but the~~ and interests in land under s. 83.07. The total sum spent
9 under this subsection in any year for construction, maintenance, and repair of
10 highways and bridges may not exceed the product of \$5,000 multiplied by the miles
11 of highway under the jurisdiction of the town measured by the most recent highway
12 mileage for the town, as determined under s. 86.302, unless one of the following
13 occurs:

14 (b) The town board, by resolution, submits to the electors of the town as a
15 referendum at a general or special town election the question of exceeding the limit
16 set under this subsection. A copy of the resolution shall be filed as provided in s. 8.37.
17 The board shall abide by the majority vote of the electors of the town on the question.
18 The question shall read as follows:

19 Shall the town of spend up to \$.... over, which is the annual limit of the
20 product of \$5,000 multiplied by the miles of highway under the jurisdiction of the
21 town measured by the most recent highway mileage for the town, as determined
22 under section 86.302 of the Wisconsin Statutes, for the construction, maintenance,
23 and repair of its highways and bridges?

24 FOR SPENDING

 AGAINST SPENDING

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NOTE: In new s. 82.03 (2) (b), the ballot language has been changed. The change in the wording of the ballot makes the ballot include the actual amount that the town is already authorized to spend. Current law seems to only require a statement of the means by which the dollar limit is arrived at. The list of materials in current s. 81.06 has been added to new s. 82.03 (2).

1 **SECTION 110.** 81.01 (4) of the statutes is renumbered 82.03 (3) and amended
2 to read:

3 82.03 (3) OVERSIGHT OF SUPERINTENDENT. ~~Compel~~ The town board shall direct
4 the superintendent of highways ~~from time to time to perform~~ in the performance of
5 the superintendent's official duties.

6 **SECTION 111.** 81.01 (5), (6), (7) and (9) of the statutes are repealed.

NOTE: The special committee decided that s. 81.01 (5), (6), (7), and (9) were obsolete.

7 **SECTION 112.** 81.01 (8) of the statutes is renumbered 82.03 (4) and amended
8 to read:

9 82.03 (4) CONTROL OF EXPENDITURES. ~~Direct~~ The town board shall direct when
10 and where all ~~town moneys received from highway taxes and other available~~
11 highway funds shall be expended.

12 **SECTION 113.** 81.01 (10) of the statutes is renumbered 82.03 (5) (b) (intro) and
13 amended to read:

14 82.03 (5) (b) (intro.) ~~Enter~~ The town supervisors may enter any private lands
15 with their employees and agents for the following purposes ~~of removing~~:

16 1. To remove weeds and brush ~~and of erecting or removing such~~ to keep the
17 highway reasonably safe for travel.

18 2. To erect or remove snow fences ~~as may be necessary~~ to keep highways
19 reasonably free from snow and open for travel during the winter season.

NOTE: The new s. 82.03 (5) is also based on current s. 81.01 (3) and the first one-third of current s. 81.06. It gives the supervisors the additional authority to enter private land in order to erect fences on the right-of-way. The new sub. (6) makes it clear that the town will be responsible for any resulting damages.

ASSEMBLY BILL 678**SECTION 114**

1 **SECTION 114.** 81.01 (11) of the statutes is renumbered 82.03 (7) and amended
2 to read:

3 **82.03 (7) HIGHWAY NAMES.** By The town board shall, by ordinance, assign a
4 name to each of the roads ~~in the town that are under town board the town's~~
5 jurisdiction. No road name may be used on more than one road within the
6 jurisdiction of the town.

7 **SECTION 115.** 81.02 (title) of the statutes is repealed.

8 **SECTION 116.** 81.02 of the statutes is renumbered 82.03 (1) (b) and amended
9 to read:

10 **82.03 (1) (b)** The town board may appoint more than one superintendent of
11 highways. If more than one superintendent is appointed, the town board shall divide
12 the town into as many districts as there are superintendents. The districts shall be
13 numbered and a superintendent shall be assigned to each district. ~~The term of office~~
14 ~~of highway superintendents shall be one year from the date of their appointment.~~
15 ~~A superintendent of highways may be compensated by a regular salary or by a per~~
16 ~~diem allowance, to be paid out of the highway fund or out of the general fund of the~~
17 ~~town. In addition to a salary or per diem compensation the superintendent may be~~
18 ~~paid out of either of said funds a stated amount for the maintenance and upkeep of~~
19 ~~a horse or automobile or motor truck. Such superintendent before entering upon the~~
20 ~~duties of superintendent shall execute an official bond in such sum as the town board~~
21 ~~shall require, with sureties to be approved by the board, and file said bond with the~~
22 ~~town clerk~~ A superintendent may be a member of the town board.

NOTE: In new s. 82.03 (1), language was included to state that the superintendent of highways could be a member of the town board. Current s. 60.37 (4) (a) already authorizes this.

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1 SECTION 117. 81.03 (title) of the statutes is renumbered 82.05 (title) and
2 amended to read:

3 **82.05 (title) Superintendent of highways; duties.**

4 SECTION 118. 81.03 of the statutes is renumbered 82.05 (2) and amended to
5 read:

6 82.05 (2) The superintendent of highways shall supervise the construction and
7 maintenance of all highways in the superintendent's district ~~that are~~ required to be
8 maintained by the town, and keep them passable at all times, and perform such other
9 services in connection with said ~~the~~ highways as the town board requires, and keep
10 a full account of all the superintendent's receipts and disbursements. The
11 superintendent may ~~make such arrangement~~ arrange for the prosecution of the
12 highway work as the superintendent ~~deems~~ considers necessary and appoint such
13 supervisors as any overseers that the highway work requires.

14 (3) When any highway under the superintendent's charge becomes
15 impassable, the superintendent shall put the ~~same~~ highway in passable condition as
16 soon as practicable. ~~The superintendent shall make a complete and full report of all~~
17 ~~funds received and disbursed by the superintendent whenever requested so to do by~~
18 ~~the town board, and shall also make a complete and full report to each annual town~~
19 ~~meeting. The superintendent, and in the superintendent's absence the town board,~~
20 ~~shall immediately upon notice of its existence fill or remove~~ Upon actual notice of the
21 existence of any depression, ditch, hump, or embankment which that impedes the
22 use of any highway in under the superintendent's district charge, the
23 superintendent, or in the absence of a superintendent the chairperson of the town
24 board, shall as soon as practicable take action to make the highway safe for travel,
25 which may include closing the highway.

ASSEMBLY BILL 678**SECTION 118**

NOTE: Current s. 81.03 seemed to contemplate the superintendent having a separate set of accounting books and paying and receiving money. The special committee decided that such a system had the potential for fraud and confusion. Instead, new s. 82.05 (4) simply requires the superintendent to report all actions to the board, and the board can handle making and receiving payments.

In new sub. (3), the language has been changed from “notice” to “actual notice”.

1 **SECTION 119.** 81.04 of the statutes is repealed.

2 **SECTION 120.** 81.05 of the statutes is repealed.

NOTE: The special committee repealed s. 81.05 because it believed that it was no longer used by towns.

3 **SECTION 121.** 81.06 (title) of the statutes is repealed.

4 **SECTION 122.** 81.06 of the statutes is renumbered 82.03 (5) (a) and amended
5 to read:

6 82.03 (5) (a) The town board supervisors may enter upon any lands near any
7 highway in the town and there to construct necessary drains or ditches or
8 embankments for the improvement or protection of the highway; ~~and may enter upon~~
9 ~~any unimproved lands near any highway in the town and take stone, gravel, sand,~~
10 ~~clay, earth or trees for the purposes of improving any highway, but shall carefully~~
11 ~~avoid doing any unnecessary injury to the premises; and may take stone, gravel or~~
12 ~~other suitable materials within the highway of the town to improve any highway~~
13 ~~therein. No such material shall be removed from any town without the consent of~~
14 ~~the town board unless the highway on which the same is found is maintained by the~~
15 ~~county, in which case the county may use the same for any highway purpose.~~

16 **SECTION 123.** 81.07 of the statutes is repealed.

17 **SECTION 124.** 81.08 (title) of the statutes is renumbered 82.35 (title).

18 **SECTION 125.** 81.08 (1) of the statutes is renumbered 82.35 (1) (a) and amended
19 to read:

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1 82.35 (1) (a) When any highway ~~shall be~~ is practically impassable or be
2 dangerous to travel ~~or when it shall be deemed.~~

3 (b) When the town board considers it necessary on account of construction or
4 repair work thereon or for other reasons to suspend travel thereon or upon on a
5 highway or on any part of such a highway, the town board may upon its own motion
6 lay out and open temporary highways for the accommodation of public travel through
7 any lands due to construction, repair, or other reasons.

