

***NOTE: I think we need to keep "of" the encumbrance. Is this okay?

SECTION 69. 80.31 (title), (1), and (2) of the statutes are repealed.

SECTION 70. 80.09, 80.10, 80.30 (1), and 80.24 to 80.29 of the statutes are repealed.

INSERT 32-7:

SECTION 71. 80.17 of the statutes is renumbered 82.15 and amended to read:

82.15 Appeal from of a highway order. Any order of the town supervisors laying out, altering, widening or discontinuing any highway, or refusing so to do, is subject to judicial review under s. 68.13, except that only a person aggrieved by the a highway order or determination, or a refusal to issue such an order, may seek judicial review. Failure of the supervisors to file their decision upon any application to lay out, alter, widen or discontinue any highway within 60 days after the application is made shall be deemed a refusal of the application. In case of highways upon a under s. 68.13. If the highway is on the line between 2 counties, the appeal may be made to in the circuit court of either county.

INSERT 33-9:

SECTION 72. 80.34 (title) of the statutes is renumbered 82.16 (title).

SECTION 73. 80.34 (1) of the statutes is renumbered 82.16 (1) and amended to read:

82.16 (1) Every order of the supervisors or the supervisors and commissioners or of the county board or a committee thereof laying out, widening, altering, or discontinuing any a highway, or pursuant to this chapter, and any order restoring the records thereof, and the order of any commissioners reversing or affirming the same on appeal, and the record or certified copy thereof record of a highway, shall be

presumptive evidence of the facts therein stated and of the regularity of all the proceedings prior to the making of such the order.

SECTION 74. 80.34 (2) of the statutes is renumbered 82.16 (2) and amended to read:

82.16 (2) The validity of ~~any such~~ an order described in sub. (1) if fair on its face ~~shall is~~ not be open to collateral attack, but may be ~~tested by certiorari or other proper action or proceeding brought directly for that purpose if commenced within the time after the order is made provided by s. 893.73 (2)~~ challenged in an action brought under s. 82.15.

****NOTE: to ARG - does it make more sense to RN 80.07 (1) here as 82.16 (3) or where it is RN'd already (82.12 (1) and (2))?????

INSERT 33-10:

SECTION 75. 80.33 of the statutes is renumbered 82.17 and amended to read:

82.17 Highway papers, where filed. All applications, orders, awards, bonds, and other papers relating to the laying out, altering, ~~widening~~ or discontinuing of highways pursuant to this chapter shall be promptly filed in the office of the town, city, or village clerk where the highway is located, except as otherwise specifically provided in this chapter.

INSERT 33-16:

SECTION 76. 80.08 of the statutes is renumbered 82.18 and amended to read:

82.18 Width of highways. Except as otherwise provided in ~~s. 80.13~~ this chapter, highways laid out pursuant to this chapter shall be laid out at least ~~49.5~~ 66 feet wide, ~~and when unless, in the town board's discretion, that width is impractical.~~ If the town board determines that a 66-foot width is impractical, the width shall be

determined by the town board but shall be at least 49.5 feet in width. When no width is specified in the order, the highway shall be 66 feet wide.

INSERT 34-3:

SECTION 77. 80.32 (title) of the statutes is renumbered 82.19 (title) and amended to read:

82.19 (title) Discontinuance of highways; reversion of title.

SECTION 78. 80.32 (1) of the statutes is renumbered 82.19 (1) and amended to read:

82.19 (1) ~~Any An unrecorded road~~ highway, or any part thereof ~~which of an unrecorded highway, that~~ has become or is in the process of becoming a public highway by user in any town may be discontinued ~~in the manner hereinbefore provided using the procedures under ss. 82.10 to 82.12.~~ Any proceedings taken ~~therefor to discontinue an unrecorded highway~~ shall not be evidence of the acceptance at any time by the town of such road the highway or any part thereof of the highway.

SECTION 79. 80.32 (2) of the statutes is renumbered 82.19 (2) and amended to read:

82.19 (2) ~~Except as provided in sub. (5), every (a) Every~~ highway shall cease to be a public highway ~~at the expiration of 4 years from the time date~~ it was laid out, except such the parts thereof as shall of the highway that have been opened, traveled, or worked within such that time, and any.

(b) Any highway which shall have that has been entirely abandoned as a route of vehicular travel, and on which no highway funds have been expended for 5 years, shall be considered discontinued. In this paragraph, "vehicular travel" means travel

using any motor-driven vehicle required to be registered under ch. 341 or exempt from registration under s. 341.05.

SECTION 80. 80.32 (5) of the statutes is renumbered 82.19 (2) (c) and amended to read:

82.19 (2) (c) ~~Subsection (2)~~ This subsection does not apply to state or county trunk highways or to any highway, street, alley, or right-of-way that provides public access to a navigable lake or stream.

INSERT 35-1:

SECTION 81. 80.23 (title) of the statutes is renumbered 82.20 (title).

