

Title 19 : Highways

Chapter 009 : Repairs, Maintenance, And Improvements

Subchapter 007 : Enforcing Repairs

- **Subchapter 7: Enforcing Repairs**
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(Cite as: 19 V.S.A. § 970)

- **§ 970. County road commissioners**

(a) The superior court in each county shall appoint three county road commissioners annually, no two of whom shall be residents of the same town. They shall be sworn to the faithful performance of their duties, and shall hold their office for one year or until their successors are appointed. The court shall have the power to remove any commissioner for cause at any time and shall fill vacancies.

(b) The county road commissioners may sign subpoenas requiring witnesses to appear before them, administer oaths, and shall each receive the sum of \$30.00 per day and expenses, while attending to the duties of their office. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 971. Defective roads and bridges; proceedings

When a highway or bridge is out of repair or unsafe for travel, any three citizens or taxpayers in the State may give written and signed notice of the insufficiency to the selectmen of the town in which the highway or bridge is situated, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. If the town neglects for seventy-two hours to respond by either denying the allegation or to commence work upon the

highway or bridge, or fails to continue the work in good faith and with reasonable dispatch until the highway or bridge is put in good and sufficient repair, the citizens may file with one of the County Road Commissioners or the Superior Court for the county in which the highway or bridge is situated, a written complaint signed and sworn to, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. The complainants shall also give the Commissioners security by deposit or otherwise for the costs of proceedings under the complaint. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 972. Notice and hearing

The Commissioners after receiving the complaint with a deposit or other security shall promptly notify the selectmen of the town, and one or more of the persons filing the complaint, of the time and place where the Commissioners will meet for the examination of the highway or bridge and for conducting a hearing upon the complaint. The Commissioners, or a majority of them, shall examine the highway or bridge, and hear all interested persons as to whether the public good demands that the highway or bridge be repaired and as to its condition and the repairs necessary to make it safe and convenient for public travel, and as to the costs of the required repairs. The deposit or other security shall be refunded if the complaint is valid. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 973. Report of county commissioners

If, after the examination and hearing, the commissioners determine that the highway or bridge is out of repair or unsafe for travel, and that the public good demands that the highway or bridge be repaired, they shall determine what work or repairs are necessary. They shall make a written report of their findings, containing a full description of the repairs or work required and a statement of the amount estimated to accomplish it, and shall conclude with an order to the town to make the repairs or perform the work within such time as they judge reasonable. No town shall be required to spend more than twenty cents per hundred dollars on its grand list in any one year including costs of the proceedings. If they determine that the highway or bridge is not out of repair or unsafe for travel they shall make a written report of this finding. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 974. Filing report

The Commissioners shall promptly file their report in the office of the Clerk of the county in which the highway or bridge is situated, and deliver a copy of the report to the selectmen. The report shall be final and conclusive unless an

appeal is taken as provided in section 976 of this title. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 975. Proceedings upon failure to make required repairs

At the expiration of the time limited for the repairs, without further complaint, and upon notice to the town as they deem reasonable, the commissioners shall determine if their order has been complied with by the town. If they find the town has failed to do the work ordered by them, and no appeal has been taken, they shall promptly appoint an agent to spend upon the highway the amount fixed in their report. They shall cause the agent to give a sufficient bond conditioned for the faithful performance of his or her duties and shall file in the county clerk's office a certificate, stating that their order had not been complied with, and that judgment should be entered against the town for the amount named in their report, and give the name of the person appointed to spend this amount. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 976. Judgment against town; execution

The clerk shall file the report and enter judgment in favor of the commissioners against the town for the amount named in the report, with costs. However, the aggrieved party may appeal to the superior court by filing with the county clerk within 21 days after the judgment has been entered by the clerk, a notice of appeal and a certified copy of the complaint filed with the commissioners and by serving upon the appellee within the 21 days, a copy of the notice of appeal, who shall within 21 days thereafter, enter his or her appearance. The superior court shall hear the appeal on questions of fact and law and render final judgment. In case an appeal is not taken within 21 days after judgment, the clerk shall issue execution returnable in 30 days from the date of the judgment. In the execution, the collecting officer shall be directed to pay the amount of the judgment to the agent appointed by the commissioners and the costs to the county clerk. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 977. Agent's duties and pay

The agent shall immediately repair the highway or bridge as directed in the report of the commissioners and receive out of the funds paid him or her up to \$100.00 per day for his or her services in making the repairs. Any unexpended balance shall be returned to the town treasury. He or she shall make a report of his or her activities to the commissioners within ten days of completing the repairs. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 978. Liability of agent

An agent appointed under the provisions of this chapter who wilfully or negligently fails to spend the money paid to him or her, or to make return to the commissioners or the court of the amount of money not spent by him or her in making or repairing the highway or bridge, as provided in this chapter, shall be liable to the town in which the highway or bridge is situated in a civil action, for all money paid to him or her and not spent as provided in this chapter. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 979. Road or bridge between towns or counties

If the defective highway or bridge is on the line between two towns, and both towns are liable to keep the highway or bridge in repair, notice shall be given to both towns, and they shall be jointly liable the same as if the highway or bridge were in one town. Where the highway or bridge complained of is located on the line between two counties, all questions arising under the provisions of this chapter may be tried in the county where the complaint is made. (Added 1985, No. 269 (Adj. Sess.), § 1.)