8 (2) (a) The board may contract in writing with the owner or occupant, or both,
9 lessee of any land through which it proposes to lay out such a temporary highways
10 highway, as to the location of the same highway, and the damages that the owner or
11 occupant lessee is to receive, which. The contract shall be filed with the town clerk.

12 (b) In the absence of such a contract under par. (a), the board shall determine
13 by the location of the temporary highway and the award of damages. Unless an
14 emergency exists, the board shall serve the landowner with notice of the location of
15 the highway and the award of damages and shall provide the landowner with 48
16 hours to object. The town board shall file a written order filed with the town clerk
17 both specifying the location of the temporary highway and the damages, and may
18 immediately open such temporary highways. Such highways awarded.

19 (4) A temporary highway shall exist only so long as needed and shall be deemed
20 considered vacated and discontinued when the permanent highway is again opened
21 for public travel.

NOTE: The special committee was concerned that current law does not satisfy due process. Unless there is an emergency, new s. 82.35 requires notice to the landowner and 48 hours to object.

22 **SECTION 126.** 81.08 (2) of the statutes is renumbered 82.35 (2) (c) and amended
23 to read:

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1 82.35 (2) (c) The owner or occupant of any land occupied by ~~such a~~ temporary
2 highway may, at any time after it is opened and within 30 days after it is so vacated
3 or discontinued, apply to the town board to determine the owner's or occupant's
4 damages; ~~and thereafter the same proceedings may be had as in the case of a claim~~
5 ~~for damages under s. 81.07.~~

6 **SECTION 127.** 81.08 (3) of the statutes is renumbered 82.35 (3) and amended
7 to read:

8 82.35 (3) ~~In case such~~ If a temporary highway is opened in connection with or
9 on account of road ~~and or~~ or bridge construction, the damages agreed upon or awarded
10 pursuant to this section may be treated as part of the construction cost and paid out
11 of the construction funds ~~in the customary manner of disbursing the same.~~

12 **SECTION 128.** 81.11 (title) and (1) to (4) of the statutes are repealed.

13 **SECTION 129.** 81.11 (5) of the statutes is renumbered 82.25 and amended to
14 read:

15 **82.25 Highway taxes for limited-use road.** The Notwithstanding s. 60.10
16 (1) (a) and (2) (a), the town board, upon its own authority and without direction from
17 the annual town meeting, may levy and collect a tax on property located in a recorded
18 and filed plat that existed on January 1, 2003, situated in a town requiring the
19 approval of such town board, and adjoining a private road used by the public located
20 therein, and on property adjoining, where the owner regularly uses such road which
21 is not a portion of any town, county, state, or federal highway system, not exceeding
22 3 mills for each dollar of assessed valuation thereof. The proceeds of ~~such~~ the tax
23 shall be expended for the improvement and maintenance of any private roads used
24 by the public located within ~~such~~ the recorded and filed plat. The town board shall

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1 not expend any of such the funds collected under this section upon a private
2 driveway.

NOTE: Section 82.25 is based on current s. 81.11 (5). The language was changed to limit its application to plats in existence on January 1, 2003. Subsections (1) through (4) of current s. 81.11 were deleted because the special committee decided that they were obsolete.

Current ss. 81.12 and 81.39, 80.30 (2) through (5), and the 2nd-to-last sentence of s. 80.02 were not carried over into this bill. The special committee decided that these provisions were obsolete or better covered by other parts of the statutes.

3 **SECTION 130.** 81.12 of the statutes is repealed.

4 **SECTION 131.** 81.14 (title) of the statutes is renumbered 66.1029 (title) and
5 amended to read:

6 **66.1029 (title) ~~Highways; refusal of town to open; appeal to county~~**
7 **~~board; cost of opening~~ Appeal of the refusal to open or repair a highway or**
8 **bridge.**

9 **SECTION 132.** 81.14 (1) of the statutes is renumbered 66.1029 (1) (a) and
10 amended to read:

11 66.1029 (1) (a) ~~If any town, or towns in case of a town line highway, either by~~
12 ~~the proper officers, or by a majority vote of the electors voting on such question,~~
13 ~~refuse, fail or neglect to city, village, or town does not open and put in reasonable~~
14 ~~condition for travel a highway, within one year from the date when it on which the~~
15 ~~highway was laid out, or refuse, fail or neglect to does not repair any highway or build~~
16 ~~or repair any a bridge thereon, in such town or towns, any on a highway, 15~~
17 ~~freeholders thereof of the city, village, or town may appeal to the county board of the~~
18 ~~county in which the highway or bridge is situated located, by notice in writing served~~
19 ~~on the chairperson or chairpersons county clerk, with copies delivered to the clerk~~
20 ~~of the city, village, or town or towns.~~

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1 (b) For the purpose of this section all, highways on city, village, or town lines,
2 ~~which shall that~~ have been apportioned between the respective cities, villages, or
3 ~~towns shall be considered as wholly within the~~ city, village, or town to which such the
4 ~~part of said the~~ highway or bridge is apportioned. ~~In case of town highways which~~
5 ~~are upon~~ If a highway is on county lines and ~~which have~~ has not been apportioned
6 for the purpose of ~~maintenance~~ authority and responsibility, the appeal may be made
7 to the county board of either county. ~~When it is appealed to,~~

8 (c) ~~Upon receipt of an appeal,~~ the county board shall, at the next regular
9 meeting, either by a majority of its members or by a committee of not less than 3,
10 examine such highway or bridge, ~~and if they determine that it ought to be put in~~
11 ~~reasonable condition for travel or ought to be repaired,~~ If it determines that the
12 appeal should be granted, the county board shall ~~thereupon~~ appropriate therefor
13 sufficient funds to defray the estimated cost of opening or repairing the highway or
14 building or repairing the bridge, and the chairperson of the county board shall cause
15 the highway to be opened and put in reasonable condition for travel or cause the
16 bridge to be repaired or built, and shall keep an accurate account of the expense
17 thereof, ~~and such.~~ The expense, when audited and allowed by the county board, shall
18 be charged to the ~~town and~~ affected cities, villages, or towns in amounts and
19 proportions that the county board shall determine and shall be added to the next
20 county tax apportioned ~~thereto~~ and collected ~~therewith.~~

21 **SECTION 133.** 81.14 (2) of the statutes is renumbered 66.1029 (2) and amended
22 to read:

23 66.1029 (2) If any county fails to ~~aid in putting~~ create an established plan,
24 agreed to by the city, village, or town, to put any county line highway in reasonable
25 condition for travel any county line highway, the adjoining county may, after not less

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1 than ~~20~~ 30 days' notice in writing given to the county clerk of ~~such~~ the other county,
 2 put ~~such~~ the highway in reasonable condition for travel and keep an accurate account
 3 of the expense thereof. ~~Such.~~ The expense, when audited and allowed by the county
 4 board, shall be prorated and charged to the county whose duty it is to keep the
 5 highway in condition for travel. Such county may then charge the expense to the
 6 affected city, village, or town whose duty it is to keep the highway in repair and add
 7 it to the next county tax, ~~apportion it thereto and collect it therewith~~ apportioned and
 8 collected.

9 SECTION 134. 81.14 (3) of the statutes is repealed. AAI

10 SECTION 135. 81.14 (4) of the statutes is renumbered 66.1029 (3) and amended
 11 to read:

12 66.1029 (3) ~~In case of~~ If a county line highway ~~which~~ has not been apportioned
 13 between cities, villages, or towns for the purpose of ~~maintenance, and where~~
 14 authority and responsibility, an appeal may be taken to the county board of any
 15 county bounded by ~~said~~ the highway, ~~the.~~ The expense incurred in opening and
 16 putting in reasonable condition for travel ~~such~~ highway, or in repairing it ~~the~~
 17 highway, or in building or repairing any bridge ~~thereon on the highway~~, shall be paid
 18 primarily by the county to which the appeal is taken, ~~and by said county apportioned.~~
 19 The county to which the appeal is taken shall apportion the expense among all of the
 20 counties which that are bounded in whole or in part by ~~such~~ the highway, ~~and the~~
 21 ~~proportionate share of such costs and expense shall be paid by the other counties.~~
 22 The other counties shall pay their apportioned share to the county to which the
 23 appeal is taken, upon presentation receipt of a proper claim therefor, and when such.
 24 When the expense has been paid by the counties liable therefor it shall be charged
 25 by the respective counties to their proper towns and added, the counties shall charge

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1 their affected cities, villages, or towns and add the charge to the next county tax
 2 apportioned to such the cities, villages, or towns and collected therewith.

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 NOTE: Under current s. 81.14, the county's oversight is only over towns. This section expands the county's oversight to cities and villages. Since the county is given the same oversight over cities and villages, the section has been moved to ch. 66.

New s. 66.1029 changes where the application must be delivered. Under current s. 81.14, an appeal is begun by serving notice on the chairperson of town or towns. Since the appeal is to the county, the special committee decided that it would be more appropriate to serve the notice on the county. Thus, new s. 66.1029 requires service on the county clerk and copies to be delivered to the towns.

Current s. 81.14 (3) was deleted. That subsection concerned highways that were laid out by commissioners reversing the decision of the supervisors. The provisions for commissioners reversing supervisors was eliminated in 1995 Wisconsin Act 186.

In new sub. (2), the language about a county failing to aid in putting the highway in reasonable condition was changed to require a plan to put the highway in reasonable condition that is agreed to by the town or village. In addition, new sub. (2) was modified to require 30 rather than 20 days' notice.

3 **SECTION 136.** 81.15 of the statutes is renumbered 893.83 (1) and amended to

4 read:

5 **893.83 (1) DAMAGES CAUSED BY HIGHWAY DEFECTS; LIABILITY OF TOWN AND COUNTY**
 6 **MUNICIPALITY.** If damages happen to any person or his or her property by reason of
 7 the insufficiency or want of repairs of any highway ~~which~~ that any town, city, or
 8 village is bound to keep in repair, the person sustaining the damages has a right to
 9 recover the damages from the town, city, or village. If the damages happen by reason
 10 of the insufficiency or want of repairs of a highway ~~which~~ that any county by law or
 11 by agreement with any town, city, or village is bound to keep in repair, or ~~which~~ that
 12 occupies any land owned and controlled by the county, the county is liable for the
 13 damages and the claim for damages shall be against the county. If the damages
 14 happen by reason of the insufficiency or want of repairs of a bridge erected or
 15 maintained at the expense of 2 or more towns, cities, villages, or counties, the action
 16 shall be brought against all of the towns, cities, villages, or counties that are liable
 17 for the repairs of the bridge ~~and upon.~~ Upon recovery of judgment, the damages and
 18 costs shall be paid by the towns, cities, villages, or counties in the proportion in which

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1 they are liable for the repairs; ~~and the.~~ The court may direct the judgment to be
2 collected from each town, city, village, or county for its proportion only. The amount
3 recoverable by any person for any damages so sustained shall not exceed \$50,000.
4 The procedures under s. 893.80 shall apply to the commencement of actions brought
5 under this ~~section~~ subsection. No action may be maintained to recover damages for
6 injuries sustained by reason of an accumulation of snow or ice upon any bridge or
7 highway, unless the accumulation existed for 3 weeks.

8 **SECTION 137.** 81.17 of the statutes is renumbered 893.83 (2) and amended to
9 read:

10 893.83 (2) HIGHWAY DEFECTS; LIABILITY OF WRONGDOER; PROCEDURE. Whenever
11 damages happen to any person or property by reason of any defect in any highway
12 or other public ground, or from any other cause for which any town, city, village, or
13 county would be liable, and such damages are caused by, or arise from, the wrong,
14 default, or negligence thereof and of any person, or private corporation, such person
15 or private corporation shall be primarily liable therefor; ~~but the.~~ The town, city,
16 village, or county may be sued with the person or private corporation so primarily
17 liable. If the town, city, village, or county denies its primary liability and proves upon
18 whom such liability rests, the judgment shall be against all of the defendants shown
19 by the verdict or finding to be liable for the damages; ~~but judgment.~~ Judgment
20 against the town, city, village, or county shall not be enforceable until execution has
21 been issued against the party found to be primarily liable and returned unsatisfied
22 in whole or in part; ~~on.~~ On such return being made, the defendant town, city, village,
23 or county shall be bound by the judgment. The unpaid balance shall be collected in
24 the same way as other judgments.

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NOTE: Section 893.83 is based on current ss. 81.15 and 81.17. The special committee decided it was more appropriately placed in ch. 893. Though some of the language has been modified to make it more current, no substantive change is intended.

1 **SECTION 138.** 81.35 of the statutes is renumbered 82.37 and amended to read:

2 **82.37 Tunnel under highway by landowner.** The owner of land on both
3 sides of a town highway may construct a tunnel under the highway, and the
4 necessary ~~may erect~~ fences for the passage of stock, and other purposes, in such
5 manner as will that are necessary for the use of the tunnel. ~~The tunnel shall not~~
6 interfere with or endanger travel on the highway. ~~The tunnel shall not be less than~~
7 25 feet in length and shall be maintained by the owner. The owner shall maintain
8 the tunnel and shall be liable for all damages which may be occasioned by that occur
9 as a result of the failure to keep the tunnel in repair. Unless authorized by a town
10 meeting, the tunnel shall not be less than 25 feet in length. The electors of the town
11 at an annual town meeting may authorize the construction of ~~any designated a~~
12 tunnel not less than that is less than 25 feet, but at least 16 feet in length. The
13 ~~chairperson of the town shall see that all tunnels in the town are made in accordance~~
14 ~~with this section and that they are kept in good repair.~~

15 **SECTION 139.** 81.36 of the statutes is repealed.

16 **SECTION 140.** 81.38 (title) of the statutes is renumbered 82.08 (title).

17 **SECTION 141.** 81.38 (1) of the statutes is renumbered 82.08 (1) and amended
18 to read:

19 **82.08 (1) PETITIONS.** ~~When any A town that~~ has voted to construct or repair any
20 ~~culvert or bridge or culvert~~ on a highway ~~maintainable~~ maintained by the town, and
21 ~~has provided for such portion of the cost of such construction or repair as is required~~
22 ~~by this section, the town board shall may~~ file a petition with the county board setting
23 ~~forth said facts and for county aid with the county highway commissioner.~~ The

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1 petition shall describe the location and size of the culvert or bridge; and bridge or
2 culvert and shall contain a statement that the town has provided the funds required
3 by sub. (3).

4 (2) FUNDING REQUIREMENTS. (a) Except as provided in par. (b), upon receipt of
5 a petition for a bridge or culvert with a 36-inch or greater span, or a structure of
6 equivalent capacity to carry water, the county board, except as herein provided, shall
7 thereupon appropriate such the sum as will, with the money provided by the town,
8 be sufficient to defray the expense of constructing or repairing such culvert or bridge,
9 required by sub. (3) and shall levy a tax therefor, which. The tax, when collected,
10 shall be disbursed on the order of the chairperson of the county board and the county
11 clerk, when the town board and county highway committee files a written notice with
12 the clerk that the work has been completed and accepted held in a separate account
13 administered by the county highway committee.

14 (b) If on January 1, 2003, a county has a policy of providing funding only for
15 bridges and culverts larger than the requirement of par. (a), the county may refuse
16 to fund bridges and culverts that do not meet the minimum requirements of that
17 policy. The minimum size bridge or culvert that a county is required to fund under
18 this section may be raised, but not lowered, by the affirmative vote of a majority of
19 the towns in the county. The county board of any county which that has never
20 granted aid under this section may, in its discretion, refuse to make any
21 appropriation all petitions under sub. (1).

NOTE: Current s. 81.38 requires all petitions for county aid to be granted. The special committee had a number of discussions about whether the county should be involved in projects that are very small, and about the fact that some counties currently put a minimum size requirement on the bridges and culverts that they fund.

The new s. 80.28 (2) limits the funding requirements to bridges or culverts with a span of 36 inches or greater. However, counties that had a greater size requirement in place on January 1, 2003 can continue to abide by that policy. In addition, the size limit can be raised, but not lowered, by the vote of the majority of towns in the county. Current

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s. 81.38 also seemed to require the town to apply to the county for aid. That has been changed so that a town “may” apply for aid. Finally, the new sub. (2) requires the tax that the county levies to be held in a separate account.

