CHAPTER 17

County Roads, Bridges, and Ferries Generally

ARTICLE 1

General Provisions

**SECTION 57‑17‑10.** County supervision of public roads, highways, bridges, and ferries.

 All roads, highways and ferries that have been laid out or appointed by virtue of an act of the General Assembly, an order of court or an order of the governing body of any county are declared to be public roads and ferries, and the county supervisor and the governing body of the county shall have the control and supervision thereof. The county supervisor and governing body of the county may order the laying out and repairing of public roads where necessary, designate where bridges, ferries or fords shall be made, discontinue such roads, bridges and ferries as shall be found useless and alter roads so as to make them more useful.

HISTORY: 1962 Code Section 33‑801; 1952 Code Section 33‑801; 1942 Code Section 5812; 1932 Code Section 5812; Civ. C. ‘22 Section 2906; Civ. C. ‘12 Section 1932; 1902 (23) 998.

CROSS REFERENCES

Duties of county governing bodies with respect to bridges, see Sections 57‑13‑60, 57‑13‑70.

Library References

Bridges 1.

Ferries 1.

Highways 0.5.

Westlaw Topic Nos. 64, 172, 200.

C.J.S. Bridges Sections 5, 7 to 11, 29.

C.J.S. Ferries Section 5.

C.J.S. Highways Sections 1 to 3.

NOTES OF DECISIONS

In general 1

1. In general

State road is a public road. Heape v Berkeley County (1908) 80 SC 32, 61 SE 203. Wilson v Greenville County (1918) 110 SC 321, 96 SE 301. Whitlock v Jonesville (1919) 111 SC 391, 98 SE 142.

This section [formerly Code 1962 Section 33‑801] has to do with the use of streets and roadways for the material interest of the general public, but does not authorize a city council to grant permission to private individuals to encroach upon streets or highways which have been heretofore dedicated to the exclusive use of the public. Sloan v. City of Greenville (S.C. 1959) 235 S.C. 277, 111 S.E.2d 573, 76 A.L.R.2d 888. Dedication 60

County board, not railroad commission, has authority to lay out town highway across railroad right of way; statute conferring such authority not having been repealed or superseded by later statute. Code 1942, Sections 5812, 5813, 7367, 7368, 8227, 8434. Thomas v. Atlantic Coast Line R. Co. (S.C. 1933) 168 S.C. 185, 167 S.E. 239.

County commissioners, in discontinuing or changing the location of roads, act as a quasi court. State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297. Highways 77(1)

Granting of nonsuit in action for damages for closing portion of highway on theory that county was within its rights held erroneous. Civ.Code 1922, Section 2906 (See Code 1942, Section 5812). Powell v. Spartanburg County (S.C. 1926) 136 S.C. 371, 134 S.E. 367.

The jurisdiction of highway officers extends to highways acquired by prescription. Township Com’rs of St. Andrews Parish v. Charleston Min. & Mfg. Co. (S.C. 1907) 76 S.C. 382, 57 S.E. 201.

A contract was made with the commissioners of O. county, S.C., and with the ordinary of a county in Georgia, whereby plaintiffs, who owned a bridge across the river between said counties, were to sell them the bridge jointly, each county to pay for a one‑half interest, provided a road in O. county leading to the bridge could be established as a public highway. At a meeting of the O. board, the commissioners refused to make the road public there being opposition to its establishment; but said board subsequently joined in a petition to the legislature, then in session, and upon this petition an act was passed authorizing and requiring the board to establish such road as a public highway. Held, that the passage of such act was a substantial compliance with the condition of the executory contract, and entitled plaintiffs to recover from O. county its share of the agreed price to be paid for the bridge. McIver, C.J., and Jones, J., dissenting on the ground that the contract of the commissioners was ultra vires. Bascom v. Oconee County (S.C. 1896) 48 S.C. 55, 25 S.E. 984.

