

No. 281, S.]

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**CHAPTER 446.**

AN ACT to amend 84.06 (4), 84.09 (2), (3) (a) and (c), and (3m); and to create 84.09 (6) and 86.25 (1m) of the statutes, relating to the acquisition of lands and interests therein.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 84.06 (4) of the statutes is amended to read:

84.06 (4) \* \* \* *If an improvement undertaken by the commission will cross or affect the property or facilities of a railroad or public utility company, the commission may, upon finding that it is feasible and advantageous to the state, arrange to perform portions of the improvement work affecting such facilities or property or perform work of altering, rearranging or relocating such facilities by contract with the railroad or public utility. Such contract shall be between the railroad company or public utility and the state and need not be based on bids; and may be entered on behalf of the state by the commission. Every such contract is excepted from all provisions of chapter 15 and section 289.16. No such contract in which the total debt to be incurred thereby as therein estimated exceeds \$5,000 shall be valid until the approval of the governor is indorsed thereon. As used herein the term "public utility" means the same as in section 196.01 and the word "railroad" means the same as in section 195.02. The word "property" as used herein includes but is not limited to tracks, trestles, signals, grade crossings, rights of way, stations, pole lines, plants, substations and other facilities. Nothing herein shall be construed to relieve any railroad or public utility from any financial obligation, expense, duty or responsibility otherwise provided by law relative to such property.*

SECTION 2. 84.09 (2), (3) (a) and (c), and (3m) of the statutes are amended to read:

84.09 (2) *If any of the needed lands or interests therein cannot be purchased expeditiously for a reasonable price, the commission may acquire the same by condemnation under chapter 32, or in the manner provided for counties under section 83.07, or may make an award of damages to the owner \* \* \*; and thereupon the amount so awarded shall be payable the same as when the lands or interests are acquired by purchase; and the said owner may receive the award without prejudice to his right to claim and to contest for a greater sum, except that no interest upon the original amount of the award paid or tendered shall be recoverable or allowed in any subsequent appeal. \* \* \* A copy of the award and the amount awarded shall be delivered or mailed to the owner if his address is known and if not known then to the occupant of the land. If the land is unoccupied and the name or address of the owner is unknown the award shall be published at least once each week for 3 successive weeks in a newspaper having a general circulation in the county, and shall state that the amount awarded has been deposited with the county clerk and is available to the owner of the land if claimed within 2 years from the date of the last publication. The amount of such award shall be so deposited with the county clerk. Upon the expiration of 2 years from the date of the last publication, the amount of the award shall be withdrawn from the county clerk and any and all claims against the state for the taking of the property shall no longer be valid. The award of damages to the owner shall be recorded in the office of the register of deeds, after which the highway authorities and their contractors and employes may take possession of the lands and exercise full control of the interests in lands acquired. The owner may, within 2 years after the \* \* \* recording of the award with the \* \* \* register of deeds, apply to the county judge on 5 days' written notice to the commission to appraise his damages and thereafter the proceedings shall be as provided in section 83.07.*

(3) (a) *The commission may order that all or certain parts of the required land or interests therein shall be acquired by the county highway committee. When so ordered, the committee and the commission shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The committee shall endeavor to obtain easements or title in fee simple by conveyance of the*

lands or interests required, as directed in the commission's order. The instrument of conveyance shall name the county as grantee, shall be subject to approval by the commission, and shall be recorded in the office of the register of deeds and filed with the commission. \* \* \* If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the county highway committee may acquire them by condemnation under chapter 32, or in the manner provided in section 83.07 or, subject to approval by the commission, in the manner provided in section \* \* \* 84.09 (2).

(c) The county highway committee when so ordered by the commission is authorized and empowered to sell and shall sell at public or private sale, subject to such \* \* \* conditions and terms authorized by the commission, any and all buildings, structures, or parts thereof, and any other fixtures or personalty acquired in the name of the county under this section or any predecessor. Any instrument in the name of the county, transferring title to the property mentioned in the foregoing sentence, shall be executed by the county highway committee and the county clerk. The proceeds from such sale shall be deposited with the state in the appropriate highway fund and the expense incurred in connection with such sale shall be paid from such fund.

(3m) The commission may order that all or certain parts of the required land or interest therein shall be acquired for the commission by a board, commission or department of the city within whose limits said land is located. Said board, commission or department shall be *created or selected* by the common council of said city subject to the approval of the state highway commission. When so ordered, the board, commission or department so neglected and the state highway commission shall appraise and agree on the maximum price, including damages, considered reasonable for the lands of interests to be so acquired. The board, commission or department shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the state highway commission's order. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the board, commission or department may, *subject to approval by the state highway commission*, acquire them by condemnation *in the name of the state* under chapter 32, or in the manner provided \* \* \* in section 83.07, *or in the manner provided in section 84.09 (2). The city attorney may act as counsel in any proceedings brought under authority of this subsection. Special counsel may be employed but only with the consent of the governor and the state highway commission. The city, upon agreement with the commission, may pay for the land or interests acquired from city funds made available for such purpose or not otherwise appropriated, as an advance subject to reimbursement by the commission or as part of the city's contribution toward the cost of the improvement.*

SECTION 3. 84.09 (6) of the statutes is created to read:

84.09 (6) Lands held by any department, board, commission or other agency of the state may, with the approval of the governor, be conveyed to the state highway commission in the manner prescribed by statute and, if none be prescribed, then by a conveyance authorized by appropriate resolution of the controlling department, board or commission of the agency concerned.

SECTION 4. 86.25 (1m) of the statutes is created to read:

86.25 (1m) If lands or interests in lands necessary for an improvement under chapter 84 are acquired by a county or local municipality specifically for such improvement, the commission may reimburse such county or local municipality therefor from funds available for such improvement.

Approved June 27, 1951.

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