1 **SECTION 142.** 81.38 (2) of the statutes is renumbered 82.08 (3) and amended
2 to read:

3 **82.08 (3) SHARED COST.** ~~The county shall pay the cost in excess of \$750 up to~~
4 ~~\$1,500.~~ The town and county shall each pay one-half of the cost of construction or
5 repair above \$1,500. In determining the cost of construction or repair of any culvert
6 ~~or bridge~~ or culvert, the cost of constructing or repairing any approach not exceeding
7 100 feet in length shall be included.

NOTE: New sub. (3) changes the way projects are funded. The current law requires the town to pay for the first \$750, the county to pay for the second \$750, and the town and county to split amounts in excess of \$1,500. The new sub. (3) requires a straight 50% split.

8 **SECTION 143.** 81.38 (3) of the statutes is renumbered 82.08 (4) and amended
9 to read:

10 **82.08 (4) EMERGENCY PETITION.** Whenever the construction or repair of any such
11 ~~culvert or bridge~~ or culvert must be made without delay, the town board may file its
12 petition with the county clerk and the county highway committee, ~~setting forth the~~
13 ~~facts respecting~~ explaining the necessity for immediate construction or repairs. It
14 shall then be the duty of the town board and the county highway committee to ~~make~~
15 ~~such construction or repairs with the least possible delay.~~ ~~The town board is~~
16 ~~authorized to borrow the entire cost of the work, and to include the town's share of~~
17 ~~such cost in the next tax levy~~ construct or repair the bridge or culvert as soon as
18 practicable. The construction or repair of a ~~culvert or bridge~~ performed and accepted
19 or culvert undertaken pursuant to this subsection shall entitle the town to the same
20 county aid that the town would have been entitled to had it filed its petition with the
21 county board as provided in sub. (1).

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1 **SECTION 144.** 81.38 (4) of the statutes is renumbered 82.08 (5) and amended
2 to read:

3 **82.08 (5) SUPERVISION OVER DESIGN, CONSTRUCTION, AND COST.** The county
4 highway committee and the town board shall have full charge of design, sizing,
5 letting, inspecting, and accepting the work construction or repair, but the town board
6 may leave the matter entirely in the hands of the county highway committee. The
7 county highway committee and the town board must agree on the cost of the project
8 and must consult each other during construction.

NOTE: New sub. (5) adds the requirement that the town and county mutually agree on costs and consult with each other during construction.

9 **SECTION 145.** 81.38 (5) of the statutes is renumbered 82.08 (6) and amended
10 to read:

11 **82.08 (6) CONSTRUCTION REQUIREMENTS.** No county order may be drawn under
12 sub. (1) ~~(2)~~ for the construction of ~~an arch, culvert or a bridge or culvert~~ unless it is
13 ~~constructed in a workmanlike manner and built of creosoted wood or timber, steel,~~
14 ~~stone or concrete or a combination thereof, and~~ the design and construction comply
15 with requirements under s. 84.01 (23).

NOTE: New sub. (6) does not carry over the language from current s. 82.38 (5) that specified what materials the culvert or bridge should be made of. The special committee decided that the list was unnecessary and that some of the listed materials were outdated.

16 **SECTION 146.** 81.38 (6) of the statutes is renumbered 61.48 and amended to
17 read:

18 **61.48 County aid for construction and repair of bridges and culverts.**
19 Any village, ~~by a resolution adopted by a two-thirds majority vote of all members of~~
20 ~~the village board, may elect to become subject to all of the provisions of this section.~~
21 ~~Such s. 82.08 by a resolution adopted by a two-thirds majority vote of all of the~~
22 members of the village board. The election to become subject to s. 82.08 shall be

ASSEMBLY BILL 678**SECTION 146**

1 effective when a certified copy of such the resolution is filed with the county board
2 and approved by a majority of the towns and villages in the county that are already
3 subject to s. 82.08 vote of the members of the county board representing towns and
4 representing villages which have become subject to the provisions of this section as
5 provided in this subsection; and thereafter, until such to approve the village's
6 election. Until the village ceases to be subject to the provisions of this section s. 82.08,
7 the words "town" and "town board" as used in this section s. 82.08 shall also apply
8 respectively to such to the village and its village board. A village which that has
9 become subject to the provisions of this section as provided in this subsection s. 82.08
10 may cease to be subject to such provisions only that section by the adoption of a
11 resolution and its approval by the county board in the same manner and by the same
12 procedure by which a as the village may become became subject to such provisions
13 as provided in this subsection that section.

NOTE: Since it concerns villages, the special committee decided current s.81.38 (6) was more appropriately placed in ch. 61. New s. 61.48 changes how the election to be subject to the provisions of new s. 82.08 is approved. The current language in s. 81.38 requires approval "...by a majority vote of the members of the county board representing towns and villages that have become subject to this section". Since the members of the county board no longer represent towns and villages in that manner, new s. 61.48 requires a vote of the majority of the towns and villages that are already subject to s. 82.08.

14 **SECTION 147.** 81.38 (7) of the statutes is renumbered 82.08 (7) and amended
15 to read:

16 82.08 (7) NO TAX. Except as provided in sub. (6) and s. ss. 61.48 and 84.14 (3),
17 nothing herein contained in this section shall authorize the levy of a tax upon the
18 property in any city or village which that is required to maintain its own bridges.

19 **SECTION 148.** 81.39 of the statutes is repealed.

20 **SECTION 149.** 81.42 (title) of the statutes is repealed.

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1 **SECTION 150.** 81.42 (1) of the statutes is renumbered 82.03 (8) and amended
2 to read:

3 **82.03 (8) USE OF DAMS AS ROADWAYS.** The town board may contract with the
4 owner of ~~any a dam with that has~~ a roadway ~~thereon on it~~ for the use of such ~~the~~
5 roadway ~~for highway purposes for such period of time as the board may determine.~~
6 The contract shall provide that who shall be responsible for keeping the roadway
7 ~~shall at all times be kept in repair by the owner and may be for a period of time that~~
8 the board determines.

NOTE: The language of current s. 81.42 (1) requires the contract to provide that the owner of the dam keep the roadway in repair at all times. New s. 82.03 (8) changes this language to require only that the contract specify who shall keep the road in repair.

9 **SECTION 151.** 81.42 (2) of the statutes is renumbered 82.09 and amended to
10 read:

11 **82.09 County aid for dams used for bridges.** ~~Whenever any A~~ town board
12 ~~shall may~~ file its a petition with the county board, ~~setting forth the fact that said~~
13 ~~stating that the~~ town board has voted to acquire the right to use ~~any such a~~ roadway,
14 ~~designating as near as may be the location of such dam and roadway, and stating on~~
15 a dam. The petition shall contain a legal description and scale map of the dam and
16 roadway, and shall state the amount agreed to be paid to the owner for the use ~~thereof~~
17 of the roadway. Upon receipt of a petition, the county board shall appropriate a sum
18 equal to ~~one-half~~ 50 percent of the amount ~~so~~ agreed to be paid for such ~~the~~ use, ~~and.~~
19 The county board shall, on the order of the chairperson of the county board and
20 county clerk, cause such sum to be paid to the treasurer of said ~~the town on the order~~
21 ~~of the chairperson of the county board and county clerk~~ whenever the town board
22 ~~shall notify them~~ notifies the county highway commissioner that a contract for the
23 use of such ~~the~~ roadway has been executed.

ASSEMBLY BILL 678**SECTION 151**

NOTE: The contents of the petition have been changed. The original language required the petition to designate “as near as may be” the location of the dam and roadway. New s. 82.09 requires a legal description and scale map.

1 **SECTION 152.** Chapter 82 (title) of the statutes is created to read:

2 **CHAPTER 82**

3 **TOWN HIGHWAYS**

4 **SECTION 153.** Subchapter I (title) of chapter 82 [precedes 82.01] of the statutes
5 is created to read:

6 **CHAPTER 82**

7 **SUBCHAPTER I**

8 **FUNDING AND GOVERNANCE**

9 **SECTION 154.** 82.01 (intro.), (1) to (7) and (9) to (11) of the statutes are created
10 to read:

11 **82.01 Definitions.** (intro.) In this chapter, the following words and phrases
12 have the designated meanings unless specifically noted:

13 (1) “Department” means the department of transportation.

14 (2) “Freeholder” means a person who owns a fee simple or life estate interest
15 in land, a person who is a land contract vendee, or a person who has an interest in
16 land arising under ch. 766.

17 (3) “Highway order” means an order laying out, altering, or discontinuing a
18 highway or a part of a highway, that contains a legal description of what the order
19 intends to accomplish and a scale map of the land affected by the order.