**SECTION 57‑17‑20.** Opening new or changing old roads; condemnation.

 The governing body of any county may also open new public roads and widen or change the location of old public roads when, in its judgment, such change would be for the material interest of the traveling public. It may obtain the right of way for public roads or the drainage of public roads by gift or purchase or it may condemn the lands therefor and assess the compensation and damages therefor as is herein provided. It may call to its assistance a surveyor who shall survey and lay off such roads, under its direction, so that the grade shall not exceed seven and a half inches to the crown.

HISTORY: 1962 Code Section 33‑811; 1952 Code Section 33‑811; 1942 Code Section 5813; 1932 Code Section 5813; Civ. C. ‘22 Section 2907; Civ. C. ‘12 Section 1933; Civ. C. ‘02 Section 1367; 1896 (22) 228; 1900 (23) 286; 1902 (23) 998; 1909 (26) 59; 1910 (26) 658, 674.

CROSS REFERENCES

Eminent Domain Procedure Act, see Title 28, Chapter 2.

Library References

Highways 0.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 1 to 3.

Attorney General’s Opinions

It is unlikely that a county may require property owners to dedicate land free of charge for right‑of‑way, as such would be an unconstitutional deprivation of property. 1975‑76 Op.Atty.Gen. No. 4525, p. 389 (November 23, 1976) 1976 WL 23142.

Desires of church may not be accommodated. It is doubtful that a county board of commissioners may legally authorize the alteration or relocation of a county road in order to accommodate the desires of a church. 1967‑68 Op.Atty.Gen. No. 2428, p. 82 (March 7, 1968) 1968 WL 8831.

NOTES OF DECISIONS

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1. In general

Dedication of land for a roadway is a method of conveying interest in real estate from the owner to a governmental agency. Tyler v. Guerry (S.C. 1968) 251 S.C. 120, 160 S.E.2d 889.

This section [formerly Code 1962 Section 33‑811] has to do with the use of streets and roadways for the material interest of the general public, but does not authorize a city council to grant permission to private individuals to encroach upon streets or highways which have been heretofore been dedicated to the exclusive use of the public. Sloan v. City of Greenville (S.C. 1959) 235 S.C. 277, 111 S.E.2d 573, 76 A.L.R.2d 888.

County board, not railroad commission, has authority to lay out town highway across railroad right of way; statute conferring such authority not having been repealed or superseded by later statute. Code 1942, Sections 5812, 5813, 7367, 7368, 8227, 8434. Thomas v. Atlantic Coast Line R. Co. (S.C. 1933) 168 S.C. 185, 167 S.E. 239.

Verdict for $$1,250 in proceeding to condemn land for road held not excessive (Const. art. 1, Section 17; Code 1942, Section 5813 et seq.). Howell v. State Highway Department (S.C. 1932) 167 S.C. 217, 166 S.E. 129.

One who closed road under order of county sanitary and drainage commission was not guilty of offense. Act Feb. 27, 1909, 26 St. at Large, p. 306, Section 2; Civ.Code 1922, Sections 2906, 2907 (See Code 1942, Sections 5812, 5813) State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297.

Order of county sanitary and drainage commission closing road could not be collaterally attacked, and one acting thereunder in closing road was not guilty of offense. Act Feb. 27, 1909, 26 St. at Large, p. 306, Section 2; Civ.Code 1922, Sections 2906, 2907 (See Code 1942, Sections 5812, 5813). State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297.

The State Highway Act does not impliedly abrogate the right of a county to condemn land for highways under this section [formerly Code 1962 Section 33‑811]. Locke v. Dill (S.C. 1925) 131 S.C. 1, 126 S.E. 747. Eminent Domain 19

Where the agent of the county took petitioner’s land for the use of a public road without taking any steps to condemn it, they are trespassers, and petitioner’s remedy is by an action at law, and not under Civ.Code 1912, Section 1933 (See Code 1942, Section 5813), relating to condemnation. (Per Fraser and Watts, JJ.) Farr v. Steele (S.C. 1924) 128 S.C. 293, 121 S.E. 792.

