

CHAPTER 84.

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84.01 State highway commission. (1) **CREATED.** There is created a highway commission of 3 members. Such members shall be appointed by the governor with the advice and consent of the senate. The term of office of each member of the state highway commission holding office on the effective date of this amendment (1951) shall expire on said effective date. Thereupon appointment shall be made of 3 successor members for terms commencing on the date of appointment, one term to end March 1, 1953, one term to end March 1, 1955 and one term to end March 1, 1957. Thereafter as the various terms expire all appointments shall be for a term of 6 years and until their successors qualify. Upon the expiration of the terms of members serving on July 1, 1943, appointments shall be made so that one member shall come from the north section of the state, one from the east section and one from the west section; provided that any member serving on July 1, 1943 may be reappointed to succeed himself regardless of from what section of the state he or the 2 other members shall come. The north section shall comprise that part of the state north of a line running along the southern boundaries of Pepin, Eau Claire, Clark, Marathon, Shawano and Oconto counties. The division between the east and west sections shall be a line running along the western boundaries of Outagamie, Winnebago, Fond du Lac, Dodge, Jefferson and Walworth counties. At least 2 of the members shall be men who have had comprehensive business experience and also practical knowledge of highway planning and construction. All members shall devote full time to their duties and shall have no other remunerative employment. Any 2 of the members of the commission shall constitute a quorum with power to transact all business of the commission.

(2) **CHAIRMAN; SECRETARY.** After the members first appointed shall have qualified and in March of each odd-numbered year the governor shall designate one of the members of the commission as its chairman, and the commission shall elect one of the other members as its vice chairman and the other as its secretary. Any vacancy occurring in the chairmanship shall be filled by the governor and vacancies in the offices of vice chairman or secretary by election of the members of the commission.

(3) **OFFICES.** The commission shall maintain its principal office in the state capitol at Madison, and division offices at such other cities as the necessities of the work demand.

(4) **POWERS AND DUTIES; GENERAL PROVISION.** The commission shall have charge of all matters pertaining to the expenditure of state and federal aid for the improvement of highways, and shall do all things necessary and expedient in the exercise of such supervision.

(5) **EMPLOYES.** The commission shall employ such persons as may be needed to carry on its work, and assign to them such duties as it deems advisable. All such employes shall be under the exclusive control and direction of the commission, and except as provided herein and in chapter 16, the approval of no other officer shall be necessary to give validity to their appointment.

(6) **CHIEF ENGINEER.** The commission shall, subject to the approval of the governor, appoint a chief engineer, who shall be known as the state highway engineer, and who may be chosen from the members of the commission. The appointment of a member of the commission as state highway engineer shall not terminate his membership on the commission, but in case of such appointment he shall receive no compensation in addition to his salary as a member.

(7) **ADVISE LOCAL AUTHORITIES.** The commission shall advise towns, villages, cities and counties with regard to the construction and maintenance of any highway or bridge, when requested. On the request of any town, village, city or county board, or county highway committee, any supervision or engineering work necessary in connection with highway improvements by any town, village, city or county may be performed by the commission and charged at cost to such town, village, city or county. The cost of such supervision or engineering work shall be paid from the allotment under s. 20.420 (82) and any moneys paid into the state treasury in payment for such supervision or engineering work shall be added to such allotment.

(8) **SURVEYS AND PLANS.** The commission shall make provision for and direct the surveys, plans, construction, inspection and maintenance of all highways, whenever the construction or maintenance is under its jurisdiction.

(9) **EXPERIMENTS, MEETINGS, CONVENTIONS.** The commission shall conduct such investigations and experiments, hold such public meetings and attend or be represented at such meetings and conventions inside or outside of the state as may, in its judgment, tend to promote improved highways, and shall co-operate with state and national organizations in experiments and work for the advancement of improved highways.

(10) **DONATIONS.** The commission shall receive gifts, appropriations and bequests made to it or to the state for highway purposes, pay all moneys received by it into the state treasury, and, as far as practicable, expend the same in accordance with the wishes of the donor, such expenditures to be audited and paid as other disbursements of the commission are audited and paid, and shall apportion the allotments of state highway funds among the counties and municipalities as provided by law.

(11) **COUNTY TRUNK SYSTEM.** The commission shall review the system of county trunk highways and alter the same so as to connect the system of adjoining counties into continuous and direct routes.

