Chapter 369

1965 REPLACEMENT PART

County Market Roads; County Line Roads

GENERAL PROVISIONS

369.010 "County court" defined

COUNTY MARKET ROADS

369.110 Selection and designation of county market roads
369.120 Maps of market roads; copies to highway commission
369.130 Designation of market roads by engineer; recording designation
369.140 Survey and report by engineer
369.150 County court may direct survey
369.160 Procedure when established corners disturbed
369.170 Adding to market road system
369.180 Claims for road or bridge work; filing; certificate of engineer; warrants
369.190 Contracting market road work
369.200 Contractor's bond
369.210 Plans for bridge and culvert work furnished by and cost statement filed with highway commission
369.220 Bridge and culvert work by contract or own forces
369.230 Opening and recording of bids
369.240 Approval of plans by, and records filed with, highway commission
369.250 Payrolls for county's own forces
369.260 Inspections and reports by engineer
369.270 Funds expended on market roads
369.280 Maintenance fund for market roads
369.290 Tax levy for market road purposes; apportionment

COUNTY LINE ROADS

369.410 Establishment, maintenance, alteration or vacation of county line roads
369.420 Petition for county line roads; signatures and contents
369.430 Dedication of county line road
369.440 Surveying and platting county line roads
369.450 Petitions in respective counties; notice; bond; procedure applicable
369.460 Joint board of viewers; duties; proceedings in each county
369.470 Allotting sections of county line road
369.480 Construction and maintenance of boundary line roads

CROSS REFERENCES

Liability for property damage from grade changes, 105.755

369.110

County engineer, employment, 368.055
County roads, Ch. 368

Market roads as secondary state highways, selection by highway commission, 366.290

369.410

County roads, Ch. 368
Joint county road building districts, 371.205
Vacation of roads, 271.010 to 271.230

GENERAL PROVISIONS

369.010 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

369.020 to 369.100 [Reserved for expansion]

COUNTY MARKET ROADS

369.110 Selection and designation of county market roads. At the time of the appointment of the county engineer, or as soon thereafter as practicable, the county court shall designate and select from the public highways of the county, all the main or principal roads. This selection and designation may include all the main traveled roads of the county, exclusive of state highways and secondary state highways, which connect with the market places of commercial or community centers of the county and, as far as possible, with the county roads in adjoining counties. Highways so designated and selected for improvement under ORS 369.110 to 369.290 shall be known as the county market road system.

369.120 Maps of market roads; copies to highway commission. As soon as the county roads are selected and designated as provided in ORS 369.110, the county court shall cause the market roads to be plainly marked on a map. Copies of this map shall be furnished to the State Highway Commission.

369.130 Designation of market roads by engineer; recording designation. As soon as the map mentioned in ORS 369.120 is approved by the county court and returned to the county clerk for filing, showing the final designation of the market roads of the county, the county engineer shall in writing designate each road by some appropriate number, name or letter, and shall clearly designate the starting point and terminus of each road, together with such intermediate places or monuments as there may be. This designation shall be recorded at length in a county road book prepared for that purpose.

369.140 Survey and report by engineer. (1) Upon the recording of the designation under ORS 369.130, the county engineer shall survey the particular roads designated for immediate improvement and report to the county court the results of his work.

(2) The county engineer's report shall include a recommendation as to the type or character and extent of improvement which should be employed in connection with each road or the portion of the road system proposed for improvement during the year.

(3) The survey and report shall:

(a) Be on the basis and with the object in view of the permanent improvement of the market road system, as to road work, bridges and culverts.

(b) Consist of an accurate plan and profile of the roads, showing cuts and fills, outline of grades and all other data of like nature.

(c) Show the location of all proposed bridges and culverts, together with complete data as to size of structure needed or recommended, foundation conditions, watershed areas and other like data.

(d) Be submitted on blank forms furnished for the purpose by the State Highway Commission.

(4) Proper bench marks shall be established on each permanent bridge and culvert, either at the time of making survey or at some future date, the elevation and location of which shall be duly recorded on both profile and plan of road for future reference.

(5) The county engineer shall clearly designate and credit on the plan and profile all existing permanent culverts, bridges and grades. In case of bridges and culverts he shall furnish a complete report covering their condition on blank forms to be furnished for this purpose by the State Highway Commission.

369.150 County court may direct survey. In order that the county court may proceed with a portion of the road program, it may designate the order in which the different roads shall be surveyed and planned, and may order the county engineer to survey and report on certain named sections of certain roads before completing the survey and report of the entire market road system.