The presumption is that the statutory mode has been followed where the road has been opened. Murray v. Lower Bd. of Com’rs of Roads, for St. Bartholomew’s Parish (S.C. 1845) 1 Rich. 335.

The statutory mode of obtaining a right of way must be followed. York County v. Fewell (S.C. 1884) 21 S.C. 106.

2. Constitutional issues

Provisions of this section [formerly Code 1962 Section 33‑811] as to opening new roads and condemning land therefor are constitutional. Hutchison v York County (1910) 86 SC 396, 68 SE 577. Gilmer v Hunnicutt (1900) 57 SC 166, 35 SE 521. Jennings v Sawyer (1936) 182 SC 427, 189 SE 746.

3. Gift of land for roadway

Those who would assert that property owners gave property to the county for road purposes and parted title with the same should be required to definitely prove a gift of interest in real estate by evidence which is cogent and convincing. Tyler v. Guerry (S.C. 1968) 251 S.C. 120, 160 S.E.2d 889.

4. Lands already dedicated to public use

Authority to condemn lands already dedicated to a public use, lands devoted to cemetery purposes being an example, must be given expressly or by necessary and reasonable implication. Board of Com’rs for Clarendon County v. Holladay (S.C. 1937) 182 S.C. 510, 189 S.E. 885, 109 A.L.R. 1496. Eminent Domain 47(1)

This section does not give the authority to condemn land devoted to cemetery purposes. Board of Com’rs for Clarendon County v. Holladay (S.C. 1937) 182 S.C. 510, 189 S.E. 885, 109 A.L.R. 1496.

5. Abandonment and relocation

Abandoning parts of an old road, and building a new road near by, is not an abuse of discretion, where the change eliminated dangerous curves and grade crossings. Sloan v. State Highway Dept. (S.C. 1929) 150 S.C. 337, 148 S.E. 183. Highways 103.1

The Highway Department did not abuse its discretion in relocating a short section of road in close proximity to an old road, in order to eliminate railroad crossings. Hargrove v. Sawyer (S.C. 1929) 149 S.C. 79, 146 S.E. 685. Highways 103.1

Discretion as to relocation of roads. The Highway Department has discretion to make such relocation of roads as will conform to the best engineering knowledge in road construction. Hargrove v. Sawyer (S.C. 1929) 149 S.C. 79, 146 S.E. 685. Highways 103.1

Neighborhood roads are public roads created by 20 years’ prescriptive user, and sanitary and drainage commission for Charleston county has right to abandon them as well as other public roads. Act Feb. 27, 1909, 26 St. at Large, p. 306, Section 2; Civ.Code 1922, Sections 2906, 2907 (See Code 1942, Sections 5812, 5813). State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297.

County commissioners, or other authorized body, in discontinuing location of roads acts as a “quasi court” (Civ.Code 1922, Sections 2906, 2907 (See Code 1942, Sections 5812, 5813). State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297.

County commissioners, or other authorized body, in changing location of roads acts as a “quasi court”. Civ.Code 1922, Sections 2906, 2907 (See Code 1942, Sections 5812, 5813). State v. Hughes (S.C. 1928) 147 S.C. 452, 145 S.E. 297.

Where county, as authorized by Civ.Code 1912, Section 1932 (See Code 1942, Section 5812), discontinued highway through claimant’s land and passing near his buildings, without closing it, claimant could not recover damages, though new highway was located at same time away from his buildings. Wilson v. Greenville County (S.C. 1918) 110 S.C. 321, 96 S.E. 301.

6. Evidence of dedication

The fact that the county road‑building authority assisted landowners in building a new road by supplying labor and equipment is not conclusive proof that the new road has been dedicated to public use. Tyler v. Guerry (S.C. 1968) 251 S.C. 120, 160 S.E.2d 889.

The minutes of the county commissioners showing that a public road was granted, with evidence that it had been laid out for eight years and had been worked by the public, is sufficient to show it a public highway. Mere irregularities in proceedings before the commissioners would not affect it. State v. Havird (S.C. 1911) 88 S.C. 227, 70 S.E. 721.