SECTION 82. 80.23 (1) of the statutes is renumbered 82.20 (1) and amended to read:

82.20 (1) ~~Whenever pursuant to this chapter any highway is laid out, widened or altered~~ If the town board issues an order to lay out or alter a highway through enclosed, cultivated, or improved lands and the determination has not been appealed from, the town board or highway authorities superintendent shall give the owner or occupant of the lands through which the proposed highway will pass written notice of its intent to remove the fences located on the highway within a time determined by the highway authorities to be reasonable, but in the path of the new or altered highway. The notice shall state when the board intends to remove the fences, which shall not be less than 30 days after giving from the date the notice was given to the owner or occupant. If the owner or occupant does not remove the fences ~~within before~~ the time ~~required by~~ stated in the notice, the town board or highway authorities superintendent shall remove the fences and ~~direct the highway to be opened.~~ If the determination has been appealed from, may charge the landowner for the costs of the removal under s. 66.0027.

(2) The notice under sub. (1) shall be given after the final decision of the not be sent until the time for filing an appeal under s. 82.15 has expired and no appeal was taken or until all appeals under s. 82.15 have been brought to a final determination.

SECTION 83. 80.23 (2) of the statutes is renumbered 82.20 (3) and amended to read:

82.20 (3) This section does not authorize the opening of a highway through enclosed, cultivated, or improved lands or the removal of fences between May 15 and September 15, except in cases of emergency to be determined by the highway authorities town board.

INSERT 36-10:

82.21 (5) (title) APPEAL OF APPORTIONMENT.

INSERT 38-18:

SECTION 84. 80.11 (title) of the statutes is renumbered 82.21 (title) and amended to read:

82.21 (title) Highways on and across town and municipal lines.

SECTION 85. 80.11 (1) of the statutes is renumbered 82.21 (1) (intro.) and amended to read:

82.21 (1) ~~Whenever it is considered necessary~~ INITIATING THE PROCEDURE. ~~The procedure to lay out, alter, widen or discontinue a highway upon on the line between 2 towns a town and another town, a city, or a village, or a highway extending from one town into an adjoining town, it shall be done by the supervisors of the 2 towns acting together. If the highway is laid out or altered it may be either upon or as near to the town line as the situation of the ground will admit. The supervisors of the 2 towns acting together may vary the location on either side of the town line as they~~

consider to be necessary. city, or village shall begin only when one of the following occurs in each affected municipality:

SECTION 86. 80.11 (2) (a) (intro.) of the statutes is renumbered 82.21 (2) and amended to read:

82.21 (2) CONTENTS OF THE APPLICATION OR RESOLUTION. An application or resolution under sub. (1) shall be all of the following: contain a legal description of the highway to be discontinued or of the proposed highway to be laid out or altered and a scale map of the land that would be affected by the application. Upon completion of the requirements of sub. (1), the governing bodies of the municipalities, acting together, shall proceed as under ss. 82.10 to 82.13.

SECTION 87. 80.11 (2) (a) 1. to 4. and (b) and (c) of the statutes are repealed.

SECTION 88. 80.12 (1) of the statutes is repealed.

SECTION 89. 80.12 (2) of the statutes is renumbered 82.21 (3) and amended to read:

82.21 (3) APPOINTMENT OF CITY OR VILLAGE COMMISSIONERS. Upon receipt of an application under sub. (1) or introduction of a resolution, the common city council or village board of trustees shall may appoint 3 commissioners on the part to act on behalf of the affected city or village in all respects. The commissioners shall be duly sworn to faithfully discharge their duties as commissioners before entering upon those duties. The commissioners and town supervisors shall then give notice and proceed in all respects as provided in s. 80.11.

SECTION 90. 80.11 (3) of the statutes are renumbered 82.21 (4) and amended to read:

82.21 (4) APPORTIONMENT OF AUTHORITY AND RESPONSIBILITY. (a) The A highway order under sub. (2) (e) issued by 2 towns or by a town and a village or city may

designate the part of the highway that each shall be made and kept in construct and repair by each town, and the share of, and pay the damages for, if any, that shall be paid by each town. Each town. As to the portion of the highway that the town, city, or village agrees to construct, keep in repair and pay damages for, the town, city, or village shall have all of the rights authority and be subject to the liabilities all of the responsibility in relation to the that part of the highway to be made or repaired by it as if it that part were wholly located in that the town, city, or village.

(b) ~~1. A majority of the supervisors of each town~~ Two town boards or a town board and a city council or village board, meeting together, may make an order in accordance with par. (a) apportioning or reapportioning the authority and responsibility for a town line highway or any part of the a town line highway that they consider advisable, if any of the following conditions exists:

a. ~~1. No apportionment has been made in an a highway order laying out, altering or widening the highway or a part of the highway.~~

b. ~~2. The highway or a part of the highway had its origin in user.~~

e. ~~3. In the judgment of the supervisors town boards, or the town board and the city council or village board, circumstances have been so altered since the last apportionment of the highway or part of the highway that the current apportionment or reapportionment has been rendered inequitable or impracticable.~~

~~2. (c) An order made under this paragraph par. (b) shall be filed as provided in sub. (2) (e) with the clerk of each affected municipality and shall have the same effect as an order apportionment made in connection with the original laying out of the highway order.~~

(e) ~~(d)~~ Any written order or agreement made before August 27, 1947, by a majority of the supervisors of each town concerned, acting together, apportioning or

reapportioning a town line highway has the same effect as though made on or after August 27, 1947.

SECTION 91. 80.11 (5) of the statutes is renumbered 82.21 (5) (a) and amended to read:

82.21 (5) (a) ~~If no agreement is reached under sub. (4) (b), or if an order laying out, or altering or widening a town line highway has not apportioned the liability of the towns or village authority and responsibility on account of the highway, the supervisors of an affected town or the president of an affected village, after 10 days' notice of the time and place of hearing served on the clerk of each town and village to be affected, or if a municipality feels that the current apportionment is inequitable, the municipality may apply to the circuit judge of the county in which the affected town, city, or village is located, for the appointment of 3 commissioners to apportion the liabilities of authority and responsibility between each affected town and village on account of the town line highway municipality. The municipality filing the application shall serve a copy of the application on the clerk of each municipality to be affected. The circuit judge may set the time and place of the hearing before the commissioners at least 10 days after the application is filed with the judge.~~

SECTION 92. 80.11 (6) of the statutes is renumbered 82.21 (5) (b) and amended to read:

82.21 (5) (b) Upon receipt of an application under ~~sub. (5) par. (a)~~, the circuit judge shall appoint 3 residents of the county as commissioners. The commissioners shall, on not less than ~~5 days'~~ 10 days nor more than 60 days notice in writing to the clerk of each ~~town and village affected~~ municipality, apportion the ~~liabilities authority and responsibility~~ of each affected ~~town and village~~ municipality on account of the highway. The commissioners shall make the determination in writing

and shall file the determination with the clerk of each ~~town and village~~ affected municipality. The commissioners' determination ~~has~~ shall have the same effect as an order made under sub. ~~(2), (3) or~~ (4).

SECTION 93. 80.12 (5) of the statutes is renumbered 82.21 (6) and amended to read:

82.21 (6) WHERE PAPERS FILED. All ~~proceedings and orders awards, notices, and papers~~ required to be filed and recorded shall be filed and recorded in the office of the clerk of the every affected ~~city, village or town~~ municipality. Any highway orders issued under this section shall be recorded with the register of deeds for the county or counties in which the highway is or will be located.

SECTION 94. 80.11 (4) and (8) and 80.12 (1), (3), and (4) of the statutes are repealed.

INSERT 39-1:

SECTION 95. 80.11 (7) of the statutes is renumbered 82.23 and amended to read:

82.23 Any Municipal line bridges. Unless otherwise provided by statute or agreement, every highway bridge on a highway ~~that became a highway under s. 80.01 (2) as a result of having been worked, that is between 2 towns, or between a town on one side and a, city, or village or a town and village on the other side, and that has not been assigned to either of the adjoining towns or village,~~ boundary shall be repaired and maintained by the ~~adjoining towns and village~~ municipalities in which the bridge is located. The cost of repairs and maintenance shall be paid by the adjoining ~~towns and village~~ municipalities in proportion to the last equalized valuation of the property in the adjoining ~~towns and village as equalized by the county board or boards at the last equalization~~ municipalities.

INSERT 39-8:

SECTION 96. 81.11 (title) of the statutes is renumbered 82.25 (title) and amended to read:

82.25 (title) Highway taxes; assessment; amount for limited-use road.

SECTION 97. 81.11 (5) of the statutes is renumbered 82.25 and amended to read:

82.25 ~~The Notwithstanding s. 60.10 (1) (a) and (2) (a), the town board, upon its own authority and without direction from the annual town meeting,~~ may levy and collect a tax on property located in a recorded and filed plat that existed on January 1, 2003, situated in a town requiring the approval of such town board, and adjoining a private road used by the public located therein, and on property adjoining, where the owner regularly uses such road which is not a portion of any town, county, state, or federal highway system, not exceeding 3 mills for each dollar of assessed valuation thereof. The proceeds of ~~such~~ the tax shall be expended for the improvement and maintenance of any private roads used by the public located within ~~such~~ the recorded and filed plat. The town board shall not expend any of ~~such~~ the funds collected under this section upon a private driveway.

SECTION 98. 81.11 (1) to (4), 81.12, 81.39, and 80.30 (2) to (5) of the statutes are repealed.

