

No. 457, A.]

[Published October 25, 1961.

**CHAPTER 588**

AN ACT to create 84.295 of the statutes, relating to freeways and expressways.

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

84.295 of the statutes is created to read :

**84.295 FREEWAYS AND EXPRESSWAYS. (1) LEGISLATIVE INTENT.**  
In the interest of promoting public safety and convenience and the general welfare, the legislature of the state of Wisconsin declares that the intent

of this section is to provide for the development of a well balanced and integrated state trunk highway system further modernized and improved to adequate standards to provide needed increased traffic capacity, relieve the congestion on overtaxed existing highways, and otherwise more adequately serve the present and anticipated future needs of highway travel, and toward that end to prevent conflicting costly economic development on areas of lands to be available as right of way when needed for future highway construction.

(2) INVESTIGATIONS, SURVEYS AND STUDIES. As a function in the improvement of state trunk highways and connecting streets the highway commission is authorized to make investigations, surveys and studies of the present and anticipated needs for the improvement of desirable, probable additions to the state trunk highway system, and to otherwise carry out the expressed intent of this section.

(3) DESIGNATING FREEWAYS AND EXPRESSWAYS. Where the highway commission finds that the volume and character of the traffic to be served thereby warrant the construction or the acquisition of rights of way for the ultimate construction of a highway to accommodate 4 or more lanes for moving traffic and that such development is in the public interest, it may by order designate as freeways or expressways segments of state trunk highways having currently assignable traffic volumes in excess of 4,000 vehicles per day. Not more than 300 miles of highway shall be so designated. The findings, determinations and orders of the highway commission pursuant to this subsection shall be recorded in its minutes. Except as otherwise provided by this section, all provisions of law relative to the acquisition or dedication by subdivision plat or otherwise, of land and interests in land for highway purposes, and relative to surveys, plans, establishing, laying out, widening, enlarging, extending, constructing, improving, maintaining and financing of state trunk highways shall apply to the segments designated freeways or expressways pursuant to this section.

(4) CHANGES IN EXISTING HIGHWAYS AND UTILITIES. It is recognized that in the construction of freeways or expressways to modern standard and design, to promote the public and social welfare and benefit public travel of the state, it will become necessary for the highway commission to make or cause to be made changes in the location, lines and grades of existing public highways, railroads and public utility transmission lines and facilities.

(5) DESIGNATING HIGHWAYS AS FREEWAYS OR EXPRESSWAYS. Where a state trunk highway is established on a new location which is not on or along an existing public highway, and the state trunk highway is designated as a freeway or expressway no right of access to the highway shall accrue to or vest in any abutting property owner. Where a state trunk highway is on or along any highway which is open and used for travel and is designated as a freeway or expressway, reasonable provision for public highway traffic service or access to abutting property shall be provided by means of frontage roads as a part of the freeway or expressway development, or the right of access to or crossing of the public highway shall be acquired on behalf of the state as a part of the freeway or expressway improvement project. The occupation or use of any part of an existing public highway is authorized for the construction of a freeway or expressway. The action of the highway commission relative to designation, layout, location or relocation of any part of a freeway or expressway shall be conclusive.

(6) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the furtherance of the public interest and general welfare of the state and the traveling public in the development of freeways or expressways, the highway commission is authorized and empowered to construct grade separations at intersections of any freeway or expressway with other public

highways and railroads and to change and adjust the lines of public highways and if necessary combine, relocate or extend the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations, alterations or extensions of local roads as so determined by the highway commission shall be a part of the construction of and financed as a part of the cost of the freeway or expressway. The highway commission may by agreement with a county or municipality or by order summarily vacate or relocate any town, county, city or village highway as part of the construction of a freeway or expressway but shall pay any damage legally payable under existing law to any property owner directly injured by the vacation or relocation of such street or highway. The highway commission is empowered to enter into agreement with the units of government having jurisdiction over a local highway relocated, altered or extended as a part of the freeway or expressway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocated, altered or extended highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated, altered or extended, except any parts thereof which the highway commission determines to be useful in operation of or for access to the freeway or expressway, including structures over the freeway or expressway, which parts shall be maintained by the state as a part of the freeway or expressway. The action by the highway commission relative to vacation, relocation, extension or combining of a public highway under jurisdiction of any county, town, city or village shall be conclusive.

(7) **AUTHORITY TO RELOCATE AND CLOSE HIGHWAYS.** (a) Without limiting the authority extended by other provisions of this section the highway commission may, on behalf of the state, enter into an agreement with the governing body of any county or municipality having jurisdiction over any highway and, as provided in such agreement, relocate or extend any such highway or close the same at or near the point of intersection with any freeway or expressway, or make provision for carrying such highway over or under the freeway or expressway, and may do any and all things on such highway as may be necessary to lay out, acquire rights of way for, and build the same.

(b) No highway of any kind shall be opened into or connected with a freeway or expressway by a municipality unless or until the highway commission by resolution consents to the same and fixes the terms and conditions on which such connections shall be made; and the commission may give or withhold its consent or fix such terms and conditions as, in its opinion, will best serve the public interest.

(8) **POWERS GRANTED LIBERALLY CONSTRUED.** The provisions of this section are not restricted by other provisions of the statutes, and all powers granted in this section shall be liberally construed in favor of the state in the furtherance of the expeditious and orderly construction of any freeway or expressway project and in the furtherance of the orderly operation of a freeway or expressway designated pursuant to this section.

(9) **ESTABLISHING FREEWAY STATUS.** After the adoption of an order or resolution by the highway commission laying out and designating any portion of a state trunk highway as a freeway or expressway, the highway described in such resolution shall have the status of a freeway or expressway for all purposes of this section. Such declarations or orders shall not affect private property rights of access to pre-existing public highways, and any property rights to be taken shall be acquired in the manner provided by law. No previously existing public highway shall be developed as a freeway or expressway without acquiring by donation, purchase or condemnation the right of access thereto of the owners of abutting land.

(10) **ESTABLISHING LOCATIONS AND RIGHT OF WAY WIDTHS FOR FUTURE FREEWAYS OR EXPRESSWAYS.** (a) Where, as the result of its investigations

and studies, the highway commission finds that there will be a need in the future for the development and construction of segments of a state trunk highway as a freeway or expressway, and where the highway commission determines that in order to prevent conflicting costly economic development on areas of lands to be available as rights of way when needed for such future development, there is need to establish, and to inform the public of, the approximate location and widths of rights of way to be needed, it may proceed to establish such location and the approximate widths of rights of way in the following manner. It shall hold a public hearing in the matter in a courthouse or other convenient public place in or near the region to be affected by the proposed change, which public hearing shall be advertised and held as are state trunk highway change hearings. The commission shall consider and evaluate the testimony presented at the public hearing. It may make a survey and prepare a map showing the location of the freeway or expressway and the approximate widths of the rights of way to be needed for the freeway or expressway, including the right of way to be needed for traffic interchanges with other highways, grade separations, frontage roads and other incidental facilities and for the alteration or relocation of existing public highways to adjust traffic service to grade separation structures and interchange ramps. On such map there shall also be shown the existing highways and the property lines and record owners of lands to be needed. The approval of such map shall by reference be recorded in the commission's minutes, and a notice of such action and a copy of the map showing the lands or interests therein needed in any county shall be filed in the office of the register of deeds of such county. The notice of such action and of such filing shall be published once each week for 3 successive weeks in a newspaper of general circulation in such county, and within 60 days following such filing, notice of such filing shall be served by registered mail on the owners of record on the date of filing. With like approval, notice and publications, and notice to the affected record owners, the highway commission may from time to time supplement or change such map.

(b) After such location is thus established, within the area of the rights of way as shown on the map or in such proximity thereto as to result in consequential damages when the right of way is acquired, no one shall erect or move in any additional structure, nor rebuild, alter or add to any existing structure, without first giving to the state highway commission by registered mail 60 days' notice of such contemplated construction, alteration or addition describing the same, provided that this prohibition and requirement shall not apply to any normal or emergency repairs or replacements which are necessary to maintain an existing structure or facility in approximately its previously existing functioning condition. When the right of way is acquired, no damages shall be allowed for any construction, alterations or additions in violation of this paragraph.

(c) Without limiting any authority otherwise existing, any of the rights of way needed may be acquired at any time by the state or by the county or municipality in which such freeway or expressway is located. If one owner's contiguous land is acquired to an extent which is less than the total thereof shown on the map as needed, consequential damages to the portion not acquired shall be allowed if found to exist.

Approved October 20, 1961.