

Highway Jurisdiction Guidelines

for Highway and Street Systems



March 2006



Illinois Department of Transportation

Division of Highways
Bureau of Local Roads and Streets

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Part I: Jurisdictional Transfers

**Part II: Vacating and Adding Township &
Road District Roads**

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INTRODUCTION

These guidelines summarize highway jurisdiction issues and outline the process required for jurisdictional transfers. It also addresses vacations and additions to the township and road district system. These guidelines take you step by step through the process describing the required actions, and if applicable, alternatives. These guidelines are separated into two parts:

Part I - Jurisdictional Transfers

and

Part II -Vacating and Adding Township & Road District Roads

This summary was derived from the Illinois Compiled Statutes (ILCS) and is meant to serve as a resource. For more details on the process, exact wording, or legal questions, refer to 605 ILCS or contact the Illinois Department of Transportation's (IDOT) District Bureau of Local Roads and Streets. Visit the IDOT website at www.dot.il.gov for the most current revision of these guidelines and referenced forms. Legal counsel should be consulted when required by specific situations.

Additional copies may be obtained from:

Illinois Department of Transportation
Bureau of Local Roads and Streets
2300 South Dirksen Parkway
Springfield, IL 62764

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Part I:

Jurisdictional Transfers

Chapter 1

GENERAL INFORMATION

1-1 IMPORTANCE OF JURISDICTION

Disputes between highway authorities can arise concerning which entity has jurisdiction for a particular section of highway. Identifying the correct entity that has jurisdiction is important for two reasons:

1-1(a) EXPENSE

Routine maintenance of a highway (debris removal, snow removal, pothole patching, signing, ditch cleaning, vegetation control, etc.) is an expensive operation. When major improvements to highways, including repairs or replacements to structures along the highway segment, are factored in, the cost can consume a substantial portion of an agency's budget.

1-1(b) LIABILITY

A highway authority having jurisdiction may be subject to tort liability and may find itself a defendant in cases involving the condition of highways under its jurisdictional responsibility. The liability risk has continued to become a serious problem as a result of 1) parallel increases in the size and number of tort awards and 2) by the elimination of government immunity for local governments.

The Highway Systems Manager in the Bureau of Local Roads, Illinois Department of Transportation (IDOT), Division of Highways, is the clearinghouse for all jurisdiction issues and can be reached at 217/782-3401 for questions or recommendations to these Highway Jurisdiction Guidelines.

1-2 DEFINITION OF 'JURISDICTION'

Jurisdiction is the authority and obligation to administer, control, construct, maintain and operate a highway subject to the provisions of the Illinois Highway Code [Chapter 605 of the Illinois Compiled Statutes (LCS)].

When an agency has jurisdiction of a street or highway, that agency is responsible for the upkeep of that highway, including reconstruction, signing, maintenance, etc. All of these responsibilities remain with the agency until the jurisdiction is transferred to another highway authority.

Note: A jurisdictional transfer does not *automatically* include the transfer of land rights associated with the highway; a separate process is required for land rights. This is discussed further on page 17 under **Land Rights, 4-4**.

1-2(a) JURISDICTION VS. MAINTENANCE

1-2(a.1) Highways

For highways, there is a difference between jurisdictional responsibility and maintenance responsibility. As stated above, jurisdiction entails the responsibility for the entire highway. This includes ensuring that maintenance is accomplished, even if another entity is performing the maintenance duties. For example, a county can enter into an agreement to have another agency perform the maintenance on a section of highway that is under the county's jurisdiction; however, the county is still ultimately responsible for ensuring that the maintenance is performed in a satisfactory manner. A maintenance agreement does not transfer jurisdiction.

1-2(a.2) Structures

The same principles for highway jurisdiction apply to structures. However, certain data items from the Illinois Structure Information System (ISIS) have to be reported to FHWA to satisfy the National Bridge Inspection Standards (NBIS) requirements, and one of these items, the 'maintenance responsibility' field, indicates the actual owner(s) of the bridge. Therefore, for the purposes of ISIS, ownership is interpreted to mean the same as 'maintenance responsibility.'

1-3 DEFINITION OF 'HIGHWAY'

A highway is defined as any public way for vehicular travel which has been established by statute, dedication, or prescription. The term 'highway' includes rights of way, bridges, drainage structures, signs, guardrails, and all other appurtenances necessary for vehicular travel. A highway in a rural area may be called a 'road.' A highway in a municipality may be referred to as a 'street.' [605 ILCS 5/2-202].

Note: The term 'roadway' refers to only the portion of highway used for vehicular travel; it does not include the shoulder or adjacent right of way. This is defined in the Illinois Vehicle Code (625 ILCS 5/1-179).

1-4 DEFINITION OF 'RIGHT OF WAY'

Right of way is defined as the land, or interest therein, acquired for or devoted to a highway.

1-5 HIGHWAY SYSTEMS & AUTHORITIES

In 1959 the Illinois General Assembly revised and codified the laws relating to public highways and established the current four systems of highways and their associated highway authorities (categorized below):

<u>SYSTEM</u>	<u>HIGHWAY AUTHORITY</u>	<u>STATUTE</u>
State	Department of Transportation	605 ILCS 5/2-101
County	County Board	605 ILCS 5/2-102
Township & Road District	Highway Commissioner*	605 ILCS 5/2-103
Municipal	Corporate Authorities	605 ILCS 5/2-104

*The highway authority for a county unit road district is the County Board for discretionary functions and the County Engineer for ministerial functions.

A highway included in one of these four systems is under the jurisdiction of the associated highway authority.