7. Restraining condemnation

In order to restrain county officers from condemning lands for highways, the owner must show that they are about to abuse their discretion or act in bad faith oppressively in changing location of road. Hutchison v. York County (S.C. 1910) 86 S.C. 396, 68 S.E. 577.

8. Admissibility of evidence

Testimony in condemnation proceeding that it was unnecessary to change road at point of change, which injured respondent, was relevant. Const. art. 1, Section 17; Code 1942, Section 5813 et seq. Howell v. State Highway Department (S.C. 1932) 167 S.C. 217, 166 S.E. 129.

Owner’s estimate of total amount of damages from taking of land for road, cutting down of bank, destruction of trees, and depreciation in value of remaining property, held competent evidence. Const. art. 1, Section 17; Code 1942, Section 5813 et seq. Howell v. State Highway Department (S.C. 1932) 167 S.C. 217, 166 S.E. 129.

9. Instructions

Instruction in condemnation proceeding defining actual value of land as fair market value in normal times, rather than at time of taking, held not erroneous. Const. art. 1, Section 17; Code 1942, Section 5813 et seq. Howell v. State Highway Department (S.C. 1932) 167 S.C. 217, 166 S.E. 129.

In proceeding against county to ascertain compensation for highway through claimant’s land, instruction it was for jury to say whether claimant had received special benefits, etc., held erroneous in characterizing enhancement of value of land “adjacent” to road as general rather than special benefit; “adjacent” being used in sense of “contiguous,” that is, touching or lying immediately on the road. Wilson v. Greenville County (S.C. 1918) 110 S.C. 321, 96 S.E. 301.

**SECTION 57‑17‑30.** Interference with surveyor laying out public roads.

 It shall be a misdemeanor to interfere with the surveyor employed by the governing body of a county to assist it in laying out or changing the location of public roads under Section 57‑17‑20, or his assistants, or with the marks set up by him, or by his orders, punishable by a fine of not more than ten dollars or imprisonment for not more than twenty days for each offense.

HISTORY: 1962 Code Section 33‑812; 1952 Code Section 33‑812; 1942 Code Section 5813‑1; 1932 Code Section 1680; Cr. C. ‘22 Section 627; Cr. C. ‘12 Section 644; Cr. C. ‘02 Section 461; 1900 (23) 286.

**SECTION 57‑17‑40.** Construction of footpaths and bridges over streams, swamps and marshes, and along highways.

 The supervisor or governing body of any county may have the overseer construct footpaths or bridges over streams, swamps and marshes and along the highways of such county.

HISTORY: 1962 Code Section 33‑813; 1952 Code Section 33‑813; 1942 Code Section 5823; 1932 Code Section 5823; Civ. C. ‘22 Section 2916; Civ. C. ‘12 Section 1941; 1902 (23) 1005.

Library References

Highways 99.

Westlaw Topic No. 200.

C.J.S. Highways Sections 239, 252 to 254, 272 to 274, 276.

**SECTION 57‑17‑50.** Erection of local direction posts.

 Each overseer, within his district, may erect and keep up at the expense of the county, at the forks and crossroads, a post and guideboard or finger board containing an inscription, in legible letters, directing the way and distance to the towns or public places situated on each road, respectively.

HISTORY: 1962 Code Section 33‑814; 1952 Code Section 33‑814; 1942 Code Section 5824; 1932 Code Section 5824; Civ. C. ‘22 Section 2917; Civ. C. ‘12 Section 1942; 1902 (23) 1005.

**SECTION 57‑17‑60.** Counties with city over 86,000 may accept rights‑of‑way for drainage ditches; constructing and maintaining ditches

 In all counties in this State containing a city with a population of more than eighty‑six thousand people according to the last official United States census the supervisor and the governing body may accept necessary rights of way, in writing, over and across private property for the purpose of constructing and maintaining drainage ditches to carry off surface water from roads and streets. Across rights of way so accepted drainage ditches shall be constructed and maintained by the county; provided, the direction of the natural course of the drainage water shall not be changed, and if any ditch is piped, the grantor of the right of way shall furnish the pipe. The property owner shall give the necessary right of way to the final disposition point of the surface water for which the right of way is given and the property owner shall agree to hold the county harmless for any damage to the property owner’s land or real property or to the land or real property belonging to anyone else.

HISTORY: 1962 Code Section 33‑814.1; 1957 (50) 169.

Library References

Highways 120(1).

Westlaw Topic No. 200.

C.J.S. Highways Sections 282, 284 to 286.

Attorney General’s Opinions

The county may enter private property for the purpose of repairing road drainage without contracting for this service. 1975‑76 Op.Atty.Gen. No. 4525, p. 389 (November 23, 1976) 1976 WL 23142.

**SECTION 57‑17‑70.** Repairs to county highways and bridges.

 The governing body of each county shall take charge of and superintend the repair of the highways in the county. The bridges shall be repaired under its supervision, and the expense thereof shall be paid out of the money in the county treasury raised and appropriated for this purpose.

HISTORY: 1962 Code Section 33‑815; 1952 Code Section 33‑815; 1942 Code Section 5808; 1932 Code Section 5808; Civ. C. ‘22 Section 2902; Civ. C. ‘12 Section 1929; 1902 (23) 998; 1910 (26) 721; 1913 (28) 5.

CROSS REFERENCES

Contracts for work on bridges, see Section 57‑13‑100.

Extra and extensive repairs to old bridges, see Section 57‑13‑60.

Library References

Highways 105(1).

Westlaw Topic No. 200.

C.J.S. Highways Sections 252 to 256, 272 to 278, 281.

**SECTION 57‑17‑80.** Neglect of work on county highways and bridges.

 If the members of the governing body of any county neglect to have repaired any of the highways and bridges which by law are required to be kept in repair, they shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than one hundred nor more than five hundred dollars, in the discretion of the court.

HISTORY: 1962 Code Section 33‑816; 1952 Code Section 33‑816; 1942 Code Section 1673; 1932 Code Section 1673; Cr. C. ‘22 Section 620; Civ. C. ‘12 Section 598; Cr. C. ‘02 Section 436; G. S. 1088; R. S. 348; 1874 (15) 784; 1910 (26) 722.

**SECTION 57‑17‑90.** Highway districts.

 Each township in the several counties of the State and, in any county where no township exists, each tax district shall constitute a highway district.

HISTORY: 1962 Code Section 33‑818; 1952 Code Section 33‑818; 1942 Code Section 5809; 1932 Code Section 5809; Civ. C. ‘22 Section 2903; Civ. C. ‘12 Section 1930; 1902 (23) 998.

Library References

Highways 90.

Westlaw Topic No. 200.

C.J.S. Highways Sections 218 to 228.

**SECTION 57‑17‑100.** Closing certain railroad‑highway crossings.

 The various county authorities may, in their discretion, abandon and close to highway traffic railroad‑highway crossings on highways not in the State highway system superseded by the construction of grade separation structures, the reconstruction of existing structures or the relocation of highways to eliminate such grade crossings.

HISTORY: 1962 Code Section 33‑819; 1952 Code Section 33‑819; 1942 Code Section 5866‑2; 1939 (41) 334.

CROSS REFERENCES

Elimination of railroad and interurban electric railroad grade crossings at instance of others than Commission, see Sections 58‑15‑1610 et seq.

Railroad crossings, see Sections 58‑17‑1310 et seq.

**SECTION 57‑17‑110.** Apportionment of funds through year; contracts in excess of void.

 The governing body of a county shall not enter into any contract for the expenditure of more than four fifths of its apportionment before the first of the last quarter of the fiscal year, and any contract entered into in excess of such apportionment shall be void. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five dollars nor more than thirty dollars or by imprisonment for not less than ten days nor more than thirty days for each and every offense, either or both at the discretion of the court.

HISTORY: 1962 Code Section 33‑820; 1952 Code Section 33‑820; 1942 Code Sections 5847, 5847‑1; 1932 Code Sections 1589, 5847; Civ. C. ‘22 Section 2939; Cr. C. ‘22 Section 546; Civ. C. ‘12 Section 1963; Cr. C. ‘12 Section 632; Cr. C. ‘02 Section 456; 1897 (22) 421; 1898 (22) 739; 1902 (23) 1015.

Library References

Counties 158.

Westlaw Topic No. 104.

C.J.S. Counties Section 320.

**SECTION 57‑17‑120.** Disposition of fines and forfeitures.

 All fines and forfeitures used for and recovered under the provisions of this chapter shall be paid by the magistrate or constable collecting them to the county treasurer wherein such fines or forfeitures accrued.

HISTORY: 1962 Code Section 33‑821; 1952 Code Section 33‑821; 1942 Code Section 5821; 1932 Code Section 5821; Civ. C. ‘22 Section 2914; Civ. C. ‘12 Section 1939; 1902 (23) 1004.

**SECTION 57‑17‑130.** Unauthorized diversion of highways.

 The county supervisor of the county in which any part of a highway has been diverted from its original course without authority of law, on information of any two persons, shall commence a suit against any such person so offending in order to compel him, as soon as may be, to restore, at his own expense, the highway in its course, as established by law.

HISTORY: 1962 Code Section 33‑822; 1952 Code Section 33‑822; 1942 Code Section 5854; 1932 Code Section 5854; Civ. C. ‘22 Section 2946; Civ. C. ‘12 Section 1970; Civ. C. ‘02 Section 1342; G. S. 1070; R. S. 1166; 1797 (9) 379; 1893 (21) 481.

Library References

Highways 70.

Westlaw Topic No. 200.

C.J.S. Highways Sections 153, 155 to 157.

NOTES OF DECISIONS

In general 1

1. In general

Where one receives injuries from defects in a road which is a deviation from the regular highway laid out by the overseer of the road hands at the suggestion of the neighbors, and without the authority of the county commissioners, who alone are empowered by law to alter highways, he cannot recover against the county under Gen. St. Section 1087 (See Code 1942, Section 5856), which provides that “any person who shall receive bodily injury \* \* \* through a defect in the repair of a highway \* \* \* may recover in an action against the county,” etc. Hill v. Laurens County (S.C. 1891) 34 S.C. 141, 13 S.E. 318.

**SECTION 57‑17‑140.** Presenting accounts, claims, and demands; approval and payment.

 All accounts, claims and demands of whatever nature existing against any county for opening, constructing, maintaining and operating any public highway, road, bridge or ferry shall be presented to the governing body of the county duly attested, and, if approved by said body, the county supervisor shall draw his warrant upon the county treasurer under the seal of the governing body of the county for the amount of any such claim. Such warrant shall be countersigned by the secretary of the governing body and shall be paid by the county treasurer out of the county road fund.

HISTORY: 1962 Code Section 33‑823; 1952 Code Section 33‑823; 1942 Code Section 3825; 1932 Code Section 3825; Civ. C. ‘22 Section 1065; Civ. C. ‘12 Section 945; Civ. C. ‘02 Section 767; 1893 (21) 485; 1931 (37) 306.

Library References

Highways 118.

Westlaw Topic No. 200.

C.J.S. Highways Sections 289 to 290, 322.

NOTES OF DECISIONS

In general 1

1. In general

Action against county for breach of highway construction contract held maintainable in court of common pleas. Ross v. Pickens County (S.C. 1928) 146 S.C. 24, 143 S.E. 366.

Where the evidence as to what action the county commissioners had taken on a claim under Civ.Code 1912, Section 945, for damages from the negligent operation of a ferry was in direct conflict, held, that the court, in an action against the two counties operating the ferry for such damages, did not err in refusing a directed verdict, on the theory that the action of the commissioners on the claim was a bar to the action. Dawkins v. Chester County (S.C. 1922) 122 S.C. 8, 115 S.E. 62.

ARTICLE 3

Condemnation of Land or Material

**SECTION 57‑17‑310.** General authorization to condemn land for road material or house for bridge watchman.

 The governing bodies of the several counties may condemn lands for the purpose of securing gravel, sand, clay, stone or other material for building and maintaining the public roads and highways within their respective counties, when and wheresoever necessary, in the manner provided by law for the condemnation of rights of way for roads. And they may condemn sufficient lands adjacent to or near any bridge built across any river of this State for the purpose of erecting a house there for the keeper or watchman of such bridge, such condemnation also to be as provided by law for the condemnation of the rights of way for roads.

HISTORY: 1962 Code Section 33‑831; 1952 Code Section 33‑831; 1942 Code Section 5849; 1932 Code Section 5849; Civ. C. ‘22 Section 2941; 1914 (28) 741; 1926 (34) 1024.

CROSS REFERENCES

Eminent Domain Procedure Act, see Title 28, Chapter 2.

Library References

Highways 0.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 1 to 3.

ARTICLE 5

Width of Road

**SECTION 57‑17‑510.** Width of road.

 The roadbed shall not be less than sixteen feet wide, exclusive of side ditches, roots and other obstructions, unless otherwise ordered by the governing body of the county, and shall be posted with substantial mileposts. Where roads run through lands where water stands or flows, the roads must be ditched on either side and the roadbed raised.

HISTORY: 1962 Code Section 33‑851; 1952 Code Section 33‑851; 1942 Code Section 5813; 1932 Code Section 5813; Civ. C. ‘22 Section 2907; Civ. C. ‘12 Section 1933; Civ. C. ‘02 Section 1367; 1896 (22) 228; 1900 (23) 286; 1902 (23) 998; 1909 (26) 59; 1910 (26) 658, 674.

Library References

Highways 47.

Westlaw Topic No. 200.

C.J.S. Highways Section 103.

ARTICLE 7

Methods of Working Roads

**SECTION 57‑17‑610.** County may hire overseers and laborers to work roads.

 The governing body of each county may, in its discretion, employ or hire overseers and laborers upon the public highways, under the control of overseers, at such compensation as such body may determine. Commutation taxes and such other funds as may be applicable to highways may be used in payment for such work.

HISTORY: 1962 Code Section 33‑901; 1952 Code Section 33‑901; 1942 Code Section 5826; 1932 Code Section 5826; Civ. C. ‘22 Section 2919; Civ. C. ‘12 Section 1944; 1902 (23) 1006.

**SECTION 57‑17‑620.** County may use chain gang to work roads.

 The governing body of any county may work the highways in its county, or any part thereof, by a chain gang, without regard to the system used in other portions of the county.

HISTORY: 1962 Code Section 33‑903; 1952 Code Section 33‑903; 1942 Code Section 5839; 1932 Code Section 5839; Civ. C. ‘22 Section 2932; Civ. C. ‘12 Section 1957; 1902 (23) 1013.

**SECTION 57‑17‑630.** Counties may combine chain gangs or hire convicts to work roads.

 Whenever in the judgment of the governing body of a county it shall become to the best interest of the county to combine with another county in the operation and management of the chain gangs of the respective counties, the governing bodies of such counties may combine their several chain gangs and provide for their maintenance and operation. Counties which are contiguous or are connected by railroad, highway or other means of communication may thus combine whenever it shall appear to be economically to the advantage of such counties, or the county authorities of any such counties may hire their convicts to another of such counties on such terms as to them may seem to the advantage of their respective counties.

HISTORY: 1962 Code Section 33‑904; 1952 Code Section 33‑904; 1942 Code Section 5840; 1932 Code Section 5840; Civ. C. ‘22 Section 2933; 1919 (31) 244.

CROSS REFERENCES

Persons confined and use thereof, generally, see Sections 24‑3‑20 et seq.

**SECTION 57‑17‑640.** Advertisement for bids under contract system.

 If the governing body of any county concludes to adopt a contract system for working, maintaining and operating the several sections of highways, roads, bridges and ferries in its county, or any part thereof, the county supervisor or governing body, as soon as practicable thereafter, may advertise in a newspaper published in the county once a week for three weeks and by notices posted in two or more conspicuous places in the several townships or the township to be worked by the contract system for bids from responsible persons for the performance of the work as above set forth, and may furnish specifications of all such work or contracts as have been advertised.

HISTORY: 1962 Code Section 33‑905; 1952 Code Section 33‑905; 1942 Code Section 5836; 1932 Code Section 5836; Civ. C. ‘22 Section 2929; Civ. C. ‘12 Section 1954; Civ. C. ‘02 Section 1381; 1896 (22) 237; 1902 (23) 1011.

Library References

Highways 113(1).

Westlaw Topic No. 200.

C.J.S. Highways Sections 292 to 306.

NOTES OF DECISIONS

In general 1

1. In general

Provisions that county supervisors “may” advertise, should not be construed “shall” or “must,” but was intended to give such officers discretion; and the city council of Spartanburg, under the general charter giving it the same powers over streets as county officers have over highways, is not required to advertise for bids for paving streets in a county newspaper. Dillingham v. City of Spartanburg (S.C. 1907) 75 S.C. 549, 56 S.E. 381, 117 Am.St.Rep. 917, 9 Am.Ann.Cas. 829. Municipal Corporations 330(2); Public Contracts 123

**SECTION 57‑17‑650.** Bids; acceptance procedures.

 All bids shall be made in writing, sealed and addressed to the county supervisor and by him opened in the presence of and submitted to the governing body of the county. Such body shall accept the lowest bid made by a responsible person. But the governing body of the county may reject any and all bids.

HISTORY: 1962 Code Section 33‑906; 1952 Code Section 33‑906; 1942 Code Section 5836; 1932 Code Section 5836; Civ. C. ‘22 Section 2929; Civ. C. ‘12 Section 1954; Civ. C. ‘02 Section 1381; 1896 (22) 237; 1902 (23) 1011.

Library References

Highways 113(1).

Westlaw Topic No. 200.

C.J.S. Highways Sections 292 to 306.

NOTES OF DECISIONS

In general 1

1. In general

Taxpayer cannot object to the validity of a contract for paving streets because city officers refused all bids made after advertisement, and thereafter, upon conference with the two lowest bidders, received bids from them lower than those previously filed, and contracted with the lowest of these two to do the work, where act resulted in larger saving to taxpayers. Dillingham v. City of Spartanburg (S.C. 1907) 75 S.C. 549, 56 S.E. 381, 117 Am.St.Rep. 917, 9 Am.Ann.Cas. 829. Injunction 1356

**SECTION 57‑17‑660.** Bond of contractor.

 The governing body of the county shall require a bond of any contractor to keep, repair and maintain the public highway for the period of twelve months from the date of contract, such bond to be in double the amount of the contract, with two or more sureties to be approved by the governing body of the county.

HISTORY: 1962 Code Section 33‑907; 1952 Code Section 33‑907; 1942 Code Section 5836; 1932 Code Section 5836; Civ. C. ‘22 Section 2929; Civ. C. ‘12 Section 1954; Civ. C. ‘02 Section 1381; 1896 (22) 237; 1902 (23) 1011.

Library References

Highways 113(5).

Westlaw Topic No. 200.

**SECTION 57‑17‑670.** Overseer and laborers; use of convicts.

 The governing body of any county may hire overseers and laborers and have the work performed as in its judgment may be most expedient and for the best interest of the county, and the county supervisors and governing bodies may arrange to work the roads of their respective counties with the convicts of their several counties or to lease to or from the governing body of any county, upon such terms as may be agreed upon by the respective governing bodies, any convicts sentenced to perform hard labor upon the public works of any county.

HISTORY: 1962 Code Section 33‑908; 1952 Code Section 33‑908; 1942 Code Section 5836; 1932 Code Section 5836; Civ. C. ‘22 Section 2929; Civ. C. ‘12 Section 1954; Civ. C. ‘02 Section 1381; 1896 (22) 237; 1902 (23) 1011.