20 (4) “Laid out” means any formal act or process by which a municipality
21 determines the location of a highway.

22 (5) “Legal description” means a complete description of land without internal
23 references to any other document, and shall be described in one of the following ways:

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1 (a) By metes and bounds commencing at a monument at the section or quarter
2 section corner or at the end of a boundary line of a recorded private claim or federal
3 reservation in which the annexed land is located and in one of the following ways:

- 4 1. By government lot.
- 5 2. By recorded private claim.
- 6 3. By quarter section, section, township, and range.

7 (b) If the land is located in a recorded and filed subdivision or in an area that
8 is subject to a certified survey map, by reference as described in s. 236.28 or 236.34

9 (3).

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10 (6) "Municipality" means a city, village, or town.

11 (7) "Opened" means the completion of work on a highway that places the
12 highway in a condition ready for public use.

13 (9) "Town line highway" means a highway that runs on or across the boundary
14 line between a town and another town, a village, or a city.

15 (10) "Unrecorded highway" means a highway that is not a recorded highway.

16 (11) "Worked" means action of the town in regularly maintaining a highway
17 for public use, including hauling gravel, grading, clearing or plowing, and any other
18 maintenance by or on behalf of the town on the road.

19 **SECTION 155.** 82.03 (1) (title) of the statutes is created to read:

20 82.03 (1) (title) OVERSIGHT OF HIGHWAYS, SUPERINTENDENT OF HIGHWAYS.

21 **SECTION 156.** 82.03 (1) (c), (5) (title) and (c), (6) and (9) to (19) of the statutes
22 are created to read:

23 82.03 (1) (c) The town board shall fix the compensation and may require and
24 set the amount of a bond of the superintendent. The town board may reimburse the

(a)

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1 superintendent for expenses incurred in performing his or her duties as
2 superintendent.

3 (5) (title) MAINTENANCE. (c) To erect on the right-of-way fences other than
4 snow fences.

5 (6) LIABILITY. The town shall be responsible for any damage resulting from
6 activities undertaken under the authority granted by sub. (5).

7 (9) RUSTIC ROADS. As specified in s. 83.42, the town board shall maintain the
8 rustic roads under its jurisdiction and may apply to have a highway designated as
9 a rustic road or withdrawn from the rustic road system.

10 (10) ADDITIONS TO AND DELETIONS FROM COUNTY TRUNK HIGHWAY SYSTEM. The town
11 board shall approve or deny additions to and deletions from the county trunk
12 highway system as provided in s. 83.025 (1).

13 (11) EMERGENCY CLOSURE OF COUNTY TRUNK HIGHWAY. The town chairperson may
14 close county trunk highways when they have been rendered dangerous for travel and
15 immediately notify the county highway commissioner under s. 83.09.

16 (12) CONTROLLED-ACCESS HIGHWAYS. The town board shall work with the county
17 and other governmental bodies in establishing and maintaining controlled-access
18 highways under s. 83.027.

19 (13) COUNTY-CONTROLLED HIGHWAYS IN A TOWN. The town board may contract
20 under s. 83.035 with the county to enable the county to construct and maintain
21 streets and highways in the town.

22 (14) PURCHASE OF EQUIPMENT. The town board may purchase road building and
23 maintenance supplies from the county under s. 83.018.

24 (15) AGREEMENTS WITH OTHER GOVERNMENTAL BODIES. The town board, under s.
25 83.027 (9), may enter into agreements with other governmental bodies respecting the

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ASSEMBLY BILL 678

1 financing, planning, establishment, improvement, maintenance, use, regulation, or
2 vacation of controlled-access highways or other public ways in their respective
3 jurisdictions.

4 (16) COUNTY AID HIGHWAYS. The town board may improve county aid highways
5 under s. 83.14.

6 (17) HIGHWAY LIGHTING. The town board may provide lighting for highways
7 located in the town under s. 60.50 (4).

8 (18) SOLID WASTE TRANSPORTATION. The town board may designate highways on
9 which solid waste may be transported under s. 60.54.

10 (19) TUNNELS UNDER HIGHWAYS. The town board shall ensure that all tunnels
11 constructed pursuant to s. 82.37 are constructed in accordance with the
12 requirements of s. 82.37 and are kept in good repair by the landowner.

NOTE: Current s. 81.02 requires the superintendent to file a bond before assuming office. The special committee discussed this requirement and concluded that town boards rarely require such bonds. As a result, s. 82.03 (1) gives the board discretion over whether to require a bond. Current s. 81.02 specifies what fund the superintendent may be paid from. The special committee discussed this requirement and decided it should be left to the town board's discretion.

New s. 82.03 (9) through (18) are simply cross-references to sections outside of this chapter. They have been added to create a more comprehensive list of the duties of the town board in relation to the highways under its jurisdiction.

New s. 82.03 (19) is based on the last sentence of current s. 81.35. No substantive change is intended.

13 **SECTION 157.** 82.05 (1) of the statutes is created to read:

14 82.05 (1) The term of office of highway superintendents shall be one year from
15 the date of their appointment.

16 **SECTION 158.** 82.05 (4) of the statutes is created to read:

17 82.05 (4) The superintendent shall routinely notify the town board of all
18 highway work.

19 **SECTION 159.** 82.08 (8) of the statutes is created to read:

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SECTION 159

1 82.08 (8) ADMINISTRATION CHARGE. The county may charge the towns that apply
 2 for aid under this section an administration charge. The administration charge shall
 3 be fixed as a percentage of the total costs of administering aid under this section and
 4 the percentage shall be no more than the percentage that the county charges the
 5 state for records and reports.

6 **SECTION 160.** Subchapter II (title) of chapter 82 [precedes 82.10] of the statutes
 7 is created to read:

CHAPTER 82

SUBCHAPTER II

BASIC PROCEDURES

8
 9
 10
 11 ~~SECTION 161.~~ 82.10 (title), (1) (b), (2), (4) (title) and (b) and (5) of the statutes
 12 are created to read:

82.10 (title) Initiation of procedures.

(1) (b) A scale map of the land that would be affected by the application.

15 (2) RESOLUTION. Notwithstanding sub. (1), the town board may initiate the
 16 process of laying out, altering, or discontinuing a town highway by the introduction
 17 of a resolution. The resolution shall contain all of the following:

18 (a) A legal description of the highway to be discontinued or of the proposed
 19 highway to be laid out or altered.

20 (b) A scale map of the land that would be affected by the resolution.

21 ~~(4) (title) NOTICE RECIPIENTS.~~

22 (b) If procedures are begun under sub. (1), the applicants shall bear the cost of
 23 publication. If the procedures are begun under sub. (2), the town shall bear the cost
 24 of publication.

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1 (5) **LIS PENDENS.** In the case of an application under sub. (1), the applicant shall
2 file a lis pendens under s. 840.11. In the case of a resolution under sub. (2), the board
3 shall file a lis pendens within 10 days of the introduction of the resolution.

NOTE: Current s. 80.02 seemed to require the petition of 6 resident freeholders to lay, alter, or discontinue a highway. Section 82.10 now allows the board to lay, alter, or discontinue a highway on its own initiative by the introduction of a resolution. After introduction, the resolution is treated the same as an application.

4 **SECTION 162.** 82.11 (title) of the statutes is created to read:

5 **82.11 (title) Meeting.**

6 **SECTION 163.** 82.12 (title) of the statutes is created to read:

7 **82.12 (title) Highway order.**

8 **SECTION 164.** 82.14 (title), (1) and (3) of the statutes are created to read:

9 **82.14 (title) Acquiring rights to land; damages from discontinuance.**

10 (1) Unless the acquisition can be made by mutual agreement, the town board shall
11 utilize the procedures under s. 32.05 to acquire rights to land for the purpose of laying
12 out or altering a town highway.

13 (3) An owner of property abutting on a discontinued highway whose property
14 is damaged by the discontinuance may recover damages as provided in ch. 32.

NOTE: The special committee decided to eliminate the provisions for acquiring land in chs. 80 and 81 in favor of requiring the town to utilize the procedures under s. 32.05. As a result, the following provisions were not carried over into this bill: ss. 80.09, 80.10, 80.30 (1), and 80.24 through 80.29.

New s. 82.14 (3) is based on language that appears in current ss. 66.1003 (4) and s. 62.73 (3).