369.160 Procedure when established corners disturbed. Whenever it is necessary in grading the highways to make a cut which will disturb or destroy, or a fill which will cover up a government or other established corner, the county engineer shall establish permanent witness corners and make a record of the same, which shall show the

distance and direction the witness corner is from the corner disturbed or covered up.

369.170 Adding to market road system. The county court may, in the same manner and according to the same procedure as for the preparation of the market road system, add to the system from time to time such roads or highways as in the judgment of the county court should be made a part of the county market road system.

369.180 Claims for road or bridge work; filing; certificate of engineer; warrants. (1) All bills or claims for road or bridge work, whether for original construction or for repair, including bills for labor, materials and equipment, shall be filed in itemized form with the county clerk, and the county court shall require that the bills or claims be certified to by the county engineer before being passed upon and allowed for payment.

(2) Before any warrant is issued by the county clerk upon the county market road fund, in payment for any work, material or equipment, whether for construction, maintenance or repairs, the claimant must secure the certificate of the county engineer to the effect that the improvement was made in accordance with the approved plans and specifications and that the materials, services or equipment for which compensation is claimed were furnished and performed for the county on the particular job in question, or if for equipment, that the same was purchased for use in market road construction. When so indorsed and certified, warrants may be drawn by the county clerk in payment of the claims, provided they have been approved for payment by the county court.

(3) If the county engineer makes the certificate when the work was not done in accordance with the plans and specifications, the work was not performed nor the materials furnished, and the county sustains a loss thereby, then the amount of the loss may be recovered upon the county engineer's bond and his bond shall be liable therefor.

369.190 Contracting market road work. The construction, improvement, maintenance or repair of the market roads must be done by contract, except as provided in ORS 369.220. When the work is to be done by contract, the county shall advertise for bids as provided by the laws of this state relative to the construction or improvement of county roads by the county court. Partial payments may be allowed by the county court on contract work on the basis of the county engineer's certificate and estimates.

369.200 Contractor's bond. The county court shall require all contractors to give a bond, as is now required by law for the faithful performance of the contract, in a sum not less than 50 percent of the amount bid.

369.210 Plans for bridge and culvert work furnished by and cost statement filed with highway commission. Plans and specifications for all bridges and culverts shall be furnished without cost to the counties by the State Highway Commission, and all work shall be done in accordance therewith. When the work is completed and approved by the county court, a statement of the entire cost shall be filed at once with the commission by the county clerk.

369.220 Bridge and culvert work by contract or own forces. (1) All culverts and bridge construction and repair work, together with materials therefor, of which the county engineer's estimated cost shall be $1,500 or less, may be advertised and publicly let or the county court, without advertising, may do the work with its own forces.

(2) All culverts and bridge construction, repair work or materials, except emergency repairs, of which the county engineer's estimate cost shall exceed $1,500, shall be advertised and publicly let. The county court may reject all bids and readvertise, or do the work with its own forces. The county court may let the contract for the labor only and may furnish the material necessary in the construction of the road. Any county having its own road building equipment and organization may proceed to construct the road without calling for bids.

369.230 Opening and recording of bids. All bids received shall be publicly opened at a time and place specified in the advertisement and recorded in detail in a book kept for that purpose by the county clerk. This book shall at all times be open to the public for inspection.

369.240 Approval of plans by, and records filed with, highway commission. Before beginning the construction of any bridge or culvert by contract, day labor or with the county's own forces on any market road, the plans, specifications, estimate of costs and specific location of the bridge shall be approved by the State Highway Commission

and subsequently filed in the county clerk's office by the county engineer. No major change or modification in either plans or specifications shall subsequently be made until the same has been submitted to the commission for approval and approved. On completion a detailed statement of costs and of any additions or alterations to the plan, including complete foundation data, number and penetration of all piling and all other data affecting the future maintenance of the structure shall be added to the above records by the county engineer. All these records shall be retained in the county clerk's office as permanent records. When the work is completed and approved, a duplicate statement of the cost and a duplicate record of all changes in plans shall be filed at once with the commission by the county clerk.

369.250 Payrolls for county's own forces. The county court may authorize the county clerk to draw warrants for the amount of payrolls for labor furnished where work is done by the county's own forces when the payrolls are certified to by the county engineer in charge of the work.

369.260 Inspections and reports by engineer. The county engineer shall make an annual inspection, under the supervision of the State Highway Commission, of all bridges and culverts on the market roads of the county, exclusive of state highways. The county engineer shall report the result of the inspection upon blank forms to be furnished by the commission for such purpose. The report shall be made in duplicate, one copy of which shall be filed with the commission and one copy with the county clerk.

369.270 Funds expended on market roads. All funds procured under ORS 369.280 and 369.290 shall be expended upon market roads, but nothing in ORS 369.110 to 369.290 precludes or prevents expenditure of other road funds of the county or funds from other sources upon market roads, provided such expenditures are made under the specifications required by ORS 369.110 to 369.290.

369.280 Maintenance fund for market roads. The county court of each county shall each year include in the tax budget, for the purpose of maintaining market roads, such sums of money as deemed necessary. This maintenance fund may be provided from any road fund of the county, including the market road fund.

369.290 Tax levy for market road purposes; apportionment. The county court of any county may provide by uniform levy on all the taxable property of the county, for the specific purpose of market road construction and maintenance, such an amount as may be required for such purpose. The tax levied under this section shall be apportioned in the same manner as provided by ORS 368.710 for the apportionment of taxes levied under ORS 368.705.

[Amended by 1965 c.512 §1]

Note: The 1965 amendment to ORS 369.290 takes effect July 1, 1967. Until then, ORS 369.290 (1953 part) remains in effect.

369.300 to 369.400 [Reserved for expansion]

COUNTY LINE ROADS

369.410 Establishment, maintenance, alteration or vacation of county line roads. County roads may be established and maintained on county lines. They may be altered or vacated by concurrent action of the county courts of the counties interested. No such road shall be laid out, established, altered or vacated unless concurred in by the county court of each county adjacent to the county line. Such roads shall be referred to in ORS 369.420 to 369.470 as county line roads.

369.420 Petition for county line roads; signatures and contents. All applications for laying out, altering or vacating county line roads shall be by concurrent petition to the county court of each county bordering on the proposed road. The petition shall:

(1) Be signed by at least 12 freeholders of the road district or districts, of each county interested in the county line road.

(2) Specify the place of beginning and intermediate points, if any, and the terminating point thereof.

(3) Pray the county court of the county to cooperate with the other county in laying out, altering or vacating the described county line road.

369.430 Dedication of county line road. Property owners may dedicate to the county court, on each side of the county line, one-half of a county line road. This dedication may be accepted by the county court of each respective county.

369.440 Surveying and platting county line roads. County line roads may be surveyed and platted by concurrent action of the county courts, as nearly as practicable in the same manner as other roads of public easement are accepted and established, and they shall agree and designate the portion of the roads to be improved and kept in repair by each county.

369.450 Petitions in respective counties; notice; bond; procedure applicable. The description of the proposed road shall be the same in all the petitions, but the petitioners in each county shall sign a petition to the county court of their own county. Notice of presentation of the petition shall be given, proof thereof made and bond required of the petitioners in the same manner as is now provided by law for hearing of other road petitions, and the same procedure shall be followed whenever applicable.

369.460 Joint board of viewers; duties; proceedings in each county. (1) Upon presentation of the petition to the respective county courts, with proof that notice has been given as provided by law in such cases, each county court shall direct the board of county road viewers of its county to meet with the county road viewers of the other county, at the beginning point of the proposed county line road on a day named in the order made by the county court of the county named first in alphabetical order, or on their failure to meet on such day, within five days thereafter.

(2) Such viewers shall:

(a) All act as one board.

(b) Survey, view, lay out, vacate or alter the road.

(c) Assess the damages, if any, apportioning them to the respective counties sustaining the same, as now provided by law.

(d) Make all reports, plats, profiles, etc., in duplicate, or one for each county, and file one copy of each paper with the county clerk of each of the counties interested.

(3) Each county court shall proceed to act upon the papers mentioned in paragraph (d) of subsection (2) of this section. The report shall be subject to remonstrance of freeholders of the road district of the county, in the same manner as other county road proceedings.

369.470 Allotting sections of county line road. The joint board of road viewers mentioned in ORS 369.460 shall divide the county line road, in case they recommend its establishment, in two sections as nearly equal as may be, and agree upon and designate in their report the section to be opened and maintained by each county. Each county shall thereafter open and maintain the full width of its allotted portion of the road.

369.480 Construction and maintenance of boundary line roads. The county court of any county may:

(1) Construct, maintain and operate any county road which forms the boundary line between the county and another county in this state or any other state, or which in its meanderings crosses and recrosses such boundary line.

(2) Acquire by purchase or condemnation any lands or rights of way within this state, necessary for such boundary road.

(3) Enter into joint contracts with authorities of adjoining counties within or without the state, for the construction, operation and maintenance of such roads.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel