

No. 519, S.]

[Published June 30, 1921.]

CHAPTER 439.

AN ACT to renumber section 1321b to be section 1321e, to amend said section 1321e as renumbered, and to create sections 1321b and 1321c of the statutes, relating to the construction and maintenance of bridges.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 1321b of the statutes is renumbered to be section 1321e, and said section as renumbered is amended to read: Section 1321e. Any such city, village, town or county immediately after the construction and completion of a bridge according to the provisions of sections 1320 and 1321 * * * shall have the power and the legal right to demand, receive and collect tolls for passing over such bridge at rates not exceeding the following: For any vehicle, whether drawn by one or two horses, mules or oxen, ten cents for passage both ways the same day; for horses, mules or cattle in droves of ten or less, three cents a head, and where the same are in droves of more than ten, two cents a head; sheep or hogs in droves of ten or less, two cents a head, if in droves of more than ten, one cent a head, and each footman shall be permitted to pass over such bridge free of charge. The common council of any such city and the board of any such village, town or county may regulate the use of such bridge for the crossing of traction engines and other ponderous articles and make reasonable charges therefor.

SECTION 2. Two new sections are added to the statutes to read: Section 1321b. 1. Whenever any county, by its county board shall file a petition with the state highway commission setting forth that said county desires the construction or reconstruction of a bridge on the state trunk highway system, or on a road or street within a city of the fourth class, forming a direct connection between portions of the state trunk highway system, across any navigable waters in said county, or on which said county may border, and that said construction or reconstruction is necessary, the state highway commission shall fix a time and place for hearing and hear said petition in the manner provided in section 1321a of the statutes. If the state highway commission shall deem the construction or reconstruction of a bridge on the state trunk highway system, or on a road or street within a city of

the fourth class, forming a direct connection between portions of the state trunk highway system, across any navigable waters, to be desirable, it may, on its own motion, call a hearing in the matter, in the manner provided by section 1321a. Notice of any such hearing shall be served on the county board, or boards, of the county or counties likely to be especially benefited by such construction or reconstruction, by registered letter addressed to the county clerk or clerks thereof.

2. If the state highway commission, after such hearing shall find that said construction or reconstruction is necessary it shall locate the place at which the bridge should be constructed or reconstructed, and if the bridge at such location will necessarily be more than three hundred feet long, not including approaches, the said bridge project shall be constructed or reconstructed at the expense of the state and counties especially benefited as hereinafter provided. The commission shall determine the character and kind of bridge adapted to the location, shall determine which counties are especially benefited thereby and the proportionate especial benefit of each county, shall estimate the cost of the bridge project, and shall file with the county clerk or clerks of the county or counties in or between which said bridge project is to be constructed or reconstructed its findings, including a description of the location of such bridge project, the character and kind thereof and the estimated cost of construction or reconstruction, including the cost of any approaches, embankments or other necessary appurtenances, the cost of any new right-of-way required, the purchase or acquirement of any existing structure and such other costs as shall be a necessary portion of the bridge project.

3. The commission shall, at the time of filing its said findings, also certify to the said county clerk or clerks the proportion of the cost of said bridge project to be borne by the county or counties deemed especially benefited, and shall certify to the state treasurer and secretary of state the amount to be paid by the state as its portion of the cost thereof.

4. The county, or counties, shall pay fifty per cent of the cost of the project and the state fifty per cent. If more than one county is deemed especially benefited, the counties' shares shall be apportioned to each in proportion to the especial benefits respectively derived as determined by the state highway commission. Upon receipt of the certification by the state highway commission of the amount necessary to be provided by any county as its share

of the cost of any construction or reconstruction pursuant to this section, the county clerk shall present the same to the county board at its next annual or special meeting and it shall then be the duty of the said county board to provide the amount to be paid by the county. The amount so to be provided by the county may be provided by appropriation, tax, or bonds, or in any manner by which funds may lawfully be made available for road or bridge construction, but nothing in this section shall be construed as requiring an election upon such question by the county. The county board may, if it sees fit, assess not to exceed forty per cent of its share of the cost of any construction or reconstruction, pursuant to this section, as a special benefit, against the municipality or municipalities deemed, by the said board to be especially benefited by the bridge project and determine the proportions, if more than one municipality is deemed especially benefited. Within five days of the adjournment of the meeting of the county board the county clerk shall certify the action of the county board in the matter to the state highway commission.

5. All assessments against municipalities under this section shall be certified to the clerks thereof within five days of the adjournment of the county board. It shall then be the duty of the municipality through its board or council to provide the amount so assessed either by a direct tax, or by the issue and sale of its serial bonds, which shall bear interest at a rate not exceeding six per cent and run not more than twenty years. Such bonds shall be issued directly by the board or council and divided as to denominations and due dates as may be determined by such board or council. Money so obtained shall be promptly deposited with the county treasurer to the credit of the bridge project.

