

together determine the petition in the manner outlined in section 163.17. OAG Sept. 12, 1947 (379-E-8-C).

Where a town line road was established by two towns, each town is required to maintain that portion of the road agreed upon. OAG Sept. 18, 1951 (379-C-8-C).

Where a road is built on a town line the cost of maintenance of the road shall be divided by the towns on an equitable basis. Generally, the expense is divided equally. This is true of the care and repair of a bridge which is a part of the road. If one of the towns has repaired the bridge they may proceed by civil action against the other town for contribution; and if the repairs have not been made it would be prudent to proceed under the provisions of section 164.28. OAG Dec. 21, 1948 (642-A-12).

Where a town road is on a line between two townships the cost of constructing and maintaining any bridge or culvert on such road, made necessary by the improvement of a public drainage ditch, is borne jointly and in equal shares by the townships involved. OAG May 14, 1952 (642-A-12).

163.18 DEFINITIONS

When a road is established by user, it has the same standing as a road established by statutory proceedings. OAG May 10, 1949 (377-A-15).

163.19 ALTER, VACATE, OR ABANDON ROADS

If a person desires to change an established cartway, the matter should be presented to the town board as in a new petition. The rights of the respective property owners to enter their lands from the cartway, as newly established and constructed is not a problem of the town board. Application may be made to the court. OAG Nov. 9, 1953 (377-B-1).

CHAPTER 164

BRIDGES ON ROADS

164.01 INTERSTATE BRIDGES

The vacating of a highway to the center of a bridge on one side, and the street leading to the center of the bridge on the other side, automatically causes vacation of the bridge so that it may be dismantled. OAG Oct. 30, 1950 (642-A).

164.18 BRIDGE BONDS

A petition to the county board asking the board to issue bridge bonds and sell must be made by 25 or more voters of the county. The voters must be freeholders. In order that the board may take action granting the petition, there must be no outstanding road and bridge bonds issued as such. The petitioners must be voters in the county. The petition should conform to the statute and refer to a particular bridge in such language that the bridge may be identified. OAG April 20, 1949 (37-B-7).

164.19 BRIDGE DESTROYED BY FLOOD OR CYCLONE

HISTORY. 1911 c 161 s 1, 2; 1947 c 49 s 1; 1953 c 526 s 1.

Where a bridge upon destruction has been replaced by an eight-foot box culvert the question whether or not the culvert is in fact a bridge is one of fact. The holdings of the court for the most part are to the effect that the culvert is not a bridge. The state highway commission considers a ten-foot box culvert to be a bridge. There is no holding of the supreme court of Minnesota on the subject. Whether or not it is

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the duty of the county board to repair such a culvert is therefor in doubt. OAG Aug. 4, 1952 (642-A-12).

164.22 CONTRACTS FOR BRIDGES

HISTORY. 1903 c 186; 1913 c 235 s 7; 1915 c 160 s 1; 1917 c 119 s 5; 1921 c 323 s 55; 1953 c 45 s 1.

If a bridge over a non-navigable stream located in a city park within the city limits is constructed as a foot bridge and not for vehicular traffic, section 164.22 is not applicable; but it is applicable if the bridge is part of a road or highway. OAG March 25, 1949 (642-A-5).

If a contract is let by the town board which failed to comply with the provisions of sections 160.39, 164.22, 365.37 and 365.43 relative to competitive bidding, no valid contract results. A recovery, however, may be made to the extent that the municipality has accepted and received the benefits of labor and material used in connection with the making of road improvement. OAG May 6, 1947 (707-14).

The letting of contracts for town roads must comply with all of the requirements under section 164.22. OAG April 14, 1952 (707-A-14).

164.24 TOLL BRIDGES

HISTORY. 1875 c 108 s 1, 2, 4, 5; 1901 c 243; 1903 c 160; 1913 c 235 s 83, 84; 1917 c 43 s 1; 1919 c 349 s 1; 1921 c 323 s 62.

164.28 MAINTENANCE OF BRIDGES ON COUNTY AND TOWN ROADS

Judicial review by reason of extraordinary remedies. 33 MLR 570, 607, 685.

Damages to a bridge on a county road caused by landowners in attempting to rid their land of surface water by constructing a ditch is recoverable in an action by the county against the landowners. OAG Oct. 28, 1946 (602).

The term "county road" as defined in section 160.01, subdivision 4, and as used in Minnesota Statutes, Chapter 164, includes those which have heretofore been or which hereafter, as provided in chapters 160, 161, 162, 163, 164, may be, established, constructed, or improved under the authority of the several county boards, except those heretofore designated as state roads; and also all roads lying within the county or on the line between counties, established by judicial proceedings. OAG Nov. 6, 1948 (642-A-12).

Where a road is built on a town line the cost of maintenance of the road shall be divided by the towns on an equitable basis. Generally, the expense is divided equally. This is true of the care and repair of a bridge which is a part of the road. If one of the towns has repaired the bridge they may proceed by civil action against the other town for contribution; and if the repairs have not been made it would be prudent to proceed under the provisions of section 164.28. OAG Dec. 21, 1948 (642-A-12).

When a county repairs a bridge on a town line between two townships the county is not required to pay any part of the cost of such repairs. The costs must be borne by the two towns pro rata. OAG Dec. 11, 1951 (642-A-12).

The county board may assist in the construction of a bridge on a town road located entirely within the town limits. OAG Oct. 15, 1948 (643-B-13).

164.31 BRIDGES RECONSTRUCTED

The county board may be compelled to designate a route for the extension of a trunk highway but cannot be compelled to designate any particular route. OAG Feb. 16, 1950 (229-D-17).

The obligation of a county to pay for maintenance and snow removal of part of a state aid road within the boundaries of a city under a contract authorized by section 160.431, subdivision 4, does not apply to maintenance and snow removal before the time of designation of such road within the city. OAG Oct. 27, 1953 (377-A-11).