INSERT 44-11:

SECTION 99. 80.13 (1m) of the statutes is renumbered 82.27 (2) and amended to read:

82.27 (2) ~~The affidavit required under sub. (1) shall be executed by the~~ APPLICATION. The owner or lessee of real estate located within the a town, may apply to the town board to have a highway to the owner's land laid out. Except as provided in sub. (7), the application shall be delivered to the town clerk of the town in which the real estate is located. The application shall contain a description of an affidavit,

executed by the applicant, that describes the affected real estate and shall contain recites facts that satisfy the supervisors board that any of the following circumstances exists either in par. (a) or (b) exist:

(a) ~~The real estate described in the affidavit is shut out from all public highways by being surrounded on all sides by real estate owned by other persons, or by real estate owned by other persons and by water, and that the owner or lessee is unable to purchase a right-of-way to a public highway from the owners of the adjoining real estate or that such a right-of-way cannot be purchased except at an exorbitant price, which price shall be stated in the affidavit.~~

(b) 1. ~~The owner or lessee is the owner of a private way or road, whose width shall be stated in the affidavit, that leads from the described real estate to a public highway but the way or road is too narrow to afford the owner or lessee reasonable access from the described real estate to the public highway; and~~

2. ~~The owner or lessee is unable to purchase a right-of-way from the described real estate to a public highway, or is unable to purchase land on either or both sides of the owner's or lessee's existing way or road to make the way or road of sufficient width or that the right-of-way or additional land cannot be purchased except at an exorbitant price, which price shall be stated in the affidavit.~~

SECTION 100. 80.13 (1) of the statutes is renumbered 82.27 (3) and amended to read:

82.27 (3) ~~When any person presents the town board with an affidavit that meets the requirements~~ SETTING THE HEARING DATE: NOTICE. Upon receipt of an application under sub. (1m) (2), the town board shall set a time and place to conduct a hearing regarding the laying out or widening of a highway application. The hearing shall be held after 10 days and within 30 days of the receipt of the affidavit

application by the town board. Notice of the time and place of the hearing shall be served as required by s. ~~80.05~~ 82.10 and published as a class 2 notice under ch. 985.

SECTION 101. 80.13 (3) and (4) of the statutes are consolidated, renumbered 82.27 (4) and amended to read:

82.27 (4) HEARING. (a) The town board shall meet at the time and place stated in the notice ~~given under sub. (1) and shall~~ and decide, in their ~~its~~ discretion lay out a highway of not less than 33 feet nor more than 49.5 feet in width from the public highway to the real estate described in the affidavit under sub. (1m) (a) or (b) either by , whether to grant the application. The board may grant the application by either laying out a new highway across the surrounding land or by adding enough land to the width of the existing way or road described in the affidavit under sub. (1m) (b) to make it. If the board decides to lay out a new highway, the new highway shall be at least 66 feet wide unless the board determines that 66 feet is impracticable. If the board decides to widen an existing way or road, the resulting highway shall not be less than 33 49.5 feet nor more than 49.5 66 feet in width.

(b) The town board shall ~~assess~~ determine the damages to the owner or owners of the real estate ~~over or through~~ on which the highway shall be laid out or from whom land shall be taken and the advantages to the applicant. The town board may not assess determine damages in any an amount exceeding the price stated in the affidavit of the applicant.

(4) (c) Upon laying out a highway ~~under sub. (3) or widening a private way or road~~, the town board shall ~~make and sign an~~ adopt a highway order describing the laid out highway and. If it is necessary to include a turnaround, the turnaround shall be laid out on the applicant's land. The applicant shall pay the town treasurer the amount assessed as advantages within 30 days of the board's decision. Within 10

days of payment, the town board shall file the order with the town clerk together with its award of damages. The and record the order shall be recorded by the clerk; provided, that, the amount assessed as advantages to the applicant under sub. (3) is paid to the town treasurer before the order laying out such highway shall be filed with the register of deeds for the county in which the land is located.

SECTION 102. 80.13 (4m) of the statutes is renumbered 82.27 (5) and amended to read:

82.27 (5) The following costs may be assessed CHARGING COSTS TO THE APPLICANT. If the town board grants the application, the items listed in pars. (a) to (d) may be included in the determination of advantages. If the town board denies the application, half of all of the following may be charged to the applicant as a special charge under s. 66.0227:

(a) Attorney fees reasonably incurred by the town ~~under subs. (3) and (4).~~

(b) The cost of any survey or the fee of any expert on valuation, or both, reasonably incurred by the town ~~under subs. (3) and (4).~~

SECTION 103. 80.13 (5) of the statutes is renumbered 82.27 (6) and amended to read:

82.27 (6) Whenever a parcel REAL ESTATE LANDLOCKED BY SALE. In a town, if the owner of land in any town which that is accessible, or provided with a right-of-way an easement to a public highway, is subdivided and the owner subdivides and transfers any part of the subdivided parcel by metes and bounds that would otherwise be shut out from all public highways by reason of being surrounded on all sides by real estate belonging to other persons or by real estate belonging to other persons and by water without an adequate right-of-way to a public highway, the seller land, the owner shall provide a cleared right-of-way easement at least 50 66

feet in width that shall be continuous from the highway to the part of the subdivision sold. ~~In case~~ If the seller fails to provide the required ~~right-of-way easement~~, the town board may, pursuant to proceedings under this section, lay out a road at least 66 feet wide from the inaccessible land to the public highway over the remaining lands of the seller without assessment of damages or compensation to the seller.

SECTION 104. 80.14 of the statutes is renumbered 82.27 (7) and amended to read:

82.27 (7) ~~Highway from shut-off land through adjoining town.~~ ~~When the owner of land that is shut out from all highways by being surrounded by lands belonging to other persons, and~~ LAYING OUT A HIGHWAY TO AN ADJOINING TOWN. ~~If it is impracticable to lay out a road from that owner's land~~ highway to a an existing public highway that is in the town where the land is situated, and it is practicable to lay out a highway from said land a landowner may apply to have a highway laid out to a highway in an adjoining town, that owner may. The application shall comply with the requirements of sub. (2) except that the affidavit shall also state that it is impracticable to lay out a new highway to an existing highway in the town the land is located in and that it is practicable to lay out a highway to an existing highway in the adjoining town. The owner shall execute an affidavit the application in duplicate and present one copy to a supervisor the clerk of the town where the land is situated located and one copy to a supervisor the clerk of the town where the proposed highway is to be laid out. The affidavit shall set forth the facts above stated, together with the facts required in the affidavit provided under s. 80.13. The supervisors of the 2 towns The town boards shall proceed as provided under said s. 80.13 this section, except that all orders and notices shall be signed by the supervisors of both boards, and all papers required to be filed shall be made in duplicate and filed with

each town clerk. The applicant shall pay the amount assessed determined as advantages to the applicant shall be paid by the applicant to the town treasurer of the town where in which the applicant's land is situated before the order laying out the highway is filed, and all within 30 days of the decision. The order shall be recorded within 10 days of payment. All damages assessed shall be paid by the town where the applicant's land of the applicant is situated.

SECTION 105. 80.15 (title) of the statutes is renumbered 82.27 (8) (title).

SECTION 106. 80.15 of the statutes is renumbered 82.27 (8) and amended to read:

82.27 (8) (a) The owner of an island in the bottoms of the Mississippi River which may submit an application under this section if the island is shut out from the bank of said the river and from a all highway access by islands and, sloughs, and by the lands of others, and a right-of-way through the same cannot be purchased the owner cannot purchase any highway access at a reasonable price, may present to the supervisors of the town.

(b) The application shall describe the affected land and shall contain an affidavit setting forth such that recites the facts and describing that owner's land. The said supervisors shall then proceed according to the provisions of s. 80.13 and the provisions of said section shall apply to proceedings under this section. in par. (a).

(c) The town shall not be liable for want lack of repair or for defects in any a highway laid out pursuant to this section subsection, nor shall the town be liable for any accident or injury thereon on a highway laid out pursuant to this subsection.

INSERT 45-1:

SECTION 107. 80.125 of the statutes is renumbered 82.28 and amended to read:

82.28 Highways and bridges on state boundaries. ~~A town or county~~ The board of any town or county that is bounded in part by a river, or by a highway, ~~either of which~~ that is also a state boundary line may enter into agreement with the adjoining municipality in ~~such~~ the other state for the maintenance and construction of boundary line bridges ~~and or~~ for the maintenance and reconstruction of any boundary line ~~highway~~ highways, including its bridges, ~~by appropriation therefor not exceeding 50% of the total costs assignable to the boundary line facility.~~ The costs shall be apportioned by agreement.

INSERT 45-8:

SECTION 108. 80.025 of the statutes is renumbered 82.29 and amended to read:

82.29 Highways abutted by state park lands; discontinuance or relocation. Any part of a highway lying wholly within state park lands may be discontinued or relocated by the state agency having jurisdiction over ~~such abutting lands~~ the state park by filing written notice of ~~such~~ the discontinuance or relocation with the ~~town clerk or county clerk~~ of the municipality that has jurisdiction over the highway and upon approval by the ~~supervisors~~ municipality after holding a hearing as provided in s. ~~80.05 unless such~~ 82.10. No discontinuance or relocation would under this section may deprive any other owner of lands a landowner of all highway access thereto from a highway. This section does not apply to state trunk highways or connecting highways.

INSERT 46-5:

SECTION 109. 80.01 (1m) (title) of the statutes is renumbered 82.31 (title).

SECTION 110. 80.01 (1m) of the statutes is renumbered 82.31 (1) and amended to read:

82.31 (1) RECORDED HIGHWAYS. Any recorded highway that has been laid out ~~by the town supervisors, the county board or by a committee of the board, or by commissioners appointed by the legislature, or by any other authority, any portion of which has been opened and worked for 3 years pursuant to this chapter~~ is a legal highway only to the extent that it has been opened and worked for 3 years. Any laid out highway that has not been fully and sufficiently described or recorded or for which the records have been lost or destroyed is presumed to be 66 feet wide.