6. Subject to the control and supervision of the navigable waters of the state conferred by law upon the railroad commission and the control exercised by the government of the United States, the construction of such project shall be under the supervision and control of the state highway commission. All moneys available therefor from the counties benefited shall be deposited in the state treasury and paid out on order of the state highway commission.

7. The state highway commission shall consider all petitions under this section with petitions under sections 1321a, 1321c and 1325k in order of their receipt and shall construct each bridge found necessary and eligible, in such order, and all appropriations

available for use under section 1321a shall be available to carry out the provisions of this section in the same manner as under section 1321a of the statutes.

8. Any toll bridge in Wisconsin on the state trunk highway system, or on a road or street within a city of the fourth class forming a direct connection between portions of the state trunk highway system, may be purchased or acquired in the general manner outlined for the construction or reconstruction of bridges under this section, and the cost of such purchase or acquirement shall be determined, apportioned and paid in accordance with the provisions of this section just as the cost of new bridge projects is determined, apportioned and paid. If the state highway commission is unable to agree with the owners of such toll bridge as to purchase price, the said toll bridge may be condemned, by exercising the right of eminent domain, in the following manner; The state highway commission shall petition the railroad commission of Wisconsin to fix a time and place for public hearing in the matters of the just compensation to be paid for the taking of the said toll bridge as required by section 1797m—82 of the statutes, and subsequent procedure shall be as required by sections 1797m—82 to 1797m—86 of the statutes, inclusive, and acts amendatory thereto. The word “municipality,” as used in such sections, shall be construed to mean the state highway commission in all proceedings brought under this section. Any toll bridge so purchased or acquired may be later reconstructed under the provisions of this section in the same manner as other free bridges may be reconstructed.

9. The cost of maintaining and operating any bridge on the state trunk highway system or on a road or street within a city of the fourth class, forming a direct connection between portions of the state trunk highway system, which has been or shall be built, purchased or acquired under the provisions of sections 1321a, 1321b, 1321c, or 1325k shall be paid by the state and by the counties determined to have been especially benefited, in such proportions and manners as shall be determined by the state highway commission and said commission may first set aside each year from the funds provided for the maintenance of the state trunk highway system in that year an amount sufficient to pay the state's share, as determined, of the cost of maintaining and operating any such bridge. The county board may assess not more than forty per cent of its share of the cost of such maintenance and opera-

tion against the municipalities within such county determined to have been especially benefited, to be paid by them in proportion to such benefits.

10. Whenever any municipality shall have been deemed, by the county board, to be especially benefited through the construction or reconstruction of a bridge under the provisions of this section or of section 1321c, the property in such municipality shall thereafter be subject to taxation by the county for the construction and repair of bridges within such county under section 1319 of the statutes.

Section 1321c. 1. Whenever any county, by its county board, shall file a petition with the state highway commission, setting forth that said board desires the construction or reconstruction of a bridge across a stream bordering on said county, which stream is also a portion of the state boundary, and that said construction or reconstruction is necessary, the said commission shall fix a time and place for hearing said petition in the manner provided in section 1321a of the statutes. If the state highway commission shall deem the construction or reconstruction of a bridge over a stream which forms a portion of the state boundary to be desirable, it may, on its own motion, call a hearing in the matter in the manner provided in section 1321a of the statutes. Notice of any such hearing shall be served on the county boards of the counties in this state deemed likely to be especially benefited by such bridge project, by registered letter addressed to the county clerk, and on the state highway department of the neighboring state by registered letter addressed to the secretary thereof.

2. (a) If the state highway commission, after such hearing, shall determine that the conditions so warrant, it shall make such investigation as may be necessary to determine the most favorable location, the character and kind of bridge best adapted for such location, and estimate the cost thereof, including the cost of any approaches, embankments, or other necessary appurtenances, the cost of any new right of way required, the purchase or acquirement of any existing structure, and such other costs as shall be a necessary portion of the bridge project.

(b) The state highway commission shall then negotiate with the state highway department of the adjoining state and shall have authority to determine, jointly with the highway department of the other state, the proportions of the cost of the bridge structure to be borne by each of the states in conjunction with its subdivi-

sions, such determination to be based upon the interest of each state in said bridge project and upon the benefits derived by each state therefrom.

3. If the state highway commission, after such hearing, investigation and negotiations with the highway department of the adjoining state, shall find that the construction or reconstruction projected is necessary and warranted, and that provision has been made or will be made by the adjoining state, or any of its subdivisions to bear its, or their proportion of the cost thereof, it shall file certificates to that effect with the county clerks of the counties in this state, deemed to be especially benefited by the said bridge construction project. Such certificate shall state the entire cost of the project and the portion of said cost to be borne by this state and by each of the counties deemed especially benefited. In no case shall the total apportionment of cost to the counties deemed especially benefited exceed the amount to be paid by the state of Wisconsin itself.

4. The bridge project shall be constructed or reconstructed under the provisions of section 1321b, of the statutes, and the procedure subsequent to the receipt, by the county clerk or clerks of the county or counties deemed especially benefited by such construction or reconstruction, of the said certificate of the state highway commission, shall be in accordance with the provisions of said section.

5. Subject to the control and supervision of navigable waters, conferred by law upon the railroad commission, and the control exercised by the government of the United States, the construction or reconstruction of such bridge project shall be under the joint supervision and control of the state highway commission of this state and of the state highway department of the other state concerned. If the highway department of the other state is not authorized to act jointly with this state, in such bridge project, arrangements may be made with such subdivisions of the other state as may have proper authority, represented by its proper officers. Control shall be exercised in the manner deemed most expedient by the two departments, or by the highway department of this state and the officers of the subdivision of the other state concerned in the said construction. All contracts for construction or reconstruction shall be between the two states jointly, and the contractor; or between this state and such subdivisions of the other state as may participate in the construction,

and the contractor; and all moneys available from this state or its subdivisions shall be deposited in the state treasury of this state and shall be paid out only upon order of the state highway commission.

6. After such bridge project shall have been completed, it shall be controlled, operated and maintained in such manner as shall be determined from time to time by the proper representatives of the two states. Authority is hereby conferred upon the highway commission of this state to cooperate with the proper representatives from any adjoining state or subdivision thereof, in the operation and maintenance of any free bridge over a stream forming the state boundary, by the two states, or with any subdivision of the other state, on such terms as may be deemed equitable by the highway commission and the authorized representatives of the other state or subdivision thereof. The highway commission may determine that a portion, not more than fifty per cent of this state's portion of the cost of maintenance and operation of such bridge project, shall be paid by the counties determined to have been especially benefited, in the proportion of such benefits.

7. Any toll bridge across any stream forming the boundary between this state and another state, including all approaches and other appurtenances, may be purchased or otherwise acquired by this state jointly with any other state or subdivision thereof, and the procedure in determining upon such purchase or acquirement and providing the funds therefor shall be the same as is provided for the construction or reconstruction under this section. If the state highway commission is unable to agree with the owners of such toll bridge as to purchase price, the said toll bridge may be condemned, by exercising the right of eminent domain, in the following manner: The state highway commission shall petition the railroad commission of Wisconsin to fix a time and place for public hearing in the matters of the just compensation to be paid for the taking of the said toll bridge as required by section 1797m—82 of the statutes, and subsequent procedure shall be as required by sections 1797m—82 to 1797—86 of the statutes, inclusive, and acts amendatory thereto. The word "municipality", as used in such sections shall be construed to mean the state highway commission, in all proceedings brought under this section. Any toll bridge so purchased or acquired may be later reconstructed under the provisions of this section in the same manner as other free bridges may be reconstructed.

8. Any bridge constructed, reconstructed, purchased or acquired under the provisions of this section, shall be free from tolls forever.

9. The state highway commission shall consider all petitions under this section with petitions received under sections 1321a, 1321b and 1325k of the statutes, in the order of their receipt, and shall construct each bridge found necessary and eligible in such order, and all appropriations made for use and available under section 1321a shall be available for use to carry out the provisions of this section in the same manner as for use under section 1321a, of the statutes.

10. The state highway commission shall have authority to defray the portion of the cost of constructing or reconstructing any bridge chargeable to the state of Wisconsin, under the provisions of sections 1321b and 1321c of the statutes, out of state and federal funds made available for construction of roads and bridges, under the provisions of sections 1312 and 1317, inclusive, section 20.04, and section 20.49 of the statutes, and acts supplementary or amendatory thereto.

11. In order to carry out the purposes of this section the state highway commission is authorized to add to the state trunk highway system any bridge, to whose construction, acquirement or maintenance the state may contribute under this section, and any road or street forming the most reasonable and practicable connection from any bridge over a stream which is a portion of the state boundary to the state trunk highway system; provided that neither the state nor the county shall be required to assist in the construction, reconstruction or maintenance of any streets not eligible to become portions of the state trunk highway system, as provided in section 1313 of the statutes.

SECTION 3. This act shall take effect upon passage and publication.

Approved June 27, 1921.

No. 552, S.]

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CHAPTER 440.

AN ACT to appropriate a certain sum of money named herein to the Executive Department.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows: