CHAPTER 24-06
LOCAL ROAD IMPROVEMENTS

24-06-01. Board of township supervisors has supervision over township roads.

The board of township supervisors of any township in the state has general supervision over the roads, highways, and bridges throughout the township.

24-06-02. Township may purchase road machinery - Credit terms.

The board of supervisors of any township may contract for and purchase, upon credit or otherwise, any road machinery, implements, or equipment for the use of such township.

24-06-03. Election required if road machinery costs more than four hundred dollars.

Repealed by S.L. 1975, ch. 241, § 1.

24-06-04. Cost of township road machinery - How paid.

Road implements purchased by a township must be paid out of the highway taxes of the township and may be paid in not to exceed five annual installments. A copy of the note or contract issued upon the purchase must be filed in the office of the township clerk, and such township clerk shall present a statement of the sum due thereon to the board of township supervisors at each regular meeting held thereafter for the audit of the township claims and charges, and the board shall audit the same. Not more than one-half of the highway taxes of the township may be applied to the payment thereof in any one year.

24-06-05. Overseer responsible for machinery.

Each overseer of highways is responsible personally for the proper use and care of all implements while in the overseer's charge, or in use in the overseer's district, and any overseer of highways, or other person who, through negligence or willfully injures or damages such implements or permits them to be injured, is liable for such damage to the township, in an action to be brought by the chairman of the board of township supervisors in the township or any adjoining township.

24-06-06. Storage of implements.

Each board of township supervisors shall provide suitable places for the storage and proper housing of all tools, implements, and machinery owned by the township and shall cause such tools, implements, and machinery to be stored and housed therein when not in use.

24-06-07. Road machinery - Sale, purchase, lease.

In townships owning road machinery, the board of township supervisors may make such disposition of the same as in its discretion is best for the interests of the township, or it may purchase or lease such machinery as may be necessary.

24-06-08. Contracts for township road improvements - Notice - Bids.

Repealed by S.L. 1953, ch. 181, § 1.

24-06-09. Contract for township road and bridge work by county, township, or soil conservation district.

The board of supervisors of any township may enter into a contract with the board of county commissioners of the county, the board of supervisors of another township, or the directors of a soil conservation district for the construction, improvement, or repairing of township roads and bridges without the necessity of advertising for bids.

24-06-10. Roads contiguous to municipality - Grades - How established.

In all places where highways are improved and graded under the contract system in a township where land contiguous to, adjoining, and outside of the limits of any city has been surveyed into a block or blocks and divided into city lots, the person to whom such contract is

awarded shall comply strictly with the ordinances of such city as to roads, streets, grades, space for sidewalks, berms, and gutters, if, in the opinion of the board of township supervisors having control of the same, the cost of such grading is one hundred dollars or upwards. An estimate, profile, and cross section of such desired improvement must be made by the county surveyor of said county, and the contract for such improvement must be let to the lowest responsible bidder not a member of the said board and the work done under such contract may not be accepted or paid for until said surveyor has reported that the said contract has been complied with substantially. All roads and streets in city additions of outlots must be graded according to the requirements of such city ordinance or custom as to space for sidewalks, berms, and gutters.

24-06-11. Construction of crossings over ditches, drains, and roads.

Whenever a township constructs a ditch or drain in connection with road building, and such ditch, drain, or road interferes with the ingress or egress of any owner of adjoining land, the township shall install crossings at such point or points as will afford the owner or owners of the premises suitable ingress thereto or egress therefrom.

24-06-12. Townships may unite efforts.

The electors of any township, at the annual township meeting, may direct such portion of the road tax to be expended on the highways in an adjoining township as they deem conducive to the interests of the township. In such instance, labor and taxes must be expended under the joint direction of the townships interested and furnishing the same.

24-06-13. Townships composed of more than one congressional township - Expenditure of road taxes.

Where more than one congressional township is included within a civil township, the road taxes raised within the limits of each congressional township must be expended within such congressional township, unless raised to be expended outside of such civil township.

24-06-14. District overseer of highways.

In unorganized territory, the board of county commissioners shall appoint a district overseer of highways whose power and duties are the same as in an organized township, and whose compensation must be fixed by the board of county commissioners to be paid on presentation of a verified bill at the regular meeting of the board of county commissioners. The board may, by resolution, appoint one or more of its members as district overseers.

24-06-15. Road taxes in unorganized territory - How expended.

The board of county commissioners shall order the expenditure of all road taxes paid into the county treasury from unorganized territory in the improvement of the highways, paying the district overseer of highways, purchasing implements, and repairing bridges in the road district in which such taxes were levied, under such regulations as it may deem most expedient for the public interests, and for this purpose shall order the payment of such sum by the treasurer to the persons performing such labor upon the certificate of the overseer of highways.

24-06-16. Report of district overseer of highways.

On or before the first Monday in January in each year, each district overseer of highways appointed by the board of county commissioners shall make a report to the board of the overseer's doings as such during the preceding year, the amount of labor performed, and the number of days' labor necessarily performed by the overseer in the discharge of the overseer's duties, and the board of county commissioners thereupon shall cause a warrant to be drawn on the county treasurer in favor of such overseer for such services.

24-06-17. Road taxes must be paid in cash.

All road taxes and assessments upon persons or property must be paid in cash, and the township clerk, immediately after the board of township supervisors has made the levy of taxes for road purposes, shall notify the county auditor of the amount of the levy. The county auditor

shall enter the same upon the county tax lists to be collected by the county treasurer in the same manner as other township taxes are collected. Such taxes, when collected, constitute a road fund belonging to the township in which it is levied, and must be returned by the county treasurer to the township treasurer.

24-06-18. Road taxes to be paid to local subdivisions.
Repealed by S.L. 1953, ch. 179, § 2.

24-06-19. Expenditure of road taxes.
The board of township supervisors shall order the expenditure of all road taxes paid into the township treasury in the improvement of the highways under such regulations as it may deem most expedient for the public interests, and for this purpose, shall issue a warrant upon the road funds of the township upon the certificate of the township overseer that such work has been performed satisfactorily; provided, however, that not over fifty percent of the township road and bridge fund, collected within each tax year may be expended upon highways which are a part of a state or county highway system as designated under the provisions of section 24-01-02, 24-01-05, or 24-05-16, unless such expenditure is specifically authorized by resolution adopted by a majority of the electors of the township present and voting at any special or annual township meeting. This limitation also applies to any special road fund as set up under section 57-15-19.2.

24-06-20. Work on roads to proceed upon levy of taxes.
The officers charged with the duty of expending road taxes may proceed at once, upon the levy of taxes, with the work upon the roads in their districts and may cause warrants to be issued in payment thereof in anticipation of the current year's taxes.

24-06-21. Road tax may be worked out.
Repealed by S.L. 1951, ch. 178, § 5.

24-06-22. Supervisors to fix compensation for road work, when.
Repealed by S.L. 1951, ch. 178, § 5.

24-06-23. County commissioners to fix rate, when.
Repealed by S.L. 1951, ch. 178, § 5.

24-06-24. Compensation for road work when not fixed.
Repealed by S.L. 1951, ch. 178, § 5.

24-06-25. Work done prior to August first.
Repealed by S.L. 1951, ch. 178, § 5.

24-06-26. Ditches to drain highways - Proceedings to establish.
Whenever any overseer of highways files with the board of township supervisors or with the board of county commissioners, as the case may be, the overseer's affidavit stating that a certain road in the overseer's district runs into or through swamp, bog, meadow, or other lowland, and that it is necessary or expedient that a ditch should be constructed and maintained through land belonging to any person, and also stating the probable length of such ditch and the width and depth of the same as near as may be, the point at which it is to commence, its general course and the point at or near which it is to terminate, the names of the persons owning the land, if known, and a description of the land over which such ditch must pass, the board of township supervisors or board of county commissioners, as the case may be, if the right to construct and maintain such ditch is not given voluntarily by the person owning the land over which it is to pass, shall cause proceedings to be instituted in its name under the provisions of chapter 32-15 to acquire the right to construct and maintain the same.

24-06-26.1. Township road and drainage construction standards.

Whenever the construction or reconstruction of a township road or bridge, the insertion of a culvert in a township road, or the construction or reconstruction of a ditch or drain in connection with a township road affects the flow of surface waters and increases the surface waterflow through ditches, drains, bridges, and culverts in other townships, the board of township supervisors or the township overseer of highways of the township undertaking the construction or reconstruction shall give notice to the boards of township supervisors or township overseers of highways in all townships affected by the construction or reconstruction projects.

The boards of township supervisors of townships affected by any road or bridge construction that changes or increases the flow of surface waters shall cooperate in the construction projects expending on any portion of the projects the portions of the road and bridge tax as deemed conducive to the interests of the township. The board of township supervisors shall construct the ditches, drains, bridges, and culverts in accordance with stream crossing standards prepared by the department and the state engineer. A township, board of township supervisors, and township overseer of highways are not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

24-06-26.2. Maintenance of township road ditches - Limited duty.

The party with an interest in land adjacent to a township road is not responsible for maintaining that ditch unless improper conservation practices on that party's adjoining land have led to unreasonable wind and water erosion, not commonly experienced in the locality, which resulted in conditions adversely affecting the ditch. On the occurrence of such improper conservation practices, the board of township supervisors may require the adjoining party with an interest in the land to clean the ditch at that party's expense. If that party fails to clean the ditch, the procedures applicable to the duty to cut weeds under chapter 63-05 apply with respect to the cleaning of the ditch.

24-06-26.3. Maintenance of township road ditches by private party - Power of board of township supervisors - Approval - Standards of construction.

The board of township supervisors may authorize any private party to maintain, clean, or shape a ditch along a township road at that party's own expense and in accordance with this section. In maintaining, cleaning, or shaping a ditch, the private party may not spread any soil or debris from that ditch along adjoining land without the permission of all parties with an interest in that land. The ditch may be on a continuous grade from the bottom of the upstream water outlet to the bottom of the downstream water outlet structure. The grade ratio in that distance must be a slope that, in light of the soil types and potential for vegetative cover in the ditch, will resist erosion. In order for any action to be considered maintenance of a ditch in accordance with this section, the ditch must be entirely contained within the township right of way, must have a bottom that is not wider than twelve feet [3.66 meters], and may not alter the side slope of the ditch to a slope steeper than the existing side slope. The board of township supervisors may not approve private maintenance of a ditch that does not comply with the standards of this section. If the board of township supervisors denies permission to maintain a ditch under this section, the petitioner may appeal that decision to the water resource board that has jurisdiction over the ditch. This section does not relieve any person from compliance with any requirements for a drainage permit which are required by statute or rule.

24-06-27. Penalty for injuring ditch.

Any person who obstructs or in any way injures any ditch opened as provided in section 24-06-26 is liable to pay to the overseer of highways of such road district double the damages caused by such injury, which must be assessed by the jury or court, and also is guilty of a class B misdemeanor, and the civil damages, when collected by the overseer, must be deposited in the road fund established by section 24-06-17, and must be expended in accordance with section 24-06-19.

24-06-28. Obstruction of section lines prohibited - Exception - Certain fences not considered obstructions - Obstructions and traffic safety hazards - Penalty.

1. A person may not place or cause to be placed any permanent obstruction within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or the board of township supervisors, as appropriate. The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along the section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.
2. A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.
3. Subsection 1 may not be construed to prohibit construction of fences:
   a. Along or across section lines which have been closed pursuant to section 24-07-03 or which have not been opened because construction of a road is impracticable due to the topography of the land along the section line, but such fences are subject to removal as provided in section 24-06-30.
   b. Across section lines which have not been closed pursuant to section 24-07-03 if cattle guards are provided in accordance with chapter 24-10 where fences cross the section lines.
4. The construction of fences pursuant to subsection 3 may not be considered an obstruction of section lines and any person who damages any fence or who opens and fails to close any gate constructed under subsection 3 is guilty of an infraction.
5. Subsection 2 does not apply to a railroad company performing maintenance and repair work of railroad track, crossings, or other railroad facilities.

24-06-29. Removal of permanent obstructions - Removal of obstructions and traffic safety hazards - Cost.

1. If a person places or causes to be placed a permanent obstruction within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, the board of county commissioners or board of township supervisors, as appropriate, when a public highway is opened, shall notify the owners of adjacent property to remove the permanent obstruction. Written notice by registered mail to the record owner of the adjacent property mailed to the owner's last-known address and to any other persons in possession of the property constitutes valid notice. If the owners fail to remove the permanent obstruction within thirty days after the notice is mailed, the board of county commissioners or the board of township supervisors, as appropriate, shall remove the permanent obstruction. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.
2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard.
3. Subsection 2 does not apply to railroad facilities.

24-06-30. Removal of fences - Notice - Cost.

When a public highway is opened along any section line, the board of county commissioners or the board of township supervisors, as the case may be, shall notify the owner of adjacent property to remove any fences not constructed pursuant to subsection 2 of section 24-06-28 within thirty-three feet [10.06 meters] of the section line in the manner provided for notice to remove stones, trees, or rubbish. If the owner of adjacent property fails to remove the fences within thirty days after the notice is given, the board of county commissioners or the board of township supervisors, as the case may be, shall remove the fences. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.

24-06-31. Obstructions in highway.

Each overseer of highways having personal knowledge, or on being notified in writing, of any obstruction in the highway or public street in the overseer's district immediately shall remove or cause any such obstruction to be removed.

24-06-32. Penalty for refusal to serve as road overseer.

Repealed by S.L. 1949, ch. 193, § 1.

24-06-33. Method of construction of highway ditches.

Repealed by S.L. 1953, ch. 177, § 120.

24-06-34. Notice to water resource districts.

Whenever a county or township plans to construct or reconstruct a bridge, install or modify a culvert, or construct or reconstruct a drain in connection with a roadway or railway, the county or township shall provide notice in any way to the water resource board of the water resource district in which is located the bridge, culvert, or drain. This notice must be given at least thirty days prior to the date construction or reconstruction is to begin. The water resource board may submit comments concerning the construction or reconstruction to the appropriate officials of the county or township. This section does not apply in times of emergency, unexpected events, or acts of God.