

## CHAPTER 83.

## COUNTY HIGHWAYS.

83.01 County highway commissioner.	83.08 Acquisition of lands and interest therein.
83.015 County highway committee.	83.09 Emergency repairs of county trunk highways.
83.016 Traffic patrolmen; appointment, duties, bond.	83.10 State allotment to county trunk highways.
83.018 Road supplies; committee may sell to municipalities.	83.11 Marking section and quarter section corners in highways.
83.02 County aid highways.	83.12 Cattle passes.
83.025 County trunk highways.	83.13 Guideboards.
83.026 Federal aid secondary highways.	83.14 County aid on town and village initiative.
83.03 County aid; local levy; donations.	83.15 Aid by county for state line bridge.
83.035 Streets and highways, construction.	83.16 County may contract with foreign county.
83.04 Highway construction by county; non-contract work; payments.	83.17 County may assume compensation liability; agreements with localities.
83.05 Improving city or village streets over 18 feet wide.	83.18 Entry on lands.
83.06 Maintenance of county aid highways.	83.19 Temporary highways and detours.
83.065 County road and bridge fund; tax levy.	83.20 Highways, lighting.
83.07 Acquisition of lands, quarries, gravel pits; relocation; eminent domain.	83.21 Milwaukee county, sidewalks.

**83.01 County highway commissioner.** (1) **ELECTION.** The county board shall elect a county highway commissioner, but in lieu thereof may by resolution request the state highway commission to appoint a county highway commissioner. If the county board shall fail to elect a county highway commissioner or to make such request to the state highway commission, the county shall not participate in state allotments for highways.

(2) **TERM.** Upon his first election the county highway commissioner shall serve until the first Monday in January of the second year succeeding the year of his election, and if re-elected it shall be for a term of two years.

(3) **SALARY.** The salary of the county highway commissioner shall be as determined under the provisions of section 59.15.

(4) **OFFICE AND ASSISTANTS.** The county board shall provide him with suitable offices and such assistants as are necessary for the proper performance of his duties.

(5) **BOND.** The county highway commissioner shall give bond in such sum as the county board shall from time to time require.

(6) **PAYMENT OF SALARIES.** The salaries, expenses of maintaining an office and the necessary traveling expenses of the county highway commissioner, assistants and special highway patrolmen in counties having such patrolmen may be paid monthly out of the general fund after being audited and approved by the county highway committee. All such expenditures out of the general fund shall be reimbursed out of moneys received under the provisions of section 83.10 (1).

(7) **DUTIES.** (a) The county highway commissioner shall have charge under the direction of the county highway committee of the construction of highways built with county aid and of the maintenance of all highways maintained by the county.

(b) He shall perform all duties required of him by the county board and by the county highway committee and shall do or cause to be done all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways. He shall establish such grades and make such surveys and maps or cause the same to be made as he deems proper, and examine the highways and report as to the condition of roads, bridges and culverts, and make estimates of the cost of the improvement thereof, and of the cost of any relocation when required to do so or when he deems the same reasonably necessary.

(c) He shall have charge of all county road machinery and tools, and shall be responsible to the county board for their proper maintenance, repair and storage, and shall in his annual report make a complete inventory of the same, which inventory shall show the date of purchase, the location and condition of such machinery and tools, and the cost and present value thereof.

(d) He shall make an annual report to the state highway commission and to the county board at its annual meeting containing an itemized statement of all expenditures made from the county road and bridge fund during the year ending November 1. He shall include in his report an itemized estimate of the amount needed to properly maintain the

county trunk highways in his county for the succeeding year and shall make such recommendations as he deems advisable.

(e) He and his employes may enter private lands for the purpose of making surveys or inspections.

(f) Whenever any fence encroaches upon any highway on the county trunk or state trunk system, the county highway commissioner may issue an order requiring the owner or occupant of the land to which such fence is appurtenant to remove the fence from the highway within 30 days. The order shall be served personally or by registered mail. If the fence is not sooner removed the commissioner shall, after the expiration of 30 days, remove the fence. He shall keep an accurate account of the expense thereof which shall be paid by the county. The expense shall be charged to the town in which such lands are situated and shall be added to its tax roll as a special tax against such lands, and shall be collected and accounted for as other county taxes are. If the claim of encroachment is disputed, the dispute shall be decided in the manner prescribed by section 86.04 (3).

(g) He shall compile and maintain a record of the laying out, alteration or discontinuance of all highways in the county outside the limits of cities and villages. The record shall be known as the county highway register and be kept in the manner or form prescribed by the state highway commission. The county highway commissioner or his agents shall have access to the records of town clerks and may have temporary custody of such as are necessary for the purpose of making accurate and appropriate copies thereof. The state highway commission shall assist in the compilation of the records and shall furnish to the county highway commissioner such information as the commission deems appropriate relative to the laying out of military, territorial and such other roads as have been authorized by the legislature. The information contained in the county highway register shall be recorded in the county register of deed's office and shall be admissible in evidence.

**History:** 1955 c. 207; 1957 c. 133.

**83.015 County highway committee.** (1) **ELECTION; COMPENSATION; TERM.** (a) Except as otherwise provided in paragraph (b) each county board at the annual meeting shall by ballot elect a committee of not less than 3 nor more than 5 persons, to serve for one year, beginning either as soon as elected or on January 1 following their election, as designated by the county board, and until their successors are elected. Any vacancy in the committee may be filled until the next meeting of the county board by appointment made by the chairman of the board. The committee shall be known as the "county highway committee," and shall be the only committee representing the county in the expenditure of county funds in constructing or maintaining, or aiding in constructing or maintaining highways. The members of such committee shall be reimbursed for their necessary expenses incurred in the performance of their duties, and shall be paid the same per diem for time necessarily spent in the performance of their duties as is paid to members of other county board committees, not, however, exceeding \$500 for per diem, in addition to necessary expenses, to any member in any year. A different amount may be fixed as a maximum by the county board.

(b) The number of members on the county highway committee, the membership, manner of appointment, and the terms of the members, in counties having a population of 200,000, or more, shall be as fixed from time to time by the county board.

(c) The town chairman of each town in which county aid construction is performed shall be ex officio a member of the county highway committee, or shall act with such committee, on all matters affecting such construction in his town, provided the town has voted a portion of the cost thereof.

(2) **POWERS AND DUTIES.** The county highway committee shall purchase and sell county road machinery as authorized by the county board, determine whether each piece of county aid construction shall be let by contract or shall be done by day labor, enter into contracts in the name of the county, and make necessary arrangements for the proper prosecution of the construction and maintenance of highways provided for by the county board, enter private lands with their employes to remove weeds and brush and erect or remove fences that are necessary to keep highways open for travel during the winter, direct the expenditure of highway maintenance funds received from the state or provided by county tax, meet from time to time at the county seat to audit all pay rolls and material claims and vouchers resulting from the construction of highways and perform other duties imposed by law or by the county board.

(3) **COST ACCOUNTING SYSTEM.** (a) Each county board, except in counties of a population of 500,000 or over, shall provide for and require the county highway committee and department to use the system of cost accounting devised by the state auditor.

(b) Any variations, adjustments, corrections and revisions in the system shall be made annually so as to be effective on January 1 of each year following the proposed change.

(c) Any changes so proposed in order to become effective shall be mutually agreed upon by the accounting division of the state highway commission and a majority of the county highway departments of the state.

(d) The state highway commission is authorized to insist on the adoption of the uniform system in any county before entering into agreements with such county for the maintenance of state trunk highways.

**History:** 1953 c. 61.

**Cross Reference:** See last sentence of 59.03 (2) (h) for limitation to counties with over 100,000 population.

For additional duties as to parkway system, see 27.065 (13).

The membership of the county highway committee cannot exceed 5, with the exception that the town chairman shall be ex officio member in certain instances under (1) (c). The fact that the county board chairman has been made an ex officio member of county board committees generally does not entitle him to expenses and per diem under 84.09 (4) when he accompanies the county highway committee on trips to acquire right-of-way for the state highway commission. 38 Atty. Gen. 594.

If so authorized by the county board the county highway committee may purchase county road machinery either with or without bids and may call for bids on equipment of a particular manufacturer to the exclusion of other similar equipment of other manufacturers. 59.07 (4) and (7) (Stats. 1949) does not apply. 39 Atty. Gen. 61.

See note to 59.07, citing 39 Atty. Gen. 519. (2) authorizing the committee to enter lands to cut weeds and brush and to erect snow fences for the protection of highways is an exercise of power of eminent domain, and 83.18 provides procedure for determining damages, if any, to owners of lands entered and used. (18 Atty. Gen. 634 overruled as far as it states that such activities are under police power.) 39 Atty. Gen. 597.

While county board under 59.04 (1) (c) may transact any and all business at its organization meeting in April which is permitted by law to be transacted at the

annual meeting, it may not at the April meeting increase the size of the county highway committee from 3 to 5 members and provide that the new members shall serve until the annual meeting or until their successors have been elected and qualified where a 3-member committee to serve for one year had previously been elected pursuant to 83.015 (1) at the prior annual meeting. 40 Atty. Gen. 158.

Appropriation by county board of specific sum for purchase of highway equipment with authorization to the county highway committee to make its choice among the three low bids taken for the purchase of equipment complies with (2), without the necessity for any further approval or authorization from the board for purchase of specific items. 41 Atty. Gen. 63.

Where a county board of a county of over 25,000 population has provided under 59.03 (2) (i), for annual salary of county board members with additional salary for such members who are also county highway committee members, and a committee member ceases to be a member of the board, he may no longer receive the salary of a county board member but is limited to the salary which the board has provided for highway committee members. 42 Atty. Gen. 84.

County highway committee has no authority to construct a garage or lease county-owned land. 43 Atty. Gen. 10.

**83.016 Traffic patrolmen; appointment, duties, bond.** (1) The county board, or one of its committees to which it may delegate such authority, may appoint traffic patrolmen for the enforcement of laws relating to the highways or their use, or the maintenance of order upon or near the highways. Traffic patrolmen may arrest without warrant any person who, in their presence, violates any law relating to highways or the maintenance of order upon or near highways. Any traffic patrolman, sheriff, constable or other police officer may make such arrest without warrant on the request of any other traffic patrolman, sheriff, constable or police officer in whose presence any such offense has been committed. The appointment of any traffic patrolman may be revoked at any time by the county board or one of its committees to which it may delegate such authority. No traffic patrolman shall receive or accept from or for any person he has arrested, any money or other thing of value, as or in lieu of bail or for the person's appearance before a court or magistrate, or to cover or be applied to the payment of fines or costs, or as a condition of such person's release.

(2) Traffic patrolmen, before exercising their powers, shall be provided with a badge which shall be worn when on duty. Such badges shall be furnished to the county by the state motor vehicle department.

(3) Traffic patrolmen shall furnish bonds in a sum fixed by the county board to indemnify the county for any and all claims arising out of the performance of their duties. The cost of said bonds shall be paid by the county.

**History:** 1953 c. 608.

Where county traffic patrolman is also a deputy sheriff not under civil service, sheriff may require him to give bond under 59.22 (2), notwithstanding that he has given bond as traffic patrolman under 83.016 (3). 40 Atty. Gen. 41.

The authority given to the county board by (1) to appoint traffic patrolmen may not be delegated to a committee. 40 Atty. Gen. 311.

Evidence of speed of vehicles obtained by a device operating on the "Doppler-

velocity radar" principle, guaranteed to be accurate within 2 miles per hour and tested for accuracy at the beginning and the end of each period of use, is admissible in evidence to establish violations of the speed laws. Under this section a traffic officer may arrest a motorist on the basis of information received by radio from another officer who has observed, by means of radar, the speed of the motorist to be arrested. 42 Atty. Gen. 93.

**83.018 Road supplies; committee may sell to municipalities.** The county highway committee is authorized to sell road building and maintenance supplies on open account

to any city, village or town within the county; and any such city, village or town is authorized to purchase such supplies.

**History:** 1957 c. 116.

**83.02 County aid highways.** (1) The system of prospective state highways heretofore selected by the county boards and approved by the state highway commission are hereby validated but without prejudice to the exercise of the power to change such systems. Such systems are hereby designated as the county aid highway system.

(2) The state highway commission, on the petition of at least 100 freeholders, may, after investigation, make such alterations in the system of county aid highways as it deems necessary to serve the public interest.

(3) The county board may alter such systems with the consent of the state highway commission.

**83.025 County trunk highways.** (1) The systems of county trunk highways heretofore selected by county boards and approved by the state highway commission are hereby validated. Changes may be made in the county trunk system from time to time by the county board if it deems that the public good is best served by making such changes. The county board in making such changes may order the county highway committee to lay out new highways and acquire the interests necessary by the procedures under s. 83.08. Such systems however may be altered or increased only with the consent of the commission. The county board, or the county highway committee, shall, by conference with the boards or highway committees of adjoining counties, or otherwise, cause their respective systems to join so as to make continuous lines of travel between the counties. Any highway which is a part of the county trunk system shall, by virtue thereof, be a portion of the system of county aid highways. Any city or village street or portion thereof selected as a portion of such system prior to May 1, 1939, shall be a portion of such system. All streets or highways in any city or village over which is routed a county trunk highway or forming connections through such city or village between portions of the county trunk highway system shall be a part of such system unless the governing body of the city or village, by resolution, removes such street or highway from the county trunk system, provided that in counties having a population of 500,000 or more the county board may remove from the county trunk highway system any part thereof which lies within an incorporated village or city, but such removal shall not be effected until one year after annexation proceeding affecting the area in question shall have become final.

(2) The county trunk system shall be marked and maintained by the county. No county shall be responsible for the construction and maintenance of a city or village street on the county trunk highway system to a greater width than are those portions of such system outside the village or city and connecting with such street. When a portion of a county trunk highway extending from one county to another has less mileage than is practical for a patrol section, such portion shall be patrolled by the county in which the major portion of the highway lies, and each county shall bear its proportionate share of the expense of maintenance, payable monthly. The marking and signing of the county trunk highway systems shall be uniform throughout the state, as prescribed by the state highway commission.

(3) The county highway committee, subject to the approval of the county board, may enter into agreements with the state highway commission as provided in section 86.25 (2).

**History:** 1953 c. 435; 1957 c. 412.

The county, in maintaining highways under (2), is discharging a governmental function with respect to the rights of the traveling public and except as modified by statute is not liable for the negligence of its officers or agents in the performance of such function. However, the county may be liable for damages caused to adjoining land owners by nuisances which it has created on such highways and as to such owners the county is deemed to be acting in a proprietary capacity. 24 Atty. Gen. 246 is

withdrawn to the extent that it is inconsistent herewith. 43 Atty. Gen. 53.

County has duty to maintain a city street which is a part of the county trunk system to the full width of the street, providing such street is not wider than the portions of the county system connecting with such street. 44 Atty. Gen. 97.

83.025 (2), 83.03 (1) and 83.05 discussed as to county work or aid in construction of county trunk highways in villages. 44 Atty. Gen. 252.

**83.026 Federal aid secondary highways.** The county highway committee shall cooperate with the state highway commission in the selection of a system of federal aid secondary and feeder roads within the meaning of the Federal Aid Road Act approved July 11, 1916 (39 Stats. at L. 355), and all acts amendatory thereof and supplementary thereto. The county highway committee shall request and consider recommendations from the governing bodies of municipalities within the county as to eligible highways and streets within such municipalities to be selected as part of such system. The highways and streets selected by the committee to be a part of such system shall be subject to the approval of the county board.

**83.03 County aid; local levy; donations.** (1) The county board may construct or improve or repair or aid in constructing or improving or repairing any highway or bridge in the county.

(2) If any county board determines to improve any portion of a county trunk highway with county funds, it may assess not more than 40 per cent of the cost of the improvement but not over \$1,000 in any year against the town, village or city in which the improvement is located as a special tax but no such assessment shall be made against any town in which the combined appropriation of the town and county for the improvement of county trunk highways in such year exceeds 3 mills per dollar on the assessed valuation of the town. The county clerk shall certify the tax to the town, village or city clerk who shall put the same in the next tax roll, and it shall be collected and paid into the county treasury as other county taxes are levied, collected and paid. A portion or all of such special assessment may be paid by donation.

(3) The county board may accept donations to the county of money or lands for highway or bridge purposes, and apply the donations in accordance with the wishes of the donor as nearly as is practicable.

(4) Any county may, by any lawful means, provide funds to match or supplement state or federal aid for the construction, reconstruction or improvement, under the provisions of chapter 84, of any highway, street or bridge which it is authorized to construct, reconstruct or improve, and to pay such funds to the state highway commission or state treasury as provided in section 84.03 (1) (b).

**History:** 1951 c. 102.

(1) as worded in 1949 is sufficiently broad to authorize the county board to maintain or aid in maintaining any highway in the county, and the view expressed in 25 Atty. Gen. 702 is no longer applicable. 39 Atty. Gen. 134.

Receipt of county aid for bridge by city or village under 83.03 does not necessarily subject the municipality to bridge tax. 40 Atty. Gen. 29.

See note to 83.025, citing 44 Atty. Gen. 252.

Proper use of highway funds appropriated by 83.03 and 83.065 discussed. 46 Atty. Gen. 122.

The county board has the power under (1) to appropriate funds for the removal of snow from any public road in the county. 46 Atty. Gen. 155.

**83.035 Streets and highways, construction.** Any county board may provide by ordinance that the county may, through its highway committee or other designated county official or officials, enter into contracts with cities, villages and towns within the county borders to enable the county to construct and maintain streets and highways in such municipalities.

**History:** Stats. 1953 s. 59.08 (35); 1955 c. 651.

Under 83.03 (1), 59.08 (35) (Stats. 1953), 83.018 and 20.49 (8) (Stats. 1953), counties may contract for the furnishing of labor, equipment and materials to local municipalities for highway purposes. 39 Atty. Gen. 134.

Where costs of highway projects under-

taken by counties for municipalities under 83.14 exceed the amount provided jointly by the county and municipality, additional work needed to complete the project must be done pursuant to contract between the county and municipality under 59.08 (35) (Stats. 1953). 42 Atty. Gen. 59.

**83.04 Highway construction by county; noncontract work; payments.** (1) All highway improvements made by the county highway committee shall be by contract, unless the committee determines that some other method would better serve the public interest. The manner of advertising for bids and the forms of bids, contracts and bonds shall be substantially those used by the state highway commission. In letting a contract the county highway committee acts for the county.

(2) If it is deemed inadvisable to let a contract for highway construction, the county highway committee may direct the county highway commissioner to proceed with the construction as noncontract work, and he may, under the supervision of the committee, employ and purchase the necessary labor and materials.

(3) During construction the work and materials shall be inspected by the county highway commissioner or by inspectors employed by him with the approval of the county highway committee. Upon the completion of any highway job by or for the county on the county aid system or for which county aid has been granted the work shall be inspected by the county highway commissioner, and if found in conformity with plans and specifications, he shall so find and notify the county highway committee and the county clerk thereof and that the improvement has been accepted.

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

shall be according to such method and all orders shall be drawn upon and paid out of the fund provided for such construction. Said statements and pay rolls shall be filed with the county clerk.

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

(6) No order shall be drawn on the county road or bridge fund in excess of the funds available for the particular improvement for which drawn, without the authority of the county board or the county highway committee.

**83.05 Improving city or village streets over 18 feet wide.** (1) When a portion of the system of county aid highways in any city is to be improved, and the funds from the city and county are available therefor, the city may determine that the roadways shall be paved to a greater width than 18 feet. If it so decides, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee. And said committee shall fix the amount per linear foot of the improvement to be paid by the county. The city shall then improve the street in the manner provided generally for making street improvements. The work shall be done under the supervision of the city, but subject to the inspection of the county highway commissioner.

(2) Upon the completion of the work the county's share of the cost shall be paid to the contractor as though the county had been an immediate party to the contract. In no case shall the payment by the county exceed the cost of 18 feet of the width of the pavement, plus a share of the grading, draining, and appertaining structures, which share shall be determined by dividing the whole cost of these items by the width of the pavement in feet and multiplying the quotient by 18. The balance of the expense of the improvement shall be borne by the city, and shall be provided in the manner in which expense of street improvement is ordinarily met. Assessments of benefits may be made by the city against abutting property in the manner provided where the improvement is done solely at the expense of the city, but such assessments of benefits shall not exceed the difference between the cost of the improvement and the amount contributed thereto by the county.

(3) When a part of the system of county aid highways in a village is to be improved, the village board may determine to pave the same to a greater width than 18 feet, and may pay the additional cost out of the general funds of the village, or assess a part or all of such costs to the abutting property as provided by s. 66.60. A joint contract covering the whole work may be entered into between the county and village officials and the contractor, and the general procedure in regard to the improvement shall be the same as if the improvement had been made in the usual way and the village was not a party to the contract, except that the amount due to the contractor for the additional width of pavement shall be paid by the village. The village board shall determine whether special assessments shall be paid in 1, 3 or 5 years, and the rate of interest on deferred payments.

**History:** 1957 c. 132.

Under (1), the determination to widen a city street to a greater width than 18 feet where such city street constitutes a part of the county trunk highway system is to be made exclusively by the city, and the approval by the county highway committee is limited to the type of improvement, width and construction features. Such approval may not be withheld arbitrarily. Cost of curbs, gutters and storm sewers is included under (2), but not the cost of sidewalks. 33 Atty. Gen. 477. See note to 83.025, citing 44 Atty. Gen. 252.

**83.06 Maintenance of county aid highways.** All streets and highways improved with county aid under this chapter shall be maintained by the towns, cities and villages in which they lie but this provision shall not diminish or otherwise affect the duty of the county with respect to any street or highway which is a portion of the county trunk highway system, nor the powers of the county conferred by s. 83.03 (1) and (2) or s. 83.035.

**83.065 County road and bridge fund; tax levy.** The county board shall annually levy a tax of not more than 2 mills on the dollar, in addition to all other taxes, and the proceeds shall be known as the "County Road and Bridge Fund." Expenditures from said fund shall be made only for the purposes of constructing and maintaining highways and bridges under this chapter and for purchasing, operating, renting and repairing machinery, quarries and gravel pits used in such construction and maintenance.

See note to 83.03, citing 46 Atty. Gen. 122.

**83.07 Acquisition of lands, quarries, gravel pits; relocation; eminent domain.** (1) The county highway committee or town board may acquire any lands or interest therein

needed to carry out the provisions of this chapter. Whenever the county highway committee or town board is unable to acquire the same by purchase at a reasonable price such property may be acquired by condemnation under chapter 32 or subsections (4) and (5) of this section.

(1a) The county highway committee or town board may purchase or accept donation of remnants of tracts or parcels of land remaining at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation where in the judgment of such committee or board such action would assist in rendering just compensation to a land owner, a part of whose lands have been taken for highway purposes, and would serve to minimize the over-all cost of such taking by the public.

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

(3) When lands are acquired under this section to relocate or straighten any highway or to provide easier curves at highway intersections, and tracts not more than 2 acres in area remain separated from the main body of land from which they are acquired, the county highway committee or town board may, if it deems the acquisition of such minor tracts advisable or necessary to beautify the highway or to protect public travel, acquire such minor tracts in the name of the county or the town. Tracts in excess of 2 acres of like character may be acquired by agreement.

(4) In case the county highway committee or the town board is unable to acquire needed lands or rights by contract, such committee or board may acquire the same in the name of the county or town by eminent domain, as provided in ch. 32 or in the following manner: They may, upon not less than 5 days' notice in writing, exclusive of Sundays and holidays, delivered or mailed to the owner of record, and any person having any lien against said lands, which lien is of record in the office of the register of deeds or clerk of any court of record of civil jurisdiction in the county wherein said lands are situated, and to the occupant of the land, if any, describing the property and stating the time and place of hearing the application, apply to the county judge of the county to appraise the value of the lands sought to be taken. If the name and address of the owner or lienor is unknown, notice of such application shall be published once a week for 3 successive weeks in a newspaper having a general circulation in the county. At the time set therefor, or at an earlier date upon stipulation of the parties, the judge shall set a date for hearing such application and he shall have the power in his discretion to require production of and provide for exchange of statements of the parties' claims as set forth in s. 32.11 (2). Where such statements are required and are furnished, the judge may determine as to whether there shall be a formal hearing on said application. If a formal hearing be held, the landowner shall in all cases present his testimony first, followed by condemnor, with rebuttal by landowner. Within 5 days after the date set for hearing or the termination of such hearing if one be held, the judge shall make and file his written award in his office. The county highway committee or town board may then pay the sum awarded by delivering to the owner a county or town order or bank check, or tendering the same. If there are lienors as above defined, unless they and the owner shall join in a written direction to the highway committee or town board as to the distribution of the award, the county or town order or bank check may be made payable to and deposited with the clerk of a court of record of civil jurisdiction in said county, for the benefit of the persons who are named as recipients in the award as their interests may appear. The amount of the award so deposited shall be received by such clerk, deemed in the custody of the court and paid out only on such court's order. Application for such order shall be on notice to all named recipients. Upon making such payment, tender or deposit, the title to the lands and rights sought to be acquired shall thereupon vest in the county or town to the extent and for the uses and purposes of the acquisition, and the committee or board shall cause a certificate under the hand and official seal of such judge, stating the facts as to such award and payment, to be recorded in the office of the register of deeds. A copy of such certificate shall be served upon said owner and lienor if their respective addresses are known and to an occupant of the land, if any. If such addresses are unknown, such certificate shall be published once a week for 3 successive weeks. After the service of a copy of the judge's certificate upon the owner and the occupant, if any, of such lands, the circuit court of the county may upon 24 hours' notice to such owner or occupant grant a writ of assistance to the county or town to put such county or town in possession of the lands.

(5) The landowner or the committee or board may, within 90 days after the award is made, file with the judge a notice of appeal to the circuit court, whereupon the judge shall certify all the papers in the proceedings to such court, and thereupon the matter shall be

regarded as at issue, and the proceedings shall be as provided in s. 32.11. Payment or tender of the award shall not defeat the county's or town's right of appeal. No interest upon the amount paid or tendered shall be recoverable or allowed in any subsequent appeal.

**History:** 1951 c. 613; 1953 c. 308; 1955 c. 522; 1957 c. 597.

**83.08 Acquisition of lands and interest therein.** (1) The county highway committee may acquire by gift, devise, purchase or condemnation any lands or interests therein for the proper improvement, maintenance, relocation or change of any county aid or other highway or street or any bridge thereon which the county is empowered to improve or aid in improving or to maintain. The county highway committee may purchase or accept donation of remnants of tracts or parcels of land remaining at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation where in the judgment of such committee such action would assist in rendering just compensation to a land owner, a part of whose lands have been taken for highway purposes, and would serve to minimize the over-all cost of such taking by the public. Whenever the committee deems it necessary to acquire any such lands or interests therein for any such purpose, it shall so order and in such order or on a map or plat show the old and new locations and the lands or interests required, and shall file a copy of the order and map with the county clerk. The committee shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, at a price, including damages, deemed reasonable by the committee. The instrument of conveyance shall name the county as grantee and shall be filed with the county clerk and recorded in the office of the register of deeds.

(2) If any of the needed lands or interests therein cannot be purchased expeditiously for a price deemed reasonable by the committee, the committee may acquire the same either by condemnation under ch. 32 or s. 83.07, or in the manner provided for the state highway commission in s. 84.09 (2), in which case the county highway committee shall have the same powers and duties as are vested in the state and the state highway commission by s. 84.09 (2), and the landowner shall have the same right of appeal as granted by said section.

(3) The cost of land and rights so acquired, including any damages allowed and other expenses connected therewith, shall be paid out of available improvement or maintenance funds.

(4) Subject to the approval of the state highway commission the county board is authorized and empowered to sell at public sale property, owned by the county in fee for highway purposes, when the county board shall determine that such property is no longer necessary for the county's use for highway purposes. The funds derived from such sale shall be deposited in the county highway fund and the expense incurred in connection with the sale shall be paid from that fund. However, approval of the state highway commission is not required where county funds only have been used.

**History:** 1951 c. 612; 1953 c. 308, 643; 1955 c. 522; 1957 c. 412.

Under (2), a petition filed with the county judge before the expiration of the 2-year period, praying that the judge make an appraisal of the damages, was a timely and sufficient compliance with the statute, so as to confer jurisdiction on the judge, although the notice to the highway committee stated that the petitioner "will apply" for such relief at a hearing set by the judge for a date after the expiration of the 2-year period. Proceedings under (2) for the appraisal of damages by the county judge are to be heard by the "judge," not the "court." *Thielman v. Lincoln County Highway Committee*, 262 W 134, 54 NW (2d) 50. See note to 84.09, citing 40 Atty. Gen. 218.

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

**83.10 State allotment to county trunk highways.** (1) From the appropriation made by s. 20.420 (81), there shall be allotted annually on June 30, by the state highway commission, to the several counties as state aid for the county trunk highway systems, the sum of \$3,500,000. Forty per cent of such allotment shall be in the ratio that the number of motor vehicles registered from each county in the fiscal year ended the previous June 30 bears to the total number registered in the state and 60 per cent in the ratio that the mileage of highways on the preceding January 1 in each county exclusive of highways and streets in cities and villages bears to the total mileage of such highways in the state. From the appropriation made by such subsection there shall be an additional annual allotment on June 30 to each county equal to \$65 per mile of county trunk highways in

such county on the preceding January 1. Such allotments shall be used for constructing, repairing and maintaining the county trunk highway system and the bridges thereon, including snow and ice removal and control, under the direction of the county highway committees. Any county may allocate all or part of its allotment, with the approval of the commission, to match or supplement federal aid funds for the construction, reconstruction and improvement of the county trunk highway system and in such event such amount may be retained by or paid to the commission or the state treasury as the commission may require and shall be expended in accordance with the provisions of s. 84.06 and any applicable act of congress. All or part of such allotment not allocated to match or supplement federal aid as herein provided shall be expended in accordance with the applicable provisions of this chapter.

(2) The county board of any county having a population of 500,000 or more may appropriate any portion of the moneys received by such county under s. 20.420 to the cities and villages and the county park commission within such county for the construction or reconstruction of streets, park or parkway roads or drives, or for the payment of the principal or interest on bonds issued by any town, city or village in such county for the construction of bridges carrying a traffic in excess of 2,500 vehicles per day, according to a determination made by the state highway commission.

(3) The allotment to any county provided by sub. (1) shall not be paid until the county highway commissioner has within the current calendar year filed with the commission his certification stating that the county has complied with the provisions of s. 40.60 requiring the marking of school zones on county trunk highways, and that such markings are presently in good condition. If it shall be found that a county has failed to properly erect and maintain all signs as required by s. 40.60, \$25 for each school where such signs are not properly erected or maintained shall be deducted from the allotment payable pursuant to sub. (1).

**History:** 1953 c. 318, 674; 1955 c. 179.

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

**83.12 Cattle passes.** As a part of any highway improvement or as a separate project under this chapter, cattle passes across highways may be constructed at places determined by the county highway committee to be necessary and practical.

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

**83.14 County aid on town and village initiative.** (1) Any town meeting or village board may vote a tax of not less than \$500 to improve a designated portion of a county aid highway and may accept cash donations for such purposes, and when accepted subsequent proceedings shall be the same as if a tax of like amount had been voted. Highways in villages shall not be eligible to improvement under this section wherever the buildings fronting the highways average more than one to each 60 lineal feet of highway. The tax shall not exceed 2 mills on the dollar on the taxable property but every town and village may vote \$500, and such tax shall be paid to the county treasurer when the county taxes are paid. If the total cost of the improvement approved by the town meeting or village board exceeds the amount which it is permitted by this subsection to raise by taxation in the current year, it may vote a tax of not to exceed the same amount for the succeeding year or years.

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

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

(4) No county shall be required to appropriate in any year over \$2,000 for work in any town or village.

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

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

(7) Towns and villages may take the initiative in the improvement of county aid highways by issuing bonds and the funds produced by such bond issue shall be handled and expended as though raised by taxation. If the county has not appropriated a sum at least equal to the funds raised by the town or village or to the proceeds of the town or village bonds advanced to the county for such improvements, the town or village board may petition the county pursuant to subsection (2) for an amount equal to one-half of such funds or of the principal maturing on such bonds in each year and the county shall appropriate its share as provided in subsection (3) (subject to the limitation in subsection (4)) until the county has appropriated an amount equal to the amount raised by the town or village or to the proceeds of the bonds thus advanced. This procedure may also be used to repay funds borrowed and advanced by a town or village for such improvements, as provided in subsection (6).

(7m) Subsection (7) is intended to apply to past, pending and future improvements, and any tax levied or appropriation made prior to June 9, 1949 is hereby validated.

(8) The county clerk shall, on or before January 1 of each year, file with the state highway commission a written statement setting forth the petitions granted by the county board and the improvements determined upon under section 83.03, the location, character and contemplated cost of each improvement, and the amount to be paid by the county and town or village for making each improvement.

County aid to town is mandatory only under 83.02, 39 Atty. Gen. 139.  
where the improvement is on a designated portion of a county aid highway as defined See note to 59.08, citing 42 Atty. Gen. 59.

**83.15 Aid by county for state line bridge.** The county board of any county bounded in part by a river which is also a state boundary line may aid any municipality of such county in the construction of a bridge across such river or any part thereof, by an appropriation therefor not exceeding one-third of the cost of such bridge.

**83.16 County may contract with foreign county.** The board of supervisors of any county in this state bordering on any navigable stream which is the boundary line between such county and a county in another state is hereby authorized in conjunction with the board of supervisors of such adjoining county in such other state, to construct and maintain a bridge or bridges across such river at a place or places within the limits of such county as may be agreed upon by said respective boards of supervisors, whenever said board of supervisors in this state shall deem it necessary, and to enter into a contract with such board of supervisors of the adjoining county of such other state for the construction, maintenance and repair of such bridge or bridges.

**83.17 County may assume compensation liability; agreements with localities.** Whenever a county contributes funds to a highway project undertaken by a town, village or city in the county or a city, town or village has its highways maintained by the county with local funds, the county through its county highway committee may assume the liability under the workmen's compensation act of the town, village or city to any employe on such project, and may by agreement with the governing body of the town, village or city provide for the amount the town, village or city shall pay to the county for the assumption of such liability. Such action of the county highway committee shall remain in effect until the county board by resolution disapproves of such action.

**83.18 Entry on lands.** (1) ENTRY; PURPOSES; ROAD MATERIALS IN HIGHWAYS. For constructing or maintaining any highway by the county, the county highway committee or commissioner shall possess all the powers conferred upon town boards by section 81.06.

(2) APPRAISAL OF DAMAGES; APPEALS THEREFROM. The owner or occupant of lands entered upon or used by the county for any of the purposes mentioned in section 81.06 or 83.015 (2) may apply to the county highway committee to appraise the resulting damages and such damages may be determined by agreement. If they are unable to agree upon the same, the committee shall make an award of damages and file it with the county clerk as provided for towns in section 80.09, and the owner or occupant may appeal from such award within the time and in the manner provided by section 80.24, and the proceedings on such appeal shall be governed and shall conform in all things to the provisions of section 80.24 except that service shall be made on 2 members of the county highway committee.

**83.19 Temporary highways and detours.** When any highway which is maintained or to be maintained by the county shall be practically impassable or be dangerous to travel or when it shall be deemed necessary on account of construction or repair work thereon or for other reasons to suspend travel upon any part of such highway, the county highway commissioner may lay out and open temporary highways for the accommodation of public travel through any lands, and the county highway commissioner shall possess the powers conferred by section 81.08 upon town boards. Said powers shall be exercised by him in like manner and the procedure shall be the same except that the contract and orders and claim for damages and other papers relating to the matter shall be filed with the county clerk, and claims for damages shall be acted upon by the county board in the manner provided by section 59.76.

**83.20 Highways, lighting.** Any county may provide for lighting of improved highways maintained by the county or the construction of which has been aided by the county or state, and of bridges located thereon.

**History:** Stats. 1953 s. 59.07 (14); 1955 c. 651.

**83.21 Milwaukee county, sidewalks.** Counties having a population of 500,000 or over may build sidewalks outside the corporate limits of any city or village in such county.

**History:** Stats. 1953 s. 59.07 (14b); 1955 c. 651.