SECTION 111. 80.01 (2) of the statutes is renumbered 82.31 (2) and 82.31 (2) (title), (b), and (c), as renumbered, are amended to read:

82.31 (2) (title) ~~UNRECORDED HIGHWAYS VALIDATED, EXCEPTION; GRANTS FOR HIGHWAY PURPOSES, PRESUMPTIVE WIDTH.~~

(b) No road or bridge built upon the bottoms and sloughs of the Mississippi River by citizens or a municipality of any other state shall become a legal highway or a charge upon the town in which the road is located unless upon petition the highway is legally laid out by the town supervisors board.

(c) No lands granted for highway purposes that did not become a legal highway prior to July 1, 1913, shall become a legal highway unless the grant is accepted by the town board or by the town meeting of the town ~~wherein~~ where the lands and proposed highway are located, and until a resolution of acceptance of the grant is recorded in the office of the town clerk.

INSERT 47-1:

SECTION 112. 80.37 of the statutes is renumbered 82.33 and amended to read:

82.33 Lost records; how restored; effect. (1) Whenever the record of the laying out of any highway is has been lost or destroyed, the supervisors board of the town in which the highway is located, upon notice being served ~~on all interested~~

parties in accordance with s. ~~80.05~~ 82.10 (4), may make a new record of the highway. The notice shall ~~fix~~ state the time ~~when~~ and place where the supervisors will decide ~~upon making~~ whether to make the new record. The notice shall ~~specify as near as may be~~ contain a legal description of the highway for which the proposed record will be made and a scale map of the land that would be affected. Notice need not be given to persons who waive the notice or consent to the making of the order ~~either before or after it is entered~~.

(2) ~~The supervisors shall meet pursuant to the notice given under sub. (1) and hear any arguments or evidence that may be offered for or against~~ At the time and place stated in the notice, the town board shall hold a public hearing regarding the proposed new record, and make a new record as they consider it considers proper. The supervisors may adjourn from time to time, and an entry of each adjournment shall be made in the record by the town clerk. If the supervisors find board finds that the highway is a legal highway, the record of which is has been lost or destroyed, they the board shall make a written order stating those facts and specifying the course, width, and other pertinent description of the highway. The order shall be filed and recorded in the office of with the town clerk, who shall note the time of recording the order in the record and recorded in the office of the register of deeds for the county in which the highway is located. Any number of highways may be included in one notice or order under this section. A failure or refusal to make a new record for any highway does not preclude a subsequent proceeding for that purpose.

(3) Any person through whose land a highway described in an order entered under sub. (2) passes may appeal ~~from the order~~ under s. 82.15 on the ground grounds that the highway described in the order was not a legal highway in fact. ~~The appeal shall be made in the time and manner provided for appealing from orders~~

~~laying out highways, and proceedings shall be had on the appeal as in case of appeals from orders laying out highways.~~ No person may call into question the regularity of proceedings under this section except owners of land on whom notice should have been served but in fact was not and persons claiming under those owners.

INSERT 48-1:

SECTION 113. 81.08 (title) of the statutes is renumbered 82.35 (title).

SECTION 114. 81.08 (1) of the statutes is renumbered 82.35 (1) and amended to read:

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

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

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

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

(b) In the absence of such a contract under par. (a), the board shall determine by the location of the temporary highway and the award of damages. Unless an emergency exists, the board shall serve the landowner with notice of the location of the highway and the award of damages and shall provide the landowner with 48

hours to object. The town board shall file a written order filed with the town clerk both specifying the location of the temporary highway and the damages, and may immediately open such temporary highways. Such highways awarded.

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

SECTION 115. 81.08 (2) of the statutes is renumbered 82.35 (2) (c) and amended to read:

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

SECTION 116. 81.08 (3) of the statutes is renumbered 82.35 (3) and amended to read:

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

INSERT 49-7:

SECTION 117. 81.35 of the statutes is renumbered 82.37 and amended to read:

82.37 Tunnel under highway by landowner. The owner of land on both sides of a town highway may construct a tunnel under the highway, and the necessary may erect fences for the passage of stock, and other purposes, in such manner as will that are necessary for the use of the tunnel. The tunnel shall not

interfere with or endanger travel on the highway. ~~The tunnel shall not be less than 25 feet in length and shall be maintained by the owner.~~ The owner shall maintain the tunnel and shall be liable for all damages ~~which may be occasioned by that occur as a result of the failure to keep the tunnel in repair.~~ Unless authorized by a town meeting, the tunnel shall not be less than 25 feet in length. The electors of the town at an annual town meeting may authorize the construction of ~~any designated a tunnel not less than that is less than 25 feet, but at least 16 feet in length.~~ The chairperson of the town ~~shall see that all tunnels in the town are made in accordance with this section and that they are kept in good repair.~~

INSERT 50-16:

SECTION 118. 83.18 (1) (title) of the statutes is repealed.