15 **SECTION 165.** 82.15 of the statutes is created to read:

16 **82.15 Appeal of a highway order.** Any person aggrieved by a highway order,
17 or a refusal to issue such an order, may seek judicial review under s. 68.13. If the
18 highway is on the line between 2 counties, the appeal may be in the circuit court of
19 either county.

ASSEMBLY BILL 678**SECTION 165**

NOTE: Section 82.15 is based on current s. 80.17. Current s. 80.17 states that the failure to act on an application within 60 days shall be deemed a refusal. The special committee decided that the town board should have to consider the application and affirmatively make a decision. New s. 82.12 creates a 90-day timeline for the board to act, and the failure to act shall not be deemed a refusal.

1 **SECTION 166.** 82.16 (3) of the statutes is created to read:

2 82.16 (3) It shall be presumed that a release was given by the owners of the
3 lands over which the highway was laid out and the public shall be entitled to use the
4 full width of the highway, as laid out, without further compensation if all of the
5 following apply:

6 (a) An order laying out the highway has been filed for more than 30 years.

7 (b) No award of damages or agreement or release has been filed.

8 (c) The highway, or a part of the highway, has been used by the public and public
9 money has been expended on the highway for at least 5 years.

NOTE: New s. 82.16 (3) is based on the last sentence of current s. 80.07 (1). No substantive change is intended.

10 **SECTION 167.** 82.19 (2) (b) 1. of the statutes is created to read:

11 82.19 (2) (b) 1. In this paragraph, "vehicular travel" means travel using any
12 motor vehicle required to be registered under ch. 341 or exempt from registration
13 under s. 341.05.

14 **SECTION 168.** Subchapter III (title) of chapter 82 [precedes 82.21] of the
15 statutes is created to read:

16 **CHAPTER 82**

17 **SUBCHAPTER III**

18 **SPECIAL PROCEDURES**

19 **SECTION 169.** 82.21 (1) (a) and (b), (4) (title) and (5) (title) of the statutes are
20 created to read:

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1 82.21 (1) (a) Six resident freeholders of the town, city, or village deliver an
2 application to lay out, alter, or discontinue a town line highway to the clerk of every
3 town, city, or village that would be affected by the proposal.

4 (b) The town board, city council, or village board introduces a resolution to lay
5 out, alter, or discontinue a town line highway.

6 (4) (title) APPORTIONMENT OF AUTHORITY AND RESPONSIBILITY.

7 (5) (title) APPEAL OF APPORTIONMENT.

8 **SECTION 170.** 82.27 (title), (1), (5) (c) and (d), (9) and (10) of the statutes are
9 created to read:

10 **82.27 (title) Landlocked property and property with insufficient**
11 **highway access. (1) DEFINITION.** In this section, “advantages” means the greater
12 of the following:

13 (a) The increase in value of the landlocked property after the highway is laid
14 out or the way or road is widened.

15 (b) The administrative costs under sub. (5), and the estimated cost of
16 constructing or widening the highway, including both the cost of constructing a
17 turnaround, if one is necessary, and the damages paid to the owner of the land over
18 which the highway is laid out or the way or road is widened.

19 (5) (c) Administrative costs such as clerical costs and publication costs.

20 (d) If special meetings are held only for the purpose of considering the
21 application, per diem compensation for the supervisors.

22 (9) **LIMIT ON APPLICATIONS.** The determination to deny an application under this
23 section shall be final for the term of 3 years. No application to lay out a highway to
24 the same property shall be considered within 3 years from the date of the refusal.

ASSEMBLY BILL 678**SECTION 170**

1 **(10) HIGHWAY TO REMAIN PUBLIC FOR AT LEAST 2 YEARS.** A highway laid out under
2 this section shall be a public road and shall remain and be maintained as a public
3 road for at least 2 years from the date of the order.

NOTE: The definition of “advantages” in s. 82.27 (1) is new. Under current s. 80.13, the term “advantages” is not defined. In *Roberts v. Town of Springvale*, 204 Wis. 2d 110, 552 N.W.2d 898, the court held that advantages “. . . refers to how much of a financial benefit has inured to the applicant or the enhancement in value of the applicant’s land as a result of the town’s decision to lay the highway”. While the special committee agreed that this was a reasonable construction of the statutory language, it decided that the costs should be allocated differently. Constructing a highway could increase the value of the landlocked property by a far smaller amount than the cost of construction. The result would be that the town would pay the difference between the construction cost and the increased property value. The special committee decided that since the highway would primarily benefit the landowner, the landowner should bear the cost. The new s. 82.27 retains the term “advantages”, but defines it as the greater of the increased value of the property or the estimated cost of constructing the highway and the damages paid to the owner.

Section 82.27 (9) and (10) are new. The special committee discussed the fact that landlocked property owners sometimes file repeated applications to wear down the town board. Thus, new sub. (9) puts a 3-year limit on filing a new application. The special committee also discussed the potential problem of a town constructing the highway and then immediately giving the highway back to the applicant. New sub. (10) requires the highway to remain a public highway for at least 2 years.

4 **SECTION 171.** Subchapter IV (title) of chapter 82 [precedes 82.31] of the
5 statutes is created to read:

CHAPTER 82**SUBCHAPTER IV****EXISTING HIGHWAYS**

6 **SECTION 172.** 82.35 (1) (intro.) of the statutes is created to read:

7 **82.35 (1) (intro.)** The town board, upon its own motion, may lay out and open
8 temporary highways through any lands in the following situations:

9 **SECTION 173.** 83.015 (2) (b) of the statutes is amended to read:

10 **83.015 (2) (b)** In any county with a highway commissioner appointed under s.
11 83.01 (1) (b) or (c), the county highway committee shall be only a policy-making body
12 determining the broad outlines and principles governing administration and the
13
14
15

ASSEMBLY BILL 678

1 county highway commissioner shall have the administrative powers and duties
2 prescribed for the county highway committee under par. (a), sub. (3) (a) and ss.
3 27.065 (4) (b) and (13), 32.05 (1) (a), ~~81.38 (1), (3) and (4)~~, 82.08, 83.01 (6), 83.013,
4 83.018, 83.025 (1) and (3), 83.026, 83.035, 83.04, 83.05 (1), 83.07 to 83.09, 83.12, 83.14
5 (6), 83.17, 83.18, 83.42 (3) and (4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3)
6 (a) to (c) and (4), 84.10 (1), 86.04 (1) and (2), 86.07 (2), 86.19 (3), 86.34 (1), 114.33 (5),
7 349.07 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function
8 specified elsewhere for the county highway commissioner may be deemed impliedly
9 repealed for the sole reason that reference to it has been omitted in this paragraph.

10 **SECTION 174.** 83.09 of the statutes is amended to read:

11 **83.09 Emergency repairs of county trunk highways.** Whenever a flood
12 or other casualty renders any county trunk highway dangerous for travel, the town
13 chairperson ~~shall~~ may immediately close it and notify the county highway
14 commissioner thereof, and the commissioner shall promptly make repairs necessary
15 to render the highway safe for travel. If sufficient funds are not available in the
16 county maintenance fund, the commissioner may, with the consent of the
17 chairperson of the county board or of the county highway committee, make the
18 necessary repairs, and the cost thereof shall be paid as soon as funds are available.

NOTE: In the course of discussing a cross-reference to current s. 83.09, the special committee discussed that section's use of mandatory language. The special committee concluded that it should be changed to "may". The special committee members had concerns about the mandatory language breeding litigation and about the town using this authority unnecessarily.

19 **SECTION 175.** 83.18 (1) (title) of the statutes is repealed.

20 **SECTION 176.** 83.18 (1) of the statutes is renumbered 83.18 and amended to
21 read:

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SECTION 176

1 **83.18 Entry on lands.** For constructing or maintaining any highway by the
2 county, the county highway committee or commissioner shall possess all of the
3 powers to acquire and enter lands conferred upon town boards by s. ~~81.06~~ 82.03 (2)
4 and (5).

5 **SECTION 177.** 83.18 (2) of the statutes is repealed.

6 **SECTION 178.** 83.19 of the statutes is amended to read:

7 **83.19 Temporary highways and detours.** When any highway which is
8 maintained or to be maintained by the county shall be practically impassable or be
9 dangerous to travel or when it shall be deemed necessary on account of construction
10 or repair work thereon or for other reasons to suspend travel upon any part of such
11 highway, the county highway commissioner may lay out and open temporary
12 highways for the accommodation of public travel through any lands, and the county
13 highway commissioner shall possess the powers conferred by s. ~~81.08~~ 82.35 upon
14 town boards. Said powers shall be exercised by the county highway commissioner
15 in like manner and the procedure shall be the same except that the contract and
16 orders and claim for damages and other papers relating to the matter shall be filed
17 with the county clerk, and claims for damages shall be acted upon by the county
18 board in the manner provided by s. 893.80.

19 **SECTION 179.** 84.02 (1) of the statutes is amended to read:

20 **84.02 (1) DESIGNATION.** The system of highways known as the trunk highway
21 system heretofore selected and laid out by the legislature and by the highway
22 commission and by special legislative state trunk highway committees and approved
23 by said highway commission and as revised, altered and changed by and under
24 authority vested by law in the highway commission, is hereby validated and
25 confirmed and designated the state trunk highway system but without prejudice to

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1 the exercise of the power given to change such system, and all acts by which parts
2 of said system were heretofore adopted or declared to be trunk highways are
3 confirmed and validated. Section ~~80.32~~ 82.19 (2) does not apply to the state trunk
4 highway system.

5 **SECTION 180.** 84.07 (1) of the statutes is amended to read:

6 84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The state trunk
7 highway system shall be maintained by the state at state expense. The department
8 shall prescribe by rule specifications for such maintenance and may contract with
9 any county highway committee or municipality to have all or certain parts of the
10 work of maintaining the state trunk highways within or beyond the limits of the
11 county or municipality, including interstate bridges, performed by the county or
12 municipality, and any county or municipality may enter into such contract. General
13 maintenance activities include the application of protective coatings, the removal
14 and control of snow, the removal, treatment and sanding of ice, interim repair of
15 highway surfaces and adjacent structures, and all other operations, activities and
16 processes required on a continuing basis for the preservation of the highways on the
17 state trunk system, and including the care and protection of trees and other roadside
18 vegetation and suitable planting to prevent soil erosion or to beautify highways
19 pursuant to s. ~~80.01 (3)~~ 66.1037, and all measures deemed necessary to provide
20 adequate traffic service. Special maintenance activities include the restoration,
21 reinforcement, complete repair or other activities which the department deems are
22 necessary on an individual basis for specified portions of the state trunk system.
23 Maintenance activities also include the installation, replacement, rehabilitation, or
24 maintenance of highway signs, traffic control signals, highway lighting, pavement
25 markings, and intelligent transportation systems. The department may contract

ASSEMBLY BILL 678**SECTION 180**

1 with a private entity for services or materials or both associated with the installation,
2 replacement, rehabilitation, or maintenance of highway signs, traffic control signals,
3 highway lighting, pavement markings, and intelligent transportation systems.

4 **SECTION 181.** 84.14 (3) of the statutes is amended to read:

5 84.14 (3) PARTICIPATION IN TOWN BRIDGE CONSTRUCTION. Whenever any
6 municipality has participated in the cost of the construction, reconstruction, or
7 purchase of a bridge under s. 84.11 or 84.12, the property in such municipality shall
8 thereafter be subject to taxation by the county for the construction and repair of
9 bridges within the county under s. ~~81.38~~ 82.08.

10 **SECTION 182.** 86.26 of the statutes is renumbered 82.50.

11 **SECTION 183.** 86.265 of the statutes is renumbered 82.51.

12 **SECTION 184.** 86.266 of the statutes is renumbered 82.52.

13 **SECTION 185.** 86.315 (3) of the statutes is amended to read:

14 86.315 (3) County forest roads must meet the minimum design standards
15 under s. ~~86.26~~ 82.50 (1) (a) 2. and 3. in order to qualify for aids under this section.

NOTE: This bill renumbers the town road standards, which are currently in ch. 86,
and moves them into ch. 82. This section merely changes the cross-reference to reflect
that move.

16 **SECTION 186.** 236.16 (2) of the statutes is amended to read:

17 236.16 (2) MINIMUM STREET WIDTH. All streets shall be of the width specified on
18 the master plan or official map or of a width at least as great as that of the existing
19 streets if there is no master plan or official map, but no full street shall be less than
20 60 feet wide unless otherwise permitted by local ordinance. Widths of town roads
21 platted after January 1, 1966, shall, however, comply with minimum standards for
22 town roads prescribed by s. ~~86.26~~ 82.50. Streets or frontage roads auxiliary to and

ASSEMBLY BILL 678

1 located on the side of a full street for service to the abutting property may not after
2 January 1, 1966, be less than 49.5 feet wide.

NOTE: This bill renumbers the town road standards which are currently in ch. 86, and moves them into ch. 82. This section merely changes the cross-reference to reflect that move.

3 **SECTION 187.** 756.04 (2) of the statutes is amended to read:

4 756.04 (2) Jurors for all circuit courts, ~~except jurors under ch. 80,~~ shall be
5 selected under ss. 756.04 to 756.07.

NOTE: This bill eliminates all of the provisions in chs. 80 and 81 that concern the selection of juries. Thus, no cross-reference is necessary.

6 **SECTION 188.** 893.73 (2) (c) of the statutes is repealed.

NOTE: The special committee decided that, for judicial economy, all challenges to the issuance of or refusal to issue a highway order should be brought in one action. This section deletes the provisions that provide for a different timeline for an action that challenges the regularity of a highway order.

7 **SECTION 189.** 893.83 (title) of the statutes is created to read:

8 **893.83 (title) Highway defects.**

9 **SECTION 190. Effective date.**

10 (1) This act takes effect on January 1, 2005.

NOTE: The special committee decided on this effective date so that it corresponds with the publication of the new statute books.

The following chart shows where the special committee decided to move the provisions of chs. 80 and 81:

<i>Current</i>	<i>New</i>
80.01 (1)	82.01 (7)
80.01 (1m) and (2)	82.31
80.01 (3)	66.1037
80.01 (4)	66.1033, substantively changed.
80.01 (5)	66.1024, substantively changed.
80.02—first three sentences	82.10 (1) and (2), substantively changed.
80.02—third-to-last sentence	Deleted
80.02—second-to-last sentence	Deleted
80.02—last sentence	66.1003 (10)

ASSEMBLY BILL 678**SECTION 190**

<i>Current</i>	<i>New</i>
80.025	82.29
80.03	Deleted
80.04	82.11 (2), substantively changed.
80.05	82.10 (3) and (4), substantively changed.
80.06	82.11 (1), substantively changed.
80.07 (1)—first four sentences	82.12 (1) and (2), substantively changed.
80.07 (1)—last sentence	82.16 (3)
80.07 (2)	82.12 (2)
80.08	82.18, substantively changed.
80.09	Deleted
80.10	Deleted
80.11 (1) through (3), and (5) through (6)	82.21, substantively changed.
80.11 (4)	Deleted
80.11 (7) and (8) (a)	82.23
80.11 (8) (b)	Deleted
80.12 (1), (2), (3) and (5)	82.21, substantively changed.
80.12 (4)	Deleted
80.125	82.28
80.13	82.27, substantively changed.
80.14	82.27
80.15	82.27 (8)
80.16--all but second-to-last sentence	82.13
80.16--second-to-last sentence	66.1003 (10)
80.17	82.15, substantively changed.
80.22	82.12 (3)
80.23	82.20, substantively changed.
80.24	Deleted
80.25	Deleted
80.26	Deleted
80.27	Deleted

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<i>Current</i>	<i>New</i>
80.28	Deleted
80.29	Deleted
80.30	Deleted
80.31 (1) and (2)	Deleted
80.31 (3)	82.14 (2), substantively changed.
80.32 (1)	82.19 (1)
80.32 (2)	82.19 (2)
80.32 (3) and (4)	66.1005
80.33	82.17
80.34	82.16, substantively changed.
80.35	Deleted
80.37	82.33
80.38	Deleted
80.39	Deleted
80.40	Deleted
80.41	66.1006
80.47	66.1035
80.48	Deleted
80.64	66.1031
80.65	Deleted
81.01	82.03, substantively changed.
81.02—first three sentences	82.03 (1), substantively changed.
81.02--fourth sentence	82.05 (1)
81.02—everything except the first four sentences	Deleted
81.03	82.05 (2) to (4), substantively changed.
81.04	Deleted
81.05	Deleted
81.06 (first 1/3)	82.03 (5)
81.06 (second 2/3)	82.03 (2)
81.07	Deleted
81.08	82.35, substantively changed.
81.11 (5)	82.25, substantively changed.

ASSEMBLY BILL 678**SECTION 190**

<i>Current</i>	<i>New</i>
81.11 (1) through (4)	Deleted
81.12	Deleted
81.14 (1), (2) and (4)	66.1029, substantively changed.
81.14 (3)	Deleted
81.15	893.83 (1)
81.17	893.83 (2)
81.35--all but last sentence	82.37
81.35--last sentence	82.03 (19)
81.36	Deleted
81.38 (1) through (5)	82.08, substantively changed.
81.38 (6)	61.48, substantively changed.
81.39	Deleted
81.42 (1)	82.03 (13)
81.42 (2)	82.09, substantively changed.

**ASSEMBLY AMENDMENT 1,
TO 2003 ASSEMBLY BILL 678**

January 7, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓**1.** Page 51, line 4: delete lines 4 to 20.

3 ✓**2.** Page 52, line 1: delete lines 1 to 25.

4 ✓**3.** Page 53, line 1: delete lines 1 to 8.

5 ✓**4.** Page 53, line 9: delete "(3)".

6 ✓**5.** Page 53, line 10: delete lines 10 to 25.

7 ✓**6.** Page 54, line 1: delete lines 1 and 2.

8

(END)

**ASSEMBLY AMENDMENT 2,
TO 2003 ASSEMBLY BILL 678**

January 14, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 64, line 5: before "The" insert "(a)".

3 ✓ 2. Page 64, line 6: after "(5)." insert "The owner of lands entered upon or used
4 for any of the purposes identified in sub. (5) may apply to the town board to appraise
5 the resulting damages, and such damages may be determined by agreement. If the
6 parties are unable to agree upon the damages, the board shall make an award of
7 damages and file the award with the town clerk, and the clerk shall give notice, by
8 certified mail with return receipt requested, of the filing to the owner."

✓
64-6

9 ✓ 3. Page 64, line 7: before that line insert:

10 "(b) Within 60 days after the date of filing of a town board's award of damages
11 under par. (a), the owner may appeal to the circuit court following the same
12 procedures provided under s. 32.05 (10) for condemnation proceedings. The clerk of
13 courts shall enter the appeal as an action pending in the court with the owner as

64-7

64-7

cont

1 plaintiff and the town as defendant. The action shall proceed as an action in the court
2 subject to all of the provisions of law relating to actions brought therein, but the only
3 issue to be tried shall be the amount of just compensation to be paid by the town, and
4 the action shall have precedence over all other actions not then on trial. The action
5 shall be tried by jury unless waived by both the plaintiff and the defendant. The
6 amount of the town's award shall not be disclosed to the jury during the trial. Costs
7 shall be allowed or litigation expenses awarded in an action under this paragraph
8 in the same manner as provided under s. 32.28 for condemnation proceedings.

9

(END)

**ASSEMBLY AMENDMENT 3,
TO 2003 ASSEMBLY BILL 678**

January 14, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓1. Page 41, line 20: after "deeds" insert "subject to s. 59.43 (2m) and, if
3 applicable, the requirements under s. 84.095".

4 (END)

✓
41-20

**ASSEMBLY AMENDMENT 4,
TO 2003 ASSEMBLY BILL 678**

January 14, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 63, line 9: after that line insert:

3 (c) If the land is depicted in a transportation project plat filed or recorded
4 under s. 84.095, by reference as described in s. 84.095 (7) (a).

(END)

63-9

**ASSEMBLY AMENDMENT 5,
TO 2003 ASSEMBLY BILL 678**

January 14, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 8, line 7: after that line insert:

3 SECTION 13d. 66.1003 (4) (b) of the statutes is amended to read:

4 66.1003 (4) (b) A hearing on the passage of a resolution under par. (a) shall be
5 set by the common council or village or town board on a date which shall not be less
6 than 40 days after the date on which the resolution is introduced. Notice of the
7 hearing shall be given as provided in sub. (8) (b), except that in addition notice of the
8 hearing shall be served on the owners of all of the frontage of the lots and lands
9 abutting upon the public way or unpaved alley sought to be discontinued in a manner
10 provided for the service of summons in circuit court at least 30 days before the
11 hearing. When service cannot be made within the city, village or town, a copy of the
12 notice shall be mailed to the owner's last-known address at least 30 days before the
13 hearing.

8-7 ✓

8-7

1 **SECTION 13h.** 66.1003 (7) of the statutes is amended to read:

2 66.1003 (7) The city council or village or town board may by resolution
3 discontinue any alley or any portion of an alley which has been abandoned, at any
4 time after the expiration of 5 years from the date of the recording of the plat by which
5 it was dedicated. Failure or neglect to work or use any alley or any portion of an alley
6 for a period of 5 years next preceding the date of notice provided for in sub. (8) (b) shall
7 be considered an abandonment for the purpose of this section.

8 **SECTION 13m.** 66.1003 (8) of the statutes is renumbered 66.1003 (8) (b).

9 **SECTION 13r.** 66.1003 (8) (a) of the statutes is created to read:

10 66.1003 (8) (a) Upon receiving a petition under sub. (2) or (3) or upon the
11 introduction of a resolution under sub. (4), the city, village, town, or county shall
12 deliver a copy of the petition or resolution to the secretary of transportation, if the
13 public way or unpaved alley that is the subject of the petition or resolution is located
14 within one-quarter mile of a state trunk highway or connecting highway.

15 ✓ **2.** Page 66, line 11: after "(4) (title)" insert ", (a) 5."

16 ✓ **3.** Page 66, line 21: after that line insert:

17 "(a) 5. The secretary of transportation, if the highway that is the subject of the
18 application or resolution is located within one-quarter mile of a state trunk highway
19 or connecting highway."

(END)

✓20
66-21



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

**ASSEMBLY AMENDMENT 6,
TO 2003 ASSEMBLY BILL 678**

Prepared by the Legislative Reference Bureau
(March 11, 2004)

In enrolling, the following correction was made:

1. Page 1, line 12: before "Subject" insert "It".

(END)

**ASSEMBLY AMENDMENT 6,
TO 2003 ASSEMBLY BILL 678**

February 3, 2004 - Offered by Representative AINSWORTH.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 10, line 17: after that line insert:

3 ~~SECTION 23m.~~ 80.01 (3) (title) of the statutes is renumbered 66.1037 (title).
10-17

4 ✓ 2. Page 10, line 18: after "66.1037" insert "(1)".

5 ✓ 3. Page 10, line 20: delete "66.1037 Beautification and protection." and
6 substitute "66.1037 (1)".

7 ✓ 4. Page 10, line 23: delete "publie" and substitute "public".

8 ✓ 5. Page 10, line 24: delete "city, village, town, or county" and substitute
9 "authority". *No CCC; original was scored*

10 ✓ 6. Page 11, line 1: delete "city, village, town, or county" and substitute
11 "authority".

12 ✓ 7. Page 11, line 5: delete "It" and substitute Subject to sub. (2), it.
It CCC
11-5
H

11-8

authorities authority

1 ✓ 8. Page 11, line 8: delete "authorities" and substitute "authorities authority".

2 ✓ 9. Page 11, line 8: delete "their" and substitute "their its".

3 ✓ 10. Page 11, line 9: delete ". The authorities" and substitute "authorities. The
4 authority".

11-49

5 ✓ 11. Page 11, line 12: before that line insert:

6 "SECTION 24g. 66.1037 (2) of the statutes is created to read:

7 66.1037 (2) (a) Except as provided in par. (b), no person may cut or trim grass
8 along any state trunk highway without the consent of the department of
9 transportation.

11-12

10 (b) A person who owns or leases land abutting a state trunk highway may,
11 without the consent of the department of transportation, cut or trim grass that is
12 within the highway right-of-way and that is located along the land's frontage with
13 the highway right-of-way or within 200 feet of a driveway, railroad crossing, or
14 intersection along the land's frontage with the highway right-of-way. This
15 paragraph does not permit a person to cut or trim grass without the consent of the
16 department of transportation if any of the following applies:

17 1. The state trunk highway is a freeway, as defined in s. 346.57 (1) (am), or an
18 expressway, as defined in s. 59.84 (1) (b).

19 2. The person farms or harvests the grass.

20 3. The grass is located in any of the following:

21 a. An area where pedestrians are prohibited.

22 b. An area accessible only by crossing a traffic lane of the state trunk highway.

23 c. An area located within 50 feet of a sign, as defined in s. 84.30 (2) (j)".