

68-703. Survey, map, plans and specifications; estimates of costs; changes in road; eminent domain, procedure; appeal from award. After finding the improvements to be of public utility the board shall cause an accurate survey of the roads to be made and a profile thereof, a map of the benefit district, plans and specifications for the improvement and estimates of the cost to be prepared by the county engineer, the state transportation engineer or by some experienced and competent engineer employed for that purpose. Such plans and specifications shall be for the type or types of improvement and width or widths of roadway specified in the petition, except at public road intersections where the width of the roadway may be altered. When the petition filed for the improvement of a road describes a road which has not been legally established as a public road, when additional right-of-way is necessary for the construction of the type or types of road specified in the petition, when unsurmountable obstacles are encountered on the route described in the petition or when it is found necessary to relocate the road for the purpose of eliminating sharp turns or other dangerous places, the board of county commissioners by order shall lay out, alter or widen a public road and may vacate an existing road.

All land required for the laying out, widening or altering of a road shall be acquired by the board of county commissioners by purchase or by donation. If any owner of the land shall refuse to sell or donate the land, the board of county commissioners may exercise the right of eminent domain in the following manner: The board of county commissioners by order shall determine the nature of the changes required in such road, the approximate amount of land required to be taken and the time and place at which the road will be viewed. The board shall publish a notice once in the official county paper not less than 15 days and not more than 25 days before viewing the road and by sending notice by certified mail to the owners of the property adjoining the road, at the address where the owner's tax statement is sent. Such notice shall set out the substance of the order and its date, the time and place the commissioners will commence to view the road, the changes required and the time and place of the hearing on the changes.

The board shall direct the county engineer to meet with the board at the time and place set for viewing the road, unless the new locations of roads made necessary by the changes have already been definitely surveyed and located. On the date stated in the notice or on the following day, the county commissioners shall meet at the place stated in the notice and proceed to view the road and changes required. The board shall also view all lands required to be taken for the relocation, laying out, altering or widening of the highway for the purposes described in this section and appraise the value of such lands and assess the damages thereto. The board shall forthwith file in the office of the county clerk a written report of the board's findings, along with the plat of the road as changed.

All applications for damages must be filed in writing with the county clerk on or before the first day of the next regular session of the board following the filing of the report, and the board shall at such regular session finally determine upon the amount to be paid as damages to any owner of any land. The amounts so allowed shall be paid from the special fund provided for the construction of the road in the benefit district, or for a section or project, as the board may determine.

The right of appeal from the award of damages made by the board of county commissioners shall be the same as is now provided by law in other road cases, but such appeal shall not delay any work upon or in relation to the road. If the board so requests, separate estimates of the cost of different sections of the road and of all bridges and culverts shall be prepared. If such map, profile, plans, specifications and estimates are not prepared by the state transportation engineer or under the engineer's supervision, they shall be submitted to the engineer for approval. After final approval of the plans, specifications and estimates by the state transportation engineer, they shall be filed with the county clerk and the plans and specifications shall be open for public inspection.

History: L. 1909, ch. 201, § 3; L. 1917, ch. 265, § 3; L. 1919, ch. 246, § 3; R.S. 1923, 68-703; L. 1927, ch. 251, § 1; L. 1975, ch. 427, § 129; L. 1981, ch. 173, § 72; July 1.