INSERT 51-24:

SECTION 119. 84.07 (1) of the statutes is amended to read:

84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The state trunk highway system shall be maintained by the state at state expense. The department shall prescribe by rule specifications for such maintenance and may contract with any county highway committee or municipality to have all or certain parts of the work of maintaining the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, performed by the county or municipality, and any county or municipality may enter into such contract. General maintenance activities include the application of protective coatings, the removal and control of snow, the removal, treatment and sanding of ice, interim repair of highway surfaces and adjacent structures, and all other operations, activities and processes required on a continuing basis for the preservation of the highways on the state trunk system, and including the care and protection of trees and other roadside

vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to s. ~~80.01(3)~~ 66.1037, and all measures deemed necessary to provide adequate traffic service. Special maintenance activities include the restoration, reinforcement, complete repair or other activities which the department deems are necessary on an individual basis for specified portions of the state trunk system. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. The department may contract with a private entity for services or materials or both associated with the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems.

INSERT 53-5:

893.83 (title) Highway defects.

INSERT 53-6:

SECTION 120. 81.15 of the statutes is renumbered 893.83 (1) and amended to read:

893.83 (1) ~~Damages caused by highway defects; liability of town and county.~~ DAMAGES CAUSED BY HIGHWAY DEFECTS; LIABILITY OF MUNICIPALITY. If damages happen to any person or his or her property by reason of the insufficiency or want of repairs of any highway ~~which~~ that any town, city, or village is bound to keep in repair, the person sustaining the damages has a right to recover the damages from the town, city, or village. If the damages happen by reason of the insufficiency or want of repairs of a highway ~~which~~ that any county by law or by agreement with any town, city, or village is bound to keep in repair, or ~~which~~ that occupies any land owned and controlled by the county, the county is liable for the damages and the claim for

damages shall be against the county. If the damages happen by reason of the insufficiency or want of repairs of a bridge erected or maintained at the expense of 2 or more towns, cities, villages, or counties, the action shall be brought against all the towns, cities, villages, or counties liable for the repairs of the bridge and upon Upon recovery of judgment the damages and costs shall be paid by the towns, cities, villages, or counties in the proportion in which they are liable for the repairs; and the. The court may direct the judgment to be collected from each town, city, village, or county for its proportion only. The amount recoverable by any person for any damages so sustained shall not exceed \$50,000. The procedures under s. 893.80 shall apply to the commencement of actions brought under this section. No action may be maintained to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any bridge or highway, unless the accumulation existed for 3 weeks.

SECTION 121. 81.17 of the statutes is renumbered 893.83 (2) and amended to read:

893.83 (2) ~~Highway defects; liability of wrongdoer; procedure.~~ HIGHWAY DEFECTS; LIABILITY OF WRONGDOER; PROCEDURE. Whenever damages happen to any person or property by reason of any defect in any highway or other public ground, or from any other cause for which any town, city, village, or county would be liable, and such damages are caused by, or arise from, the wrong, default, or negligence thereof and of any person, or private corporation, such person or private corporation shall be primarily liable therefor; ~~but the~~ The town, city, village, or county may be sued with the person or private corporation so primarily liable. If the town, city, village, or county denies its primary liability and proves upon whom such liability rests the judgment shall be against all the defendants shown by the verdict or finding to be

liable for the damages; ~~but judgment~~ Judgment against the town, city, village, or county shall not be enforceable until execution has been issued against the party found to be primarily liable and returned unsatisfied in whole or in part; ~~on~~ On such return being made, the defendant town, city, village, or county shall be bound by the judgment. The unpaid balance shall be collected in the same way as other judgments.

INSERT 54-20:

****NOTE: ARG - is 81.07 repealed? if not, need to correct cross references in that provisions, to 81.01 and incl. ref. to 82.03 (5) - .

****NOTE: ARG - 60.24 (3) (p) and 82.03 (19) are very similar - need any more cross references??

****NOTE: ARG - if 80.38 and is not repealed, cross-reference to 80.02 needs to be corrected; if 80.48 and is not repealed, cross-reference to 80.05 needs to be corrected three times

****NOTE: ARG - if 80.24 is not repealed, cross-reference to 80.17 needs to be corrected or to 82.15 if 80.17 becomes 82.15

****NOTE: ARG - if 80.39 is not repealed, cross-reference to 80.30 needs to be corrected

Initializing...

Moved 80.32 (3)
Moved 80.32 (4) (a) (intro.)
Moved 80.32 (4) (a) 1.
Moved 80.32 (4) (b)
Moved 80.32 (4) (c)
Moved 80.32 (4) (d)
Moved 80.32 (5)
Moved 80.33
Moved 80.34 (title)
Moved 80.34 (1)
Moved 80.34 (2)
Moved 80.35
Moved 80.37
Moved 80.38
Moved 80.41
Moved 80.47
Moved 80.48
Moved 80.64
Moved 80.65
Moved chapter 81 (title)
Moved 81.01 (title)
Moved 81.01 (intro.)
Moved 81.01 (2)
Moved 81.01 (3)
Moved 81.01 (4)
Moved 81.01 (5), (6), (7)
Moved 81.01 (8)
Moved 81.01 (10)
Moved 81.01 (11)
Moved 81.02 (title)
Moved 81.02
Moved 81.03 (title)
Moved 82.05 (1)
Moved 81.03
Moved 81.04
Moved 81.05
Moved 81.06 (title)
Moved 81.06
Moved 81.07
Moved 81.08 (title)
Moved 81.08 (1)
Moved 81.08 (2)
Moved 81.08 (3)
Moved 81.11 (title)
Moved 81.11 (5)
Moved 81.12
Moved 81.14 (title)
Moved 81.14 (1)
Moved 81.14 (2)
Moved 81.14 (3)
Moved 81.14 (4)
Moved 81.15
Moved 81.17
Moved 81.35
Moved 81.36
Moved 81.38 (title)
Moved 81.38 (1)
Moved 81.38 (2)
Moved 81.38 (3)

Moved 81.38 (4)
Moved 81.38 (5)
Moved 81.38 (6)
Moved 81.38 (7)
Moved 81.39
Moved 81.42 (title)
Moved 81.42 (1)
Moved 81.42 (2)
Moved chapter 82 (title)
Moved subchapter i (title) of chapter 82 [precedes 82.01]
Moved 82.01 (intro.), (1) to (6)
Moved 82.03 (1) (title)
Moved 82.03 (1) (c), (5) (title)
Moved 82.05 (4)
Moved 82.08 (8)
Moved subchapter ii (title) of chapter 82 [precedes 82.10]
Moved 82.10 (title), (1) (b), (2), (4) (title)
Moved 82.11 (title)
Moved 82.12 (title)
Moved 82.14 (title), (1)
Moved 82.15
Moved 82.16 (3)
Moved subchapter iii (title) of chapter 82 [precedes 82.21]
Moved 82.21 (1) (a)
Moved 82.27 (title), (1), (5) (c)
Moved subchapter iv (title) of chapter 82 [precedes 82.31]
85 action section(s) moved
Sort Complete.



State of Wisconsin
2003 - 2004 LEGISLATURE

Needed by Sept. 22 end of day

LRB-2811/P3

ARG: ch King RMR

To Editor:

Please talk to me before you start on this.

READY FOR INTRODUCTION

D-note

Thanks. Axon 276

Amended/added
Equip done by ch.



STATE OF WISCONSIN
LEGISLATIVE REFERENCE BUREAU
Legal - Phone: 608/266-3561 Fax: 608/264-8522
Research - Phone: 608/266-0341 Fax: 608/266-5648
Website - www.legis.state.wi.us/lrb/

LPS: see King with any questions

LPS: AFTER typing & proofing, sort draft to put sections in order. KG
Gen. Cat.

1 AN ACT to repeal 60.24 (3) (n), 80.02 (title), 80.03, 80.04 (title), 80.06 (title), 80.07
2 (title), 80.09, 80.09, 80.10, 80.30 (1) and 80.24 to 80.29, 80.10, 80.11 (2) (a) 1
3 4., (b) and (c), 80.11 (4), (8) and 80.12 (1), (3) and
4 (title), 80.24 to 80.29, 80.30, 80.31 (title), (1) a
5 80.35, 80.38 to 80.40, 80.48, 80.65, 81.01 (5), (6)
6 and 81.05, 81.06, 81.07, 81.11 (1) to (4), 81.12, 8
7 (3), 81.36, 81.39, 83.18 (1) (title), 83.18 (2) and 89
8 (1m) (title), 80.15 (title), 80.23 (title), 80.32 (4) (c)
9 (4) (d), 80.34 (title), 81.08 (title), 81.38 (title),
10 **renumber and amend** 80.01 (1), 80.01 (1m),
11 (title), 80.01 (4), 80.01 (5), 80.02, 80.025, 80.04, 80.05, 80.06, 80.07, 80.08, 80.11
12 (title), 80.11 (1), 80.11 (2) (a) (intro.), 80.11 (3), 80.11 (5), 80.11 (6), 80.11 (7),
13 80.12 (2), 80.12 (5), 80.125, 80.13 (1), 80.13 (1m), 80.13 (4m), 80.13 (5), 80.14,
14 80.15, 80.16, 80.17, 80.17, 80.22, 80.23 (1), 80.23 (2), 80.31 (3), 80.32 (title),
15 80.32 (1), 80.32 (2), 80.32 (3), 80.32 (4) (a) (intro.), 80.32 (4) (c), 80.32 (5), 80.33,

LPS: Have me scan the draft once it is typed and proofed. KG