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REPORT

of the

**MINNESOTA LEGISLATIVE
INTERIM COMMISSION**

on

HIGHWAY LAWS



**Submitted to the Legislature of the State of Minnesota
November, 1958**

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Members of the Senate

ARTHUR GELLEN
J. E. MILLER
NORMAN LARSON
ARNO H. MILLER
C. C. MITCHELL
HAROLD J. OLOUNEN
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State of Minnesota

Highway Laws Commission
State Capitol—St. Paul 1, Minnesota

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NORMAN LARSON, Vice Chairman

BILL SHOVELL, Secretary

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BILL SHOVELL
EDWARD J. TORCZYK
C. J. VAN DE BEEK

November 24, 1958

TO THE GOVERNOR OF THE STATE OF MINNESOTA
AND THE MEMBERS OF THE LEGISLATURE

Gentlemen:

Pursuant to Minnesota Laws 1957,
Chapter 828, the Highway Laws Commission trans-
mits herewith its report on the revision of
highway laws. A supplemental report will be
issued at a later date.

Respectfully transmitted



Charles L. Halsted,
Chairman



The Highway Law Commission

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Charles L. Halsted Chairman
Norman Larson Vice-Chairman
Bill Shovell Secretary

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C. C. Mitchell	Bill Shovell
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Ward Grenfield Special Counsel
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Helen Adams Stenographer
Myrtle Booth Stenographer

* Senator Herbert Rogers was appointed to the Commission on March 3, 1958, to succeed the late Senator Archie Miller.

INTRODUCTION

Recent statewide concern for an adequate transportation system in Minnesota brought about the passage of Constitutional Amendment No. 2 in 1956. This revision in fundamental highway law is generally related to a change in the distribution of highway tax funds between the county, municipal and trunk highway systems. Another and equally important aspect of the amendment, often overlooked, was the incorporation in the constitution of a new principle in administration by highway agencies. As changed by the amendment, the present constitutional provision is predicated on the establishment of a balanced and integrated system of highways composed of trunk routes, county roads and municipal streets.

State awareness of the need for an adequate system of transportation facilities is not a regional characteristic, but is also of national importance. After World War II the urgent and critical need for a system of highways traversing all the states became an area for Congressional action. As a result of extensive studies conducted by federal agencies, legislation was introduced initiating a tremendous expansion of federal participation in highway construction and maintenance. In addition to increased aids for the primary and secondary systems, including urban extensions, a vast and unprecedented program was authorized in 1956 for the creation of a national network of interstate highways. Again, the basic principle of this legislation is the creation of an integrated system of highways.

Report of the Highway Law Commission

The additional funds made available by the new federal program and the increased portion of state funds for local road authorities have insured to some extent sufficient resources with which to accomplish structural adequacy on the interstate, trunk, county and municipal systems. The appropriation of additional revenues and changes in engineering standards by administrative agencies to correspond to traffic needs, however, will not result in overall highway efficiency.

The creation and operation of a highway system is not simply a legislative process of appropriation and delegation. The substance of this governmental function lies within a broad and comprehensive system of laws establishing and controlling highway systems and various state agencies. For each system of roads and for each type of governing authority specific laws are necessary to empower and direct proper function and control. Thus, administrative efficiency and highway adequacy are directly related to the effectiveness of highway laws. Any substantial change in the administration or function of highways can only be obtained through a corresponding revision of highway laws.

Immediate changes were required by the constitutional amendment to provide the legal background for the new method of tax distribution and for the creation of a system of county state-aid highways and municipal state-aid streets. Legislation was also required in order for the state to take advantage of the federal proposals for an interstate system. To a great extent these laws as enacted in 1957 were complete, yet the change in the objective of a major portion of the state's transportation system brought about many inconsistencies and inadequacies throughout the entire highway laws.

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To accomplish the overall purpose of an integrated road network of various types of systems it became apparent during the 1957 legislative session that a comprehensive review and revision of existing highway laws would be necessary. This realization culminated in the creation of the Highway Laws Commission.

The revision as directed by the act creating this Commission is not limited to any one highway system or agency. "The Commission shall make a comprehensive, detailed and complete investigation and study of the highway laws, highway policies and rules and regulations promulgated in furtherance of such highway laws and policies, including enabling legislation for 'Amendment No. 2,' and legislation relating to access control and the interstate system enacted by the 1957 legislative session." With an assignment of this broad character confined to a biennial period, attempts were made during the first Commission meetings to glean background information from other states and the National Highway Research Board. Reports from these states and agency forewarned that complete revision of all facets of the highway laws would be impossible of completion in two years.

It was deemed necessary, therefore, to select those chapters more directly affected by the change in highway coordination brought about by the amendment and the new federal program. Those areas not in the study are cited in Part II of the report on page 204.

The study of the Commission was accomplished during eighteen meetings held throughout the biennium in addition to ten subcommittee meetings. Following the organization of the Commission, the initial meetings were devoted to the preparation of an outline of procedure to be used in analyzing each chapter. As a guide to a systematic analysis of the chapters selected for study, it was

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decided to follow the three basic steps of rearrangement, review and analysis, and revision.

The rearrangement was accomplished by compiling the various provisions contained in Minnesota Statutes 1957, Chapters 160, 161, 162, 163, 164, and 166 into six articles according to subject matter. Subsequently, the substance of each new article was reviewed and evaluated by correlating the laws to existing practices and requirements, and to recent substantive changes suggested by attorney generals' opinions and court decisions. Whenever it appeared that personnel of the highway departments would be interested in possible changes or could assist the Commission in obtaining a full understanding of the law, local and state agencies were requested to appear before the Commission. Finally, the actual revision of each article was prepared within the framework of the rearrangement by incorporating into the law the changes recommended by the Commission. At the conclusion of these three steps, the entire revised articles were then reviewed and adopted by the Commission.

The revision as contained in Part I of the report is divided into the following six articles: I General Provisions; II Department of Highways and Trunk Highway System; III State Aid System; IV County Roads; V Town Roads; and VI Bridges.

In recognizing the need for a complete understanding and correct interpretation of the proposed revision, not only by legislators but also by lay and professional people working within the framework of highway laws, the various sections of the report contain a legal history and brief comments. The comments have been prepared to indicate whether or not any change has been made between the revised version and the existing law, and if so, the extent

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of such changes. Detailed analyses of each portion in which substantive changes are proposed have been avoided. For those who desire more complete information, copies of the Commission files are preserved in the office of the Legislative Research Committee.

Part II of the report contains various recommendations of the Commission which could not be incorporated within any of the six articles. These include additions and changes in the trunk highway system, changes in laws which relate to but which are not part of the highway laws chapters, and other matters warranting legislative action. Part II of the report is explained in more detail on page 203.

The appendix beginning on page 215 includes the act creating the Commission and a comparative table showing the relation of existing laws to the particular sections of the proposed revision.

The procedural and substantive changes in highway laws proposed in this report were adopted by the unanimous consent of the Commission. The principle of an integrated and balanced system of highways was the major consideration of the Commission in arriving at each change, and it is believed that the adoption of the revision will create a system of laws through which this goal may be attained. It is recommended that the Legislature of the State of Minnesota approve the revision of highway laws contained in Part I and also the individual proposals contained in Part II.

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ARTICLE I

GENERAL PROVISIONS

Section 1. (SCOPE OF ACT) Subdivision 1. (DESIGNATION) For the purposes of Articles I through VI the roads of this state shall be designated and referred to as trunk highways, county state-aid highways, municipal state-aid streets, county highways and town roads. They shall be established, located, constructed, reconstructed, improved and maintained as provided in Articles I through VI and acts amendatory thereto.

Subd. 2. (CERTAIN STREETS EXCLUDED) The provisions of Articles I through VI do not relate to highways or streets established by, or under the complete jurisdiction of cities, villages and boroughs except when the provisions refer specifically to such highways or streets.

History: M. S. '57, Sec. 160.012.

COMMENT: The present law provides that Chapters 160 through 164 shall not relate to any roads within the limits of any city, village or borough except when specifically mentioned. Thus, although trunk highway and county roads extended within municipalities are under the jurisdiction of the State Department of Highways and the county road authorities respectively, the application of Chapters 160 through 164 to these extensions must be specifically mentioned in each case. Under Subdivision 2 of the proposed revision Articles I through VI apply to municipal extensions of trunk highways and county roads. Only those highways and streets established by or under the complete jurisdiction of cities, villages and boroughs are excluded from the application of Articles I through VI unless specifically mentioned.

Sec. 2. (DEFINITIONS) Subdivision 1. (PURPOSES) For the purposes of Article I the terms defined in this section have the meanings given them.

Subd. 2. "Trunk highways" includes all roads established or to be established under the provisions of Article XVI, Section 2 of the Constitution of the State of Minnesota.

Subd. 3. "County state-aid highways" includes all roads established in accordance with law as county state-aid highways.

Subd. 4. "County highways" includes those roads which have heretofore been or which hereafter may be established, constructed or improved under authority of the several county boards, including all roads lying within the county or on the line between counties established by judicial proceedings, except those roads established, constructed or improved by the counties that have been maintained by the towns for a period of at least one year prior to July 1, 1957. All roads heretofore designated prior to July 1, 1957 as county-aid highways shall be county highways until abandoned or changed in accordance with law.

Subd. 5. "Municipal state-aid streets" includes all streets within the cities, villages or boroughs having a population of 5,000 or more, established in accordance with law as municipal state-aid streets.

Subd. 6. "Town roads" includes those roads and cartways which have heretofore been or which hereafter may be established, constructed or improved under the authority of the several town boards, roads established, constructed or improved by counties that have been maintained by the towns for a period of at least one year prior to July 1, 1957, and all roads lying within the town established by user.

Subd. 7. "Road" or "highway" includes, unless otherwise specified, the several kinds of highways as defined in this section, and also cartways, together with all bridges or other structures thereon which form a part of the same.

Subd. 8. "Commissioner" means the commissioner of highways.

Subd. 9. "Road authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; and the governing bodies of cities, villages and boroughs when the governing bodies of city, village and borough streets are specifically mentioned.

Subd. 10. "Portage" means a passageway two rods in width extending from one public or navigable water to another public or navigable water or from a public or navigable water to a public highway.

Subd. 11. "Interstate bridge" means all bridges now existing or which shall be hereafter constructed across boundary waters between the State of Minnesota and any adjoining state thereby connecting highways of this state with the highway system of any adjoining state.

Subd. 12. "Controlled access highway" means any highway, street or road, including streets within cities, villages or boroughs, over, from or to which owners or occupants of abutting land or other persons have or are to have no right of access, or only a controlled right of the easement of access, light, air or view.

Subd. 13. "Public property" means any property except streets, roads or bridges owned by any subdivision of government, including but not limited to, the property of school districts however organized, towns, villages, boroughs, cities, municipalities, counties and any board or commission of any thereof, and public corporations created by the laws of this state.

History: Subdivisions 2, 3, 4, 5, 6, 7, 8 and 10 are taken from M. S. '57, Sec. 160.013; Subd. 9 is a new definition; Subd. 11 is taken from M. S. '57, Sec. 164.02; Subd. 12 is taken from M. S. '57, Sec. 160.701; Subd. 13 is taken from M. S. '57, Sec. 161.131.

COMMENT: No substantive change.

Sec. 3. (COMPENSATION FOR PUBLIC PROPERTY) Whenever public property is taken, damaged or destroyed for highway purposes, just compensation shall be paid therefor.

History: M. S. '57, Sec. 161.133.

COMMENT: No change.

Sec. 4. (WIDTH OF ROADS) Except as otherwise provided, all roads hereafter established, except cartways, shall be at least four rods wide. Additional right of way and easements, including easements needed for drainage, may be acquired by purchase, gift or eminent domain proceedings when necessary for construction, maintenance, safety or convenient public travel. The necessity for such additional right of way and easements shall be determined by the road authority having jurisdiction over the particular road involved.

History: M. S. '57, Sec. 160.021.

COMMENT: No substantive change.

Sec. 5. (DEDICATION OF ROADS) Subdivision 1. (SIX YEARS) When any road or portion thereof shall have been used and kept in repair and worked for at least six years continuously as a public highway, the same shall be deemed dedicated to the public to the width of two rods on each side of the center line thereof and be and remain, until lawfully vacated, a public highway whether the same has ever been established as a public highway or not; provided, that nothing herein contained shall impair the right, title or interest of the water department of any city of the first class secured under Special Laws 1885, Chapter 110. This section shall apply to roads and streets except platted streets within cities, villages and boroughs.

Subd. 2. (ROADS ON AND PARALLEL TO RAILROAD RIGHT OF WAY) The continued use of any road by the public upon and parallel to the right of way of any railway company shall not constitute such a road a legal highway or a charge upon the town in which the same is situated, and no right shall accrue to the public or any individual by such use.

History: M.S. '57, Sec. 160.121 and M.S. '57, Sec. 160.131.

COMMENT: No substantive change.

Sec. 6. (TRAIL OR PORTAGE DEDICATION) Any trail or portage between public or navigable bodies of water or from public or navigable water to a public highway in this state which has been in continued and uninterrupted use by the general public for 15 years or more as a trail or portage for the purposes of travel, shall be deemed to have been dedicated to the public as a trail or portage. This section shall apply only to forest trails on established canoe routes and the public shall have the right to use the same for the purposes of travel to the same extent as public highways. The width of all trails and portages dedicated by user shall be eight feet on each side of the center line of the trail or portage.

History: M. S. '57, Sec. 160.111.

COMMENT: No substantive change.

Sec. 7. (IMPROVEMENTS WITHIN OR WITHOUT BOUNDARIES) The road authority of any county, town, city, village or borough may appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads, bridges or ferries lying beyond the boundary of and leading into such county, town, city, village or borough.

History: M. S. '57, Sec. 163.10.

COMMENT: The present law applies to counties, towns, villages, boroughs, and to cities of the 4th class. The proposed revision broadens the law so that it

applies to any city, county, town, village or borough.

Sec. 8. (CONTROLLED ACCESS) Subdivision 1. (PLANS) The road authorities of the state, counties, cities, villages and boroughs acting either alone, or in cooperation with each other, or with any federal agency, or with any other state or subdivision of another state having authority to participate in the construction or maintenance of highways are authorized to plan for the designation, establishment, location, relocation, improvement and maintenance of controlled access highways for public use whenever the road authorities determine that traffic conditions, present or future, will justify such highways.

Subd. 2. (APPROVAL OF MUNICIPALITY) Except for trunk highway routes on the interstate system, no controlled access highway shall be constructed or improved within the corporate limits of any city, village or borough unless the plans therefor shall be first approved by the governing body of the city, village or borough.

Subd. 3. (TRAFFIC CONTROL) Such road authorities are authorized to so design any controlled access highway, and to so regulate, restrict or prohibit access as to best serve the traffic for which the highway is intended. Such road authorities are authorized to divide and separate any controlled access highway into separate roadways by the construction of raised curbing, central dividing sections or other physical separations, or by designating the separate roadways by signs, markers, stripes or other devices. No person shall have any rights of ingress or egress to, from or across controlled access highways to or from abutting lands, except at the designated points or roadways thereof where access is permitted by such road authorities upon such terms and conditions as such road authorities specify.

Subd. 4. (ACQUISITION OF PROPERTY) Property rights, including rights of access, air, view and light, may be acquired by said road authorities with respect to both private and public property by purchase, gift or condemnation.

Subd. 5. (ELIMINATION OF GRADE INTERSECTIONS; ADDITIONAL ACCESS OPENINGS; COMPENSATION) Such road authorities may locate, establish and construct controlled access highways, or may designate and establish an existing street or highway as a controlled access highway. Such road authorities are authorized to provide for the elimination of grade intersections of controlled access highways with other existing streets or highways of any kind or nature whatsoever. The elimination may be accomplished by the construction of grade separations, or the construction of an outer lane as part of the controlled access highway, or by closing off streets or highways at the right of way boundary of the controlled access highway. When an outer lane is constructed, the abutting owners shall have access to the outer lane unless the petition and notice in condemnation, or the highway deed in cases of purchase, clearly specifies that the right of access to the outer lane has been acquired. After the establishment of any controlled access highway no other street or highway or private entry shall be opened into or connected with any controlled access highway without the consent and prior approval of the road authority having jurisdiction over the controlled access highway. The consent and approval shall be given only if the public interest shall be served thereby after public hearing thereon. In the case of any elimination of existing access, air, view, light or other compensable property rights, the owner shall be compensated for the loss by purchase or condemnation.

Subd. 6. (CONSTRUCTION LIMITED) None of the provisions contained herein shall be construed to limit, restrict or nullify any rights or easements

of access heretofore acquired by the state or any of its political subdivisions.

History: M. S. '57, Sec. 160.702, subds. 1 through 5.

COMMENT: Subdivision 5 of the proposed revision provides that when an outer lane is constructed the abutting owners shall have access to the outer lane unless the petition and notice in condemnation or the highway deed in cases of purchase clearly specifies that the right of access to the outer lane has been acquired. There has been some question in the past as to whether or not the widening of a controlled access highway for the purpose of building the outer lane or service road actually serves the purpose desired. There also has been a question of whether or not the access follows the new acquisition since court decisions have indicated that the easement of access acquired is on the outer edge of the right of way. The proposed revision provides specifically that if an outer lane is constructed the abutting property owners would have access to that outer lane unless the petition and notice, or deed of purchase, clearly indicates otherwise.

Subdivision 6 is entirely new. It provides that none of the provisions of this section will in any manner be construed to limit, restrict or nullify any rights or easements of access acquired by the state or any political subdivisions prior to the enactment of this section.

Sec. 9. (CHANGE OF ROAD BY COUNTY OR TOWN BOARD) Subdivision 1.

(CHANGE IN LOCATION) When the road authority of a county or town changes the location of a highway or road under its jurisdiction, the old road shall remain open until the new road is opened for travel. The old road or any portion thereof shall not revert to the abutting owners until vacated by the road authority in accordance with law.

Subd. 2. (OLD ROADS TO REMAIN OPEN) When the new road does not provide access to property whose only means of access was the old road, then and in that event, the portion of the old road providing the access shall remain open for travel and shall be maintained by the county or town road authority until other means of access are provided after which it may be vacated as provided by law.

Subd. 3. (NOT TO BE VACATED IN CERTAIN CASES) When a county highway or town road is the only means of access to any property or properties containing an area or combined area of five acres or more, the highway or road shall not be vacated unless other means of access are provided.

History: M. S. '57, Sec. 160.141.

COMMENT: The present law provides that when a county road is changed, the old road shall be kept open to public travel for two years from the date of the order changing the road. Our Supreme Court interpreted this to mean that after the two-year period the old road is no longer in existence. (See: Nelson v. County Board of Nicollet County, 154 Minn. 358; 191 NW 913.) The proposed revision provides that the old road shall remain open until the new road is opened to travel. It also provides that the old road will not revert to the owner until vacated by the road authority. It further provides that in those cases where the new road does not provide access to persons whose only means of access was the old road, then in that event the portion of the old road providing such access shall remain open for travel.

The 3rd subdivision of this section provides that when a county highway or town road is the only means of access to properties containing an area of five acres or more, then such county highway or town road shall not be vacated unless other means of access is provided. The present law provides that a cartway shall be constructed to provide a means of access for tracts of land containing at least five acres. (See M. S. '57, Sec. 163.15, subd. 2)

Sec. 10. (ROADS ON MINERAL LANDS) Subdivision 1. (CHANGE OF LOCATION)

When any road, including any street within a city, village and borough, crosses mineral land and the road interferes with mining operations on the land, the owner or lessee of the land may notify the road authority of the interference and request that the road be relocated. The road authority shall, thereupon, in the manner provided by law, relocate the road so as not to interfere with the mining operations. The relocated road shall be constructed to at least the engineering standards of the old road. All right of way needed for the relocation shall be provided by the owner or lessee of the land or shall be acquired by the road authority by gift, purchase or other manner provided by law.

Subd. 2. (RIGHT OF WAY TO BE PROVIDED) When any road crosses lands other than mineral lands outside the limits of any city, village or borough, and the road interferes with the placing of buildings, structures or other improvements on the land, the road authority may relocate the road upon the request of the owner of the land; provided that the safety and convenience of public travel shall not be impaired thereby.

Subd. 3. (SURETY BOND) Before relocating the road, the road authority may require of the owner or lessee a surety bond in a sum as the road authority deems sufficient, conditioned for the payment of all damages and all costs incident to the relocation.

Subd. 4. (CONSTRUCTION OF RELOCATED ROAD) The owner or lessee may choose to construct the relocated road with his own forces or by contract, or he may elect to have the construction done by the road authority.

Subd. 5. (APPROVAL OF PLANS AND INSPECTION OF CONSTRUCTION WORK) If the owner or lessee elects to construct the relocated road, the design and plans therefor shall first be approved by the road authority. The road authority shall have the right to inspect the construction work as it progresses, and the construction work shall be approved by the road authority prior to the road being opened for travel.

Subd. 6. (DAMAGES) All damages caused by the relocation, all right of way costs and all costs of right of way acquisition, and all construction costs shall be paid by the owner or lessee requesting the relocation; provided, that if the road authority determines that the relocation shall be constructed to a greater width or to a higher standard than the old road, the road authority shall pay the additional right of way or construction costs incurred thereby.

Subd. 7. (AGREEMENTS) When any road is to be established over mineral lands, or over lands containing gravel, the road authority and the owner or lessee of such lands may enter into equitable agreements to provide for the use of the lands for road purposes and for the relocation of the road whenever the road interferes with mining operations.

History: M. S. '57, Sec. 160.231.

COMMENT: The changes incorporated in the proposed revision provide that: the relocated road be constructed to at least the engineering standards of the old road; the road authority may require a surety bond; the road authority itself will relocate the road rather than the owner or lessee of the mineral lands; and, the owner or lessee of the mineral lands may choose to construct the relocated road with his own force or by contract or may elect to have the construction done by the road authority. The proposed revision also grants permissive authority to the road authority to relocate a road when the road interferes with the placing of a building or structure on mineral land or other lands outside the corporate limits of cities, villages and boroughs.

Sec. 11. (ROAD BUILDING MATERIALS) Subdivision 1. (ACQUISITION OF LANDS) When any road authority, including any road authority of cities, villages and boroughs, shall deem it necessary for the purpose of building or repairing public roads or streets under their jurisdiction, it may procure by purchase, gift or condemnation in the manner provided by law any lands within the state containing any material suitable for road purposes together with right of way to the same on the most practicable route to the nearest public road of sufficient width to allow teams, trucks or other vehicles to pass.

Subd. 2. (SALE OF ROAD BUILDING MATERIALS) The road authorities may engage in the manufacture of crushed rock or other road building material for use on public highways. The road authorities may by agreement sell to any other road authority any sand, rock, crushed rock, gravel or other earth material suitable for road purposes, upon terms and conditions as may be mutually agreed upon by the parties.

History: Subd. 1 from M. S. '57, Sec. 160.251;
Subd. 2. from M. S. '57, Sec. 161.033.

COMMENT: The present law limits the power of the road authorities in the acquisition of lands containing road building material. The amount of land in any one tract is limited to 40 acres. In many instances it became necessary for the road authority to acquire two different tracts of land because of the limitation. This results in additional expense and usually results in a higher cost for the same material. The proposed revision removes the 40-acre limitation, and also provides for agreements between road authorities for the sale of any sand, rock, crushed rock or any other processed material suitable for road purposes.

Sec. 12. (TEMPORARY ROADS AROUND CONSTRUCTION) When a road authority determines that construction or maintenance work on a public highway under its jurisdiction requires a temporary road around the portion of the highway under construction or maintenance, the road authority may by order or resolution establish and construct a temporary road adequate for such purpose and procure the necessary right of way therefor in the manner provided by law.

History: M. S. '57, Sec. 160.171, subd. 1.

COMMENT: The present law provides that the road authority may establish a temporary road when necessary around a portion of a highway under construction. The proposed revision broadens that power by giving the road authority the power to establish a temporary road around a portion of a highway under construction or maintenance when such temporary road is necessary.

Sec. 13. (LIGHTING AND MARKING HIGHWAYS) Road authorities may light or mark highways and appurtenances thereon and may install other safety devices as they deem necessary in the interests of safety and convenient public travel.

History: M. S. '57, Sec. 160.211, subs. 1 and 3.

COMMENT: M. S. '57, Sec. 160.211 relates to the removal of hedges and trees. Also incorporated within that

section is the authority to light dangerous places on public highways. Under the proposed revision a separate section authorizes lighting of highways.

Sec. 14. (MARKING BOUNDARIES OF HIGHWAYS) Subdivision 1. (PLACING MARKING DEVICES) Road authorities may place suitable monuments or other marking devices in such manner as to clearly establish the boundary lines of highways. The location of the boundary markings shall be described and filed with the register of deeds in the county where the highways are located.

Subd. 2. (SERVICE OF NOTICE UPON ABUTTING LAND OWNERS) The road authority shall serve written notice of such markings upon abutting land owners within 30 days after the placement of the marking devices. Unless written objections are served and filed within one year thereafter, as hereinafter provided, the boundary lines of the highways as marked shall be final and conclusive.

Subd. 3. (RESERVATION OF RIGHTS OF ABUTTING OWNERS) Within one year after the notice, any abutting owner may serve upon the road authority written objections to the highway boundaries as marked, specifying wherein he believes the boundaries as marked to be in error. A copy thereof shall be filed with the register of deeds in the county where the highway is located. The service and filing of the objections shall preserve the rights of the abutting owner in and to the land in controversy until the boundaries of the highway are judicially determined or until agreed to by the abutting owner and the road authority.

Subd. 4. (JUDICIAL DETERMINATION) At any time after the service and filing of the objections, the road authority or the abutting owner may bring the matter on for trial in district court to have the boundary lines judicially determined. When the matters shall have been finally determined, the

highway boundaries shall be marked in accordance therewith and the boundaries shall be final. A copy of the decree shall be filed by the road authority with the register of deeds.

History: New section.

COMMENT: This section was drafted to prevent encroachment on highways. Many states mark the right of way boundaries of their highways. Such a system prevents law suits and also prevents improper use of highways. In some instances in the past the Minnesota State Highway Department, as well as many county highway departments, have found buildings constructed within the limits of their highways. In many cases the property owner constructing the building was not at fault insofar as he had made a survey to determine the limits of the highway. Such surveys made without benefit of highway boundary markings sometimes differ from the survey made by the highway department. If the road authorities have the authority to place suitable monuments or other marking devices so as to clearly indicate the right of way boundaries of highways, it will be easier for abutting property owners to develop their property without the danger of encroachment on highways.

Sec. 15. (PRESERVATION OF SECTION OR QUARTER SECTION CORNERS)

Subdivision 1. (PERMANENT MARKING OF SECTION OR QUARTER SECTION CORNERS)

Whenever the construction, reconstruction or maintenance of a public highway, including city, village or borough streets, causes the destruction or obliteration of a known section or quarter section corner marking or monument, it shall be the duty of the road authority having jurisdiction over the highway or street to provide for the permanent marking of such corners and to place reference or witness monuments so that the corners can be readily located.

Subd. 2. (MANNER OF PLACEMENT) The permanent marking of the corners and establishment of reference or witness monuments shall be in the manner following: At the exact location of the corner there shall be placed a stone, concrete or metal marker not less than four inches in diameter at the top and

not less than 18 inches deep. In the case of a paved highway there shall also be placed over the marker and in the surface of the pavement a metallic plug not less than one inch in diameter and two inches in depth.

Subd. 3. (TIME OF PLACEMENT) Reference or witness monuments evidencing the location of the corner shall be established before the obliteration of the corner in at least two places most practicable and shall consist of stone, concrete or cast-iron.

Subd. 4. (FILING OF CERTIFICATE) The engineer or surveyor placing and establishing the markers or monuments shall file a certificate to that effect in the office of the register of deeds in the county or counties wherein the markers or monuments were placed. Each certificate shall contain only the record of markers and monuments at one corner. The register of deeds may charge a fee of 50 cents for each certificate filed.

Subd. 5. (CONTENTS OF CERTIFICATE) The certificates shall be on sheets of durable paper, which sheets shall be in size 11 by 11 inches with a margin at the left for binding of one and one-half inches. The certificates shall be substantially in the following form: "I hereby certify that on the ___ day of _____ I found the _____ corner of _____ which was evidenced by _____, and I further certify that to perpetuate the location of such corner, I did at the exact location thereof place a permanent marker consisting of _____. I further certify that I established _____ reference or witness monuments consisting of _____ which reference or witness monuments are located in the manner followings: _____.

Dated at _____ this _____ day of _____, 19____.

Title.

Subd. 6. (COST OF PLACING WARNERS) The cost of placing the markers and monuments, including filling fees, shall be paid out of the respective funds provided by law, or set aside for highway or street purposes.

History: R. S. '57, Sec. 381.14 through 381.16.

COMMENT: Present law places the duty of preserving corners on the commissioner when trunk highways are involved, and places that duty on the counties when any other roads are involved. The proposed revision places the duty on the road authority having jurisdiction over the highway or street effecting the section or quarter section corner markings.

Sec. 16. (WARNING SIGNS AND DETOUR SIGNS) Subdivision 1. (CONTRACT TO PROVIDE FOR WARNING SIGNS) Whenever the road authorities enter into a contract for the construction or improvement of any road, culvert or bridge thereon they shall, as a condition of the contract, provide therein that the contractor shall place suitable warning signs at the highways intersecting the road so to be constructed or improved warning the public that the road under construction or improvement is impassable at a designated place or distance from the warning sign. The signs shall be placed at such places as will obviate unnecessary travel by persons not otherwise aware of the impassable condition of the roads. Nothing in the provisions of Articles I through VI shall make any town, county, or the state liable in damages for the failure of the road authorities to provide in any contract for the erection of a warning sign as is herein provided for, or the failure of any contractor to erect same in accordance herewith.

Subd. 2. (CONTRACTOR TO PLACE DETOUR SIGNS) The contractor, foreman or person in charge of work or repairs on any public road shall, when the doing of the work or repairs necessitates the closing of a part of the road to traffic, post signs stating that the road is under repair and describing the direction

and distance of the detour necessary to avoid the part of the road being repaired. The signs shall be posted at the intersection of the road under repair with the road to be traveled while detouring and at appropriate intervals along the road.

Subd. 3. (BARRICADES) The road authorities may also provide, by contract or otherwise, for the erection of barricades, fences or other obstructions so as to prevent traffic from entering any impassable section of road or a section closed to public travel.

History: Subdivisions 1 and 2 from M. S. '57, Sec. 160.161; Subd. 3 from M.S. '57, Sec. 161.03, subd. 7.

COMMENT: The laws in two different chapters have been combined. Provisions covering misdemeanors have been omitted from this section of the proposed revision and are included in misdemeanor section at end of Article I.

Sec. 17. (ROAD CONSTRUCTION CONTRACTS - COUNTIES AND TOWNS)

Subdivision 1. (PLANS AND SPECIFICATIONS TO BE FILED IN CERTAIN CASES) No county or town shall contract for the construction or improvement of any road when the contract price therefor exceeds \$2500 unless the plans and specifications for the construction or improvement shall have first been made and filed with the county auditor in cases of county and county state-aid highways or with the town clerk in cases of town roads.

Subd. 2. (ADVERTISEMENT FOR BIDS) No county or town road contract for construction or improvement exceeding \$2500 shall be let without first advertising for bids in a newspaper of general circulation published in the county where the construction or improvement is proposed to be done. The advertisement shall be published once a week for three successive weeks, the last publication to be made at least 10 days before the time fixed for receiving bids and letting the contract. It shall specify, generally, the work

to be done, the place where the plans and specifications are on file, and the time and place of receiving bids and awarding the contract.

Subd. 3. (FINAL PAYMENT) Final payment shall not be made on any contract for road work by any county or town board until the engineer or person in charge of the work has certified to the county board or the town board, as the case may be, that the work has been done and performed according to contract and the certificate shall have been filed in the office of the county auditor or town clerk.

Subd. 4. (MISDEMEANORS) Any county auditor or any town clerk who issues a warrant or an order in final payment upon a road contract where the amount involved in the contract exceeds the sum of \$200 before the certificate provided for in subdivision 3 shall have been filed shall be guilty of a misdemeanor.

History: Subdivision 1 from M. S. '57, Sec. 160.301;
Subd. 2 is taken largely from M. S. '57, Sec. 164.22;
and Subds. 3 and 4 are taken from M.S.'57, Sec.160.311.

COMMENT: No substantive change.

Sec. 18. (ACCESS TO ROADS) Subdivision 1. (CULVERT TO BE FURNISHED ON EXISTING HIGHWAYS) Except when the easement of access has been acquired, the road authorities as to highways already established and constructed shall furnish one substantial culvert to an abutting owner in cases where the culvert is necessary for suitable approach to such highway.

Subd. 2. (APPROACHES TO NEWLY ESTABLISHED HIGHWAYS) Except when the easement of access has been acquired, the road authorities in laying out and constructing a new highway or in relocating an old highway shall construct suitable approaches thereto within the limits of the right of way where the approaches are reasonably necessary and practicable, so as to provide abutting owners a reasonable means of access to such highway.

History: Takes the place of M.S. '57, Sec. 160.241.

COMMENT: M. S. '57, Sec. 160.241 provides that, except where the easement of access has been acquired, the road authority shall provide suitable access to a road and install culverts where they are reasonably necessary. Such a law could be interpreted to mean that the road authority must provide a suitable approach to a highway on demand of the abutting property owner, whether it is practicable or not. In certain instances the cost of providing suitable access to property could be more than the value of the entire property. The proposed revision provides that in cases where a highway is already established and constructed the road authority shall furnish a substantial culvert where it is necessary for suitable approach to such highway, except where the easement of access has been acquired. It also provides, except when the easement of access has been acquired, that the road authority in laying out and constructing a new highway shall construct suitable approaches where they are necessary and practicable so as to provide abutting owners a reasonable means of access to such highway.

Sec. 19. (RAILROAD TO CARRY HIGHWAY DRAINAGE ACROSS ITS RIGHT OF WAY) When a road authority constructs a drainage ditch to drain a highway over lands acquired for that purpose and the ditch crosses the right of way of any railroad, it shall be the uncompensated duty of the railroad company upon demand of the road authority to forthwith carry the ditch under and across its right of way.

History: M. S. '57, Sec. 160.181, subd. 13.

COMMENT: No substantive change.

NOTE: The other portions of Sec. 160.181 are omitted from the proposed revision.

Sec. 20. (AGRICULTURAL DRAINAGE) Subdivision 1. (CONNECTING DRAINS TO HIGHWAY DRAINS) When the course of natural drainage of any land runs to a highway, the owner of the land shall have the right to enter upon the highway for the purpose of connecting his drain or ditch with any drain or ditch constructed along or across the highway, but before making the connections he

shall first obtain a written permit for the connections from the road authority having jurisdiction. The connections shall be made in accordance with specifications set forth in the permits. The road authority shall have power to prescribe and enforce reasonable rules and regulations with reference to the connections. The highway shall be left in as good condition in every way as it was before the connection was made.

Subd. 2. (CONSTRUCTING TILE DRAIN ACROSS HIGHWAY) If any person desires during construction or reconstruction of a highway to install a tile drain for agricultural benefits in a natural drainage line in lands adjacent to any highway, and if a satisfactory outlet cannot be secured on the upper side of the right of way and the tile line must be projected across the right of way to a suitable outlet, the expense of both material and labor used in installing the tile drain across the roadbed shall be paid from funds available for the roads affected provided the road authority is notified of the necessity of the tile drain in advance of the construction of the roadbed so that the drain may be placed and the roadbed constructed in the same operation.

History: M. S. '57, Sec. 160.191.

COMMENT: The only change is the requirement that the road authority be notified in advance of the necessity of a tile drain so that the drain may be placed and the roadbed constructed during the same operation.

Sec. 21 (SNOW REMOVAL) Subdivision 1. (AGREEMENTS) Road authorities, including road authorities of cities, villages and boroughs, may contract with each other for the construction and maintenance of, or removal of snow from, any or all highways under their supervision. Such road authorities may also contract with any agency or political subdivision of the state, including but not limited to school districts and public sanitoriums, for the removal of snow from publicly owned lands thereof.

Subd. 2. (REMOVAL FROM PRIVATE PROPERTY) The road authority of any county or town may remove snow from private property upon payment of not less than the cost thereof when such snow removal does not unduly delay or interfere with the removal of snow from public highways under its jurisdiction.

Subd. 3. (DISPOSITION OF MONEY) All money received for snow removal shall be paid into the respective funds provided by law, or set aside, for highway or street purposes.

Subd. 4. (EMERGENCY SNOW REMOVAL) Any road authority including road authorities of cities, villages and boroughs may remove snow from any road or highway in cases of emergency.

Subd. 5. (DEEMED EMPLOYEES OF HIRING AUTHORITY) All persons while engaged in snow removal shall be deemed for all purposes the employees of the road authority hiring them.

History: M. S. '57, Sec. 160.291; M. S. '57, Sec. 161.03, subd. 30; M. S. '57, Sec. 366.26.

COMMENT: This section combines several sections relating to snow removal. It provides that the road authorities may contract with each other for the construction, maintenance and removal of snow from highways under their supervision. It also grants the road authorities the power to contract with any agency or political subdivision of the state for the removal of snow from publicly owned lands.

Subdivision 2 provides that the road authority of any county or town may remove snow from private property upon payment of the cost thereof when the snow removal does not unduly delay or interfere with the removal of snow from public highways. The counties and towns under the present law have the power to remove snow from private property without any limitation other than payment therefor.

Subdivision 4 provides that any road authority may remove snow from any road in case of emergency. In the past there has been delay by reason of no express authority in the statutes allowing a road authority to remove snow in case of emergency from highways not under its jurisdiction.

Sec. 22.(TREES) Subdivision 1. (PLANTING OF TREES) Road authorities may plant and tend trees and shrubs along highways in rural areas in a manner so as to protect the highways from drifting snow. In like manner, with the written consent of the abutting landowner, trees and shrubs may be planted and tended outside the limits of the highways.

Subd. 2. (CONSENT FOR REMOVAL) The trees and shrubs shall not thereafter be removed without the consent of the road authority.

Subd. 3. (ACQUISITION OF TREES AND HEDGES) The road authorities may acquire by purchase, gift or condemnation all trees and hedges within the limits of a highway. Thereafter if the road authority determines that the trees and hedges acquired within the limits of a highway under its jurisdiction interfere with the safety and convenience of public travel thereon, or interfere with the construction, reconstruction or maintenance thereof, it may cut and remove the trees and hedges without notice, and may dispose of the trees and hedges in such manner as it deems proper.

Subd. 4. (REMOVAL OF TREES AND HEDGES NOT ACQUIRED BY ROAD AUTHORITIES) When the trees and hedges have not been acquired, the road authority may cut and remove trees and hedges from within the limits of highways under its jurisdiction when the road authority determines that the trees and hedges interfere with the maintenance or reconstruction of the highway or interfere with the safety and convenience of public travel thereon.

Subd. 5. (HEARINGS) Prior to ordering the cutting and removal of trees and hedges not acquired, the road authority shall fix a time and place

of hearing to consider the cutting and removal of such trees and hedges. The owners of the abutting land shall be given written notice of the hearing at least ten days prior to the date fixed therefor. At the hearing the abutting owners shall be given the opportunity to be heard.

Subd. 6. (NOTICE OF DETERMINATION) After the hearing the road authority shall serve notice upon the abutting owners of its determination as to the trees and hedges. A copy of the order or resolution shall be attached to the notice.

Subd. 7. (APPEAL FROM DETERMINATION TO REMOVE) Any abutting owner may, within 30 days from the receipt of the notice required in subdivision 6, appeal to the district court from the determination by filing with the clerk of the court a notice of appeal, together with a bond of not less than \$500, approved by the court, conditioned to pay all costs arising from the appeal in case the determination of the road authority is sustained. The notice of appeal shall state the grounds thereof and a copy shall be forwarded to the road authority. The appeal shall be entered upon the court calendar for trial at the next general term of court, and either party shall be entitled to a jury trial.

Subd. 8. (DISPOSITION OF TIMBER AND WOOD) If no appeal is taken, or if upon appeal the road authority's determination is sustained, the road authority may cut and remove the trees and hedges. The timber and wood thereof shall belong to the abutting owners, and the road authority shall cause the wood and timber to be placed upon the abutting owner's property adjacent to the highway, doing no unnecessary damage to such property. In case the abutting owner notifies the road authority that he does not want the timber or wood, the road authority shall dispose of the wood and timber in such manner as it deems proper.

Subd. 9. (REMOVAL OF TREES BY ABUTTING OWNER) No person shall cut or remove trees or hedges acquired by the road authority unless the road authority shall have first consented to the cutting or removal.

History: Subdivisions 1 and 2 from N. S. '57, Sec. 160.201; remaining subds. from N. S. '57, Sec. 160.211.

COMMENT: Subdivision 1 provides for the planting of trees outside the limits of the highway with the consent of the abutting property owner. Subdivision 2 provides that if trees are planted with the consent of the owner, they shall not be thereafter removed without the consent of the road authority. Subdivision 2 is not part of the present law. The remaining proposed subdivisions modify the existing law to a great extent.

The present law provides that trees and shrubs may only be cut and removed from the limits of the right of way when they interfere with the keeping of surfaces in good order or cause snow to drift and accumulate upon the road. It further provides that after a determination is made to cut down the trees, the road authority must notify the owner to remove the trees. If the owner fails, then the road authority may remove the trees, after another notification to the abutting owner to remove the same from the right of way limits within 30 days. If the timber and wood are not removed within such time, the road authority may remove the trees and must then sell the timber and pay over the proceeds to the owner after deducting the cost of cutting and sale. The present law, of course, also provides for an appeal by the owner from any determination of the road authority.

The proposed revision provides that the road authority may acquire the trees within the limits of the highway by purchase, gift or condemnation. It provides that thereafter if such trees interfere with the safety or convenience of public travel or interfere with the construction, reconstruction or maintenance of highways, the road authority may remove the trees without notice to the abutting property owner. It further provides that if the trees or hedges have not been acquired by the road authority and the road authority determines that the trees must be removed, a hearing will be had on the determination and the abutting owner shall be given an opportunity to be heard. It provides for service of the determination of the road authority on the abutting owner after the public hearing and provides for a method of appeal by the abutting owner to the district court.

Much of the trouble can be avoided if the road authority acquires the trees and hedges within the limits of the highway. The state highway department has been following this practice for a period of years and thereby has avoided the necessity of serving notice upon the abutting property owner. It has also avoided the time consuming method of ordering the owner to cut the trees, the wait of 30 days and thereafter removing the trees and attempting to sell the wood and timber. The method set up in this section gives the property owner at least as much protection as the old section and will provide an economical and practical method of handling this problem.

Sec. 23. (DESTRUCTION OF NOXIOUS WEEDS) Road authorities, including road authorities of cities, villages and boroughs, shall cause all noxious weeds on their respective highways and streets to be cut down or otherwise destroyed or eradicated as often as may be necessary to prevent the ripening or scattering of seed and other propagating parts of such weeds.

History: M. S. '57, Sec. 20.09.

COMMENT: In the present statutes this particular section of the law is not included within the highway provisions. Since it imposes a duty upon the road authorities to remove weeds on highways and streets, it is incorporated in the highway laws by this proposed revision.

Sec. 24. (LOGGING RAILROADS ACROSS HIGHWAYS) Subdivision 1. (PERMISSION TO LOCATE) The road authorities may grant to the owner of any logging railroad permission to locate, construct and maintain a logging railroad across any highway under their jurisdiction.

Subd. 2. (CONTENTS OF PERMIT) The permit shall specify the place at which such railroad shall cross the highway, the time during which it may be maintained thereon, which shall in no case exceed five years, the manner of its construction and maintenance, and the measures that shall be taken for the protection of the highways and of the public using the highways.

Subd. 3. (CONTROL BY ROAD AUTHORITY) The construction and maintenance of the railroad crossing shall be under the supervision and control of the road authority granting the permit.

Subd. 4. (REMOVAL FROM HIGHWAY) The person to whom the permit is granted shall, at the expiration of the time therein limited or at such earlier time as the crossing is no longer necessary, remove the railroad therefrom and restore the highway to such condition as the authority granting the permit shall require.

Subd. 5. (SURETY BOND) Every person to whom the permit is granted shall execute and deliver to the road authority granting the permit a good and sufficient surety bond in such sum as shall be fixed by the road authority granting the permit, conditioned for the compliance with and performance of all of the terms and conditions of the permit and of this section.

History: M. S. '57, Sec. 161.14 through 161.17.

COMMENT: The four sections of the present law have been incorporated into one section with five subdivisions. The proposed revision is shorter by reason of the removal of superfluous language. There has been no substantive change except that the authority to grant permits has been extended to include town boards.

Sec. 25. (TUNNELS UNDER HIGHWAYS) Subdivision 1. (PERMIT TO CONSTRUCT) The road authorities may permit any owner or lessee of land abutting both sides of a highway to tunnel under the highway for such purposes as the owner or lessee deems desirable in utilizing the lands. The tunnel and appurtenances thereto shall be constructed and maintained so as not to endanger or unduly inconvenience the public in the use of the highway and, except as hereinafter provided, shall be constructed by the owner or lessee at his expense.

Subd. 2. (CONTENTS OF PERMIT) The permit shall specify the location, size, kind, design, manner of construction of the tunnel and such safeguards for the traveling public that the road authority deems necessary. All tunnels, bridges and appurtenances thereto shall be constructed in accordance with the permit.

Subd. 3. (TUNNEL TO BE MAINTAINED BY ROAD AUTHORITY) Any tunnel constructed as provided in this section under any highway shall be maintained by the road authority having jurisdiction over the highway.

Subd. 4. (AGREEMENTS FOR CONSTRUCTION AND MAINTENANCE) When a road authority determines that the construction of such tunnel is necessary for the safety and convenience of public travel, it may construct and maintain the tunnel, or it may enter into agreements with the abutting landowners for the equitable division of the costs of the construction.

History: M. S. '57, Sec. 160.221.

COMMENT: The present law covers many matters which should be divided into subdivisions. By exclusion it does not give the state highway department the power to construct a tunnel at the expense of the state even though a tunnel would be necessary for the safety and convenience of public travel. The state has constructed tunnels at its own expense where necessary. There is definitely a question whether or not it has this power. The present law also provides that when a public road is not on a section or sectional subdivision line and a tunnel is constructed under it, the tunnel shall be maintained by the property owner for the first year and thereafter maintained by the road authority. Under the proposed revision any tunnel constructed under any highway shall be maintained by the road authority. The present law only gives authority to construct a tunnel under roads for the purpose of permitting cattle to pass from one side to the other. The proposed revision is broader insofar as it authorizes tunnels for purposes for which the land owner deems desirable in utilizing lands lying on either side of the road.

Sec. 26. (MOVING BUILDINGS OVER HIGHWAYS) Subdivision 1. (TO BE MOVED WITHOUT UNNECESSARY INTERFERENCE) Buildings or structures moved or caused to be moved upon, across or along any road or street, including city, village or borough streets, shall be moved in such manner as not to unnecessarily interfere with, damage or destroy any bridges, trees, hedges, fences, telephone or electric power poles, wires, cables, or any appurtenance upon the road or street.

Subd. 2. (PERMIT) Buildings or structures together with the vehicle or vehicles moving same of a size or weight exceeding the maximums specified in Chapter 169 and acts amendatory thereto shall not be moved or caused to be moved upon, across or along any road or street without first obtaining a written permit therefor from the road authority including road authorities of cities, villages and boroughs having supervision over such road or street. The county board as to highways under its jurisdiction may authorize the county engineer to issue the permits.

Subd. 3. (SURETY BOND) The road authority, as a condition to granting the permit, may require a surety bond in such sum as it deems necessary conditioned for the payment of all damages caused by the moving of the structures or buildings over the roads or streets.

Subd. 4. (COST OF REMOVING FENCES, POLES ETC.) No person, firm or corporation shall be required to displace or temporarily remove his or its fences, poles, wires, cables or other appurtenances to permit the moving of any building or structure upon, along or across the road or street, nor shall guard rails and appurtenances placed upon the road or street be displaced or moved for like reason until the reasonable cost of the displacement, removal and replacement shall have been paid or tendered.

Subd. 5. (NOT TO APPLY TO ROAD BUILDING OR MAINTENANCE EQUIPMENT)
The provisions of this section shall not apply to road building or maintenance equipment while operating on a road or street under construction or maintenance.

History: M. S. '57, Sec. 160.281.

COMMENT: The present law provides that no person shall move any building or structure upon, across or along any public road in such manner as to obstruct traffic without first obtaining a permit. It appears that a permit is unnecessary until after a highway is obstructed and the damage done. The proposed revision provides that no building or structure, together with the vehicle moving same, of a weight or size

exceeding the maximum specified in the Highway Traffic Regulations Act shall be moved over, across or along a public road without first obtaining a permit. It also provides that the county board as to roads under its jurisdiction may authorize the county engineer to issue the permits. Road building and maintenance equipment are excepted from the provisions of this section.

Sec. 27. (PARTICULAR USES OF RIGHT OF WAY AND MISDEMEANORS) Sub-division 1. (PUBLIC NOTICES) With the approval of the proper road authority, billboards for the use and purpose of displaying public notices only may be erected within the limits of any public highway, including city, village or borough streets.

Subd. 2. (BENCHES AND SHELTERS FOR PERSONS WAITING FOR STREET CARS AND BUSES) Benches and shelters for the convenience and comfort of persons waiting for street cars or buses may be placed and maintained within the limits of any street or highway, including streets and highways within cities, villages and boroughs, when a license or permit therefor is first obtained from the road authority. The owners may place advertising on the benches if authorized by the license or permit. The benches shall not be placed or maintained on the portion of the highway or street prepared and maintained for vehicle traffic.

Subd. 3. (OUTDOOR TELEPHONE BOOTHS) Outdoor telephone booths may be placed and maintained within the limits of any public highway, including city, village or borough streets, when authorized by a written permit issued by the proper road authority.

Subd. 4. (MISDEMEANORS) Except for the actions of the road authorities, their agents, employees and contractors in carrying out their duties imposed by law or contract, and except as hereinbefore provided, it shall be unlawful to:

- (1) Obstruct any highway;
- (2) Plow or work the right of way of any highway;

- (3) Dig any holes in any highway;
- (4) Remove any earth, gravel or rock from any highway;
- (5) Obstruct any ditch draining any highway or drain any noxious materials into any ditch;
- (6) Place or maintain any building or structure within the limits of any highway;
- (7) Place or maintain any advertisement within the limits of any highway;
- (8) Paint, print, place or affix any advertisement or any object within the limits of any highway;
- (9) Deface, mar, damage or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guard-rails, drains or any other highway appurtenance on or along any highway;
- (10) Remove, injure, displace or destroy right of way markers, or reference or witness monuments, or markers placed to preserve section or quarter section corners;
- (11) Improperly place or fail to place warning signs and detour signs as provided by law;
- (12) Drive over, through or around any barricade, fence or obstruction erected for the purpose of preventing traffic from passing over a portion of a highway closed to public travel or to remove, deface or damage any such barricade, fence or obstruction.

Violations hereof shall be prosecuted by the county attorney of the county where the violations occur. Any person convicted of such violations shall be guilty of a misdemeanor.

Subd. 5. (REMOVAL OF UNAUTHORIZED ADVERTISEMENTS, BUILDINGS OR STRUCTURES IN OR ON A PUBLIC HIGHWAY) The road authorities may take down, remove or destroy any advertisement, building or structure in or upon any highway in violation of this section.

History: Subdivision 1 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 2 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 3 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 4 is from M. S. '57, Sec. 160.161, Sec. 160.271 and Sec. 161.03, subd. 7; Subd. 5 is from M. S. '57, Sec. 160.271, subd. 3.

COMMENT: The present law has misdemeanor provisions scattered in various sections. The specified exceptions are also scattered as may be seen from the history set forth after this section. The exceptions are difficult to find since they are obscured within long subdivisions setting forth unlawful acts. The proposed revision authorizes in separate subdivisions certain specified acts that are necessary and that would otherwise come within the prohibitions set forth in subdivision 4.