(12) **RIGHT OF ENTRY.** The commission may enter private lands to make surveys or inspections.

(13) **BIENNIAL REPORT.** The commission shall make a biennial report of its work to the governor for the use of the legislature and issue such bulletins, pamphlets and literature as it deems necessary.

(14) **ACTING COUNTY COMMISSIONER.** The commission shall appoint, upon the request of any county board, a county highway commissioner, who shall have all the powers and duties conferred by statutes upon county highway commissioners.

(15) **ENGINEERING SERVICES.** The commission may engage such engineering, consulting, surveying or other specialized services as it may deem advisable, which shall be exempt from the provisions of sections 15.54 to 15.67 and sections 15.77 to 15.81, but any such engagement involving an expenditure of \$1,000 or more shall be by formal contract approved by the governor.

(16) **LABORATORIES.** The commission shall maintain in connection with the performance of necessary engineering for highway work and other functions, a materials testing and research laboratory and adequate facilities for highway marking and signing.

(17) **FEDERAL AID SYSTEMS OF HIGHWAYS.** The commission shall plan, select, lay out, add to, decrease, revise, construct, reconstruct, improve and maintain, or arrange for maintenance by subdivisions of the state or by any other means, the national system of interstate highways, federal aid highway system, system of secondary and feeder roads, federal aid grade crossing projects, federal forest highway systems and projects and other highway and related projects, all within the meaning of the Federal Aid Road Act approved July 11, 1916 (39 Stats. at L. 355), and all acts amendatory thereof and supplementary thereto, and the federal regulations issued under such acts; and receive all funds provided by any source to match or supplement such federal aid funds, and expend such funds in accordance with the requirements of acts of congress or of this state making such funds available and co-operate with federal authorities and subdivisions of the state in carrying out the provisions of this subsection. The provisions of this subsection shall not limit the other powers of the commission relative to federal aid for highways.

(18) **NOTICE OF COUNTY ALLOTMENTS.** Annually, not later than November 1, the commission shall notify each county clerk of the allotments of state aid to the county.

(19) **IMPROVEMENTS FOR NEXT YEAR.** The commission shall annually determine, as far as possible, what improvements will be made during the succeeding year, and notify the county clerks prior to November 1, as to the improvements in their respective counties. Such notice shall also be given to the director of the state conservation commission and to the secretary of the state soil conservation committee.

(21) STATE TRUNK HIGHWAY ALLOTMENT, PREPARATION OF PROJECTS. (a) Whenever the county board of any county and the commission shall agree on a project for expenditure of allotments standing to the credit of such county under section 84.03 (3), the commission shall forthwith proceed to make surveys and plans, acquire the right of way, hold public hearings and other requirements necessary to prepare the project to the point preceding the advertisement for bids.

(b) The commission is authorized to advance funds for such surveys and plans, acquisition of right of way, holding of public hearings and other requirements necessary to prepare the project to the point preceding the advertisement for bids out of funds available under s. 20.420 (82) which shall be replaced from funds available to the credit of such county under s. 84.03 (3) when construction begins.

(c) Whenever the county board of any county and the commission shall agree on projects for construction as provided in paragraph (a), the commission shall forthwith prepare a future construction program the estimated cost of which shall as nearly as practicable equal all outstanding credits available under s. 84.03 (3) as of July 1, 1943, plus anticipated federal aid and any other funds available for construction, and annually thereafter subject to provisions of par. (a), the commission shall forthwith prepare a construction program the estimated cost of which shall equal all funds available under s. 84.03 (3), proposed bond issues, anticipated federal aid, and the portion of s. 20.420 (82) available for construction and make surveys and plans, acquire the right of way, hold public hearings and other requirements necessary to prepare the projects included in the program to the point preceding the advertisement for bids. Such preparations shall be completed and on file in the office of the commission on or before November 1 of each year.

(22) NOTARIES PUBLIC. The commission is authorized to expend from its proper appropriations a sum sufficient to pay all fees and expenses necessarily incurred in qualifying employes deemed necessary as notaries public and securing notarial seals; but such notaries shall receive no fees for notarial services rendered to the state.

(23) OBLIGATING ESTIMATED REVENUES. The commission is exempt from the provisions of s. 20.902 to the extent that it may obligate estimated revenues from imposts on motor vehicles and motor vehicle owners for any immediately ensuing period of 12 months and federal highway aid funds allotted to this state pursuant to any applicable act of congress, which under the law are to be appropriated to the commission upon their receipt and deposit in the state highway fund.

(24) MOTOR VEHICLE WEIGHING STATIONS. The commission, as a part of the improvement and maintenance of highways, is authorized to acquire, construct and maintain lands and facilities, including scales or weighing stations for the use of the state motor vehicle department or other traffic officers for weighing, measuring or inspecting vehicles and loads operating on any public highway in the state. Lands necessary may be adjacent or contiguous to the highway and weighing station facilities may be constructed and maintained upon the traveled portion of the highway or any other part thereof.

(25) COMPUTATION OF HIGHWAY AIDS AND ALLOTMENTS. For the purpose of computing highway aids and allotments, the boundaries and incorporation status of towns, villages and cities and the mileage and system designation of highways shall be determined as of the January 1 immediately preceding the allotment date.

History: 1951 c. 97 s. 35; 1951 c. 286, 610; 1953 c. 264, 345, 600, 615; 1955 c. 179, 465.

A request by a county board to the state highway commission to appoint a county highway commissioner from a list of persons specified by the county board is not effective under 83.01 (1) and 84.01 (14), because of the limitation imposed. 38 Atty. Gen. 646.

84.011 Who to sign contracts. The secretary, or in his absence the vice chairman, of the commission is authorized to sign and execute, in its name, any contract or agreement with the federal government or its departments, subdivisions of the state, corporations, associations, co-partnerships and individuals, which has previously been officially determined upon and approved by the commission as a body.

History: 1953 c. 262.

84.015 Federal highway aid accepted. (1) The state of Wisconsin assents to the provisions of the act of congress, approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," (39 Stats. at L. 355) and all acts of congress amendatory thereof and supplementary thereto. The state of Wisconsin hereby declares its purpose and intent to give assent to all federal highway acts and to make provisions that will insure receipt by this state of any federal highway aids that heretofore have been or hereafter may be allotted to the state including all increased and advanced appropriations, and insure that such highways and related facilities in this state as may be eligible to be improved or con-

structed in accordance with the provisions of any such federal highway acts may be improved, constructed and maintained in accordance therewith. The good faith of the state is hereby pledged to make available funds sufficient as required to adequately carry out such construction and maintenance.

(2) The state highway commission is authorized to enter into all contracts and agreements with the United States relating to the construction and maintenance of streets and highways and related facilities under the provisions of the Federal Aid Road Act, approved July 11, 1916, and all acts amendatory thereof and supplementary thereto, to submit such scheme or program of construction and maintenance as may be required by said acts or rules and regulations of the United States promulgated thereunder and to do all other things necessary fully to carry out the co-operation contemplated and provided for by said acts.

84.02 State trunk highway system. (1) DESIGNATION. The system of highways known as the trunk highway system heretofore selected and laid out by the legislature and by the state highway commission and by special legislative state trunk highway committees and approved by said commission and as revised, altered and changed by and under authority vested by law in the state highway commission, is hereby validated and confirmed and designated the state trunk highway system but without prejudice to the exercise of the power given to change such system, and all acts by which parts of said system were heretofore adopted or declared to be trunk highways are confirmed and validated. Section 80.32 (2) does not apply to the state trunk highway system.

(2) COUNTY LINE HIGHWAYS APPORTIONED. The apportionment heretofore made by the highway commission of portions of the state trunk highway system that lie on county lines is hereby ratified. The portion of such county line highways assigned to any county shall be considered as lying wholly within such county, and all the provisions for construction and maintenance shall apply to such portion just as though it lay wholly within the county to which assigned. Bridges on the state trunk highway system which span streams forming the boundary between 2 counties shall be considered as lying one-half in each county.

(3) CHANGES IN SYSTEM. (a) Changes may be made in the state trunk system from time to time by the commission, if it deems that the public good is best served by making such changes. The commission, in making such changes, may lay out new highways by the procedure under this subsection. Due notice shall be given to the localities concerned of the intention to make changes or discontinuances, and if the change proposes to lay a highway via a new location and the distance along such deviation from the existing location exceeds $2\frac{1}{2}$ miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective. Such notice shall also be given to the state conservation commission and to the state soil conservation committee by serving a copy upon the conservation director and by serving a copy upon the secretary of the state soil conservation committee either by registered mail or personally. Whenever the commission decides to thus change more than $2\frac{1}{2}$ miles of the system such change shall not be effective until the decision of the commission has been referred to and approved by the county board of each county in which any part of the proposed change is situated. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed. Where the distance along the deviation from the existing location exceeds 5 miles the change shall constitute an addition to the state trunk highway system. The pre-existing route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the state highway commission mutually agree to its discontinuance as a state trunk highway. Whenever such county board or boards and the state highway commission cannot so agree the state highway commission shall report the problem to the next ensuing session of the legislature for determination.

(b) The action of any town, village or county board or city council discontinuing, relocating or altering any highway on the state trunk system shall be void unless the highway commission approves the same in writing.

(4) GUIDEBOARDS; WARNINGS; ROUTE MARKING. (a) The highway commission shall mark the highways of the state trunk highway system and also the connecting streets. The markers shall be uniform, except that the numbers thereon shall correspond with the numbers given to various routes by the commission and found on the official highway maps issued by the commission. No similar design or marker shall be used for marking other highway routes.

(b) No person shall mark any other highway routes or trails unless the route marked shall coincide exactly with the state trunk system. No such routes shall be marked until exact descriptions of the routes selected for marking have been filed with and the routes and markings approved by the commission. Every route laid out and marked shall be

made to conform to the state trunk system, and the person responsible for the marking of such route shall remove or erase such marks from every portion of such route which does not coincide with the state trunk highway system. The commission shall report to the secretary of state any violations of or failure to comply with the provisions of this subsection, and the secretary of state shall thereupon revoke the privilege, license or incorporation of the offender, and the commission shall cause the offending marks to be erased, removed or destroyed. The expense of such erasure, removal or destruction shall be paid out of funds appropriated to the commission, and may be recovered in the name of the state from the person responsible for such unauthorized marking.

(c) The commission shall erect and maintain such standard guide and warning signs as it deems necessary along the state trunk system, and it shall be unlawful to erect or display any other guide or warning signs upon the state trunk system, except in cases of emergency or when approved by the commission. Any erection in violation hereof may be removed by the commission.

(d) The commission may co-operate with the Public Roads Administration or other designated agency of the federal government in formulating and adopting or changing a uniform system of numbering, or designating highways of interstate character within this state, and in the selection and erection of uniform danger signals and safety devices for the protection and direction of traffic.

(5) MAPS. As often as it may deem necessary, the commission shall publish maps showing the state trunk highway system and such other main highways and other features as may seem desirable. Such maps shall be furnished to the director of purchases upon the requisition of the commission and shall be sold by him at a price to be fixed by the commission, which price shall be not less than cost. The commission may permit the use of the base plates for other maps and publications in consideration of a fair fee for such use. The commission shall make and publish or duplicate such maps as are required for its use, and shall publish folded highway maps of Wisconsin for free distribution to the public.

(6) ALTERNATE ROUTES THROUGH CITIES AND VILLAGES. In cases where any state trunk highway passes near but not through the central or business portion of any city or village, the commission may upon petition of any city or village designate an alternate route through such central or business portion, and shall install suitable marking to guide travelers over such alternate route. No such designation shall be made unless the commission finds that public travel will be benefited. Any such designation may be revoked on 30 days' notice to the city or village if the commission finds that public travel is not benefited. Such designation shall impose no responsibility on the state, except the cost of marking in the first instance. Such alternate routes shall be constructed and maintained and kept clear of snow, in a condition satisfactory to the commission without expense to the state, and the commission may require assurances to that effect before making such designation.

(7) ADDITIONS FROM COUNTY TRUNK HIGHWAYS. Whenever the traffic on any county trunk highway averages in any year 250 or more vehicles daily, the county board may by resolution request that such county trunk highway be added to the state trunk highway system. A copy of such resolution shall be filed with the commission. If after investigation the commission finds that the traffic on said county trunk highway meets the requirements of this subsection, it may by order add said highway to the state trunk highway system, but the total additions under this subsection shall not exceed 500 miles. Whenever the traffic on any portion of a state trunk highway averages in any year 150 or less vehicles daily, the county board of the county wherein such state trunk highway is situated may by resolution request that such be transferred to the county trunk highway system. A copy of such resolution shall be filed with the commission. If after investigation the commission finds that the traffic on said state trunk highway is as stated in said resolution, it may order said highway taken from the state trunk highway system and made a county trunk highway.

(10) TEMPORARY ROUTES; DETOURS. (a) In case it is impracticable to maintain any portion of the state trunk highway system as laid out, pending its improvement or construction, the commission may designate a temporary route as part of the state trunk highway system, and in such case the temporary route shall be considered part of the state trunk highway system in every respect, except that it may not be constructed as a state trunk highway.

(b) When any portion of the state trunk highway system is impassable or dangerous to travel or when it shall be deemed necessary because of construction or maintenance work or for other reasons to suspend all or part of the travel thereon, the state highway commission may route such travel over a detour around such portion of the state trunk highway system. Such detour may be routed over any other public highway or temporary

highway which may be improved or maintained as part of the cost of constructing or maintaining the state trunk highway system to the extent necessary, as determined by the commission, because of such additional travel. Such routing of state trunk highway traffic over other public highways shall not alter the existing status of such other public highways.

(11) **CONNECTING STREETS.** The state trunk highway system shall not include the marked routes thereof over the streets or highways in cities and villages having population of 2,500 or more except those portions extending inward from or along the corporate limits determined by the highway commission as being comparatively rural or suburban in character. The portions of streets, or highways in such cities and villages so excluded as state trunk highways but marked as such are designated connecting streets. The state trunk highway system shall include the routes thereof in or through cities and villages having population less than 2,500.

(12) **STATE TRUNK SYSTEM MAPS.** The state highway commission shall maintain in its permanent record a map of each county on a scale of not less than one-half inch per mile showing the official layout of the state trunk highway system. Annually, as soon as practical after January 1, a copy of such map, showing the official layout of the state trunk highway system in each county as it existed at the close of the previous calendar year, shall be filed with the county clerk and county highway commissioner thereof.

History: 1953 c. 75, 318, 600, 631.

Where the commission institutes proceedings under (3) (a) to relocate a portion of the state trunk highway system involving a deviation from the existing location exceeding 2½ miles in 2 counties, and one county board has approved the change but the other one has not, the latter may give its approval later in the absence of any county board rule of procedure to the contrary. 39 Atty. Gen. 137.

84.025 State arterial highway system. (1) **DECLARATION OF NECESSITY.** The legislature finds and declares it is necessary in the interests of public safety, convenience and the general welfare that a part of the state trunk highway system be established as a state arterial highway system forming an integrated, state-wide interregional and intercommunity network of highways for the purpose of facilitating the improvement of the state arterial highway system and accelerating the rate of improvement on the entire state trunk highway system.

(2) **STATE ARTERIAL HIGHWAY SYSTEM DESIGNATED.** The state arterial highway system shall consist of the following existing state trunk highways or appropriate revisions thereof:

(a) State trunk highway 2 from the Minnesota-Wisconsin boundary line at the city of Superior to the Michigan-Wisconsin boundary line near the city of Hurley.

(b) State trunk highway 12 from the Wisconsin-Illinois boundary line near the village of Genoa City to the Minnesota-Wisconsin boundary near the city of Hudson.

(c) State trunk highway 14 from the Minnesota-Wisconsin boundary at the city of La Crosse to the junction with state trunk highway 12 near the city of Madison.

(d) State trunk highway 16 from the Minnesota-Wisconsin boundary line at the city of La Crosse to the junction with state trunk highway 12 near the city of Tomah.

(e) State trunk highway 18 from the Iowa-Wisconsin boundary line at the city of Prairie du Chien to the junction with state trunk highway 151 at the city of Dodgeville.

(f) State trunk highway 29 from the junction with state trunk highway 12 near the village of Elk Mound to the city of Green Bay.

(g) State trunk highway 30 from the city of Madison to the city of Milwaukee.

(h) State trunk highway 41 from the Wisconsin-Illinois boundary line near the city of Kenosha to the Wisconsin-Michigan boundary line at Marinette.

(i) State trunk highway 42 from the junction with state trunk highway 141 at the city of Manitowoc to the city of Sturgeon Bay.

(j) State trunk highway 51 from the Wisconsin-Illinois boundary line at the city of Beloit to the junction with the state trunk highway 2 near the city of Hurley.

(k) State trunk highway 53 from the junction with state trunk highway 12 at the city of Eau Claire to the junction with state trunk highway 2 near the city of Superior.

(l) State trunk highway 57 from the city of Green Bay to the junction with state trunk highway 42 near the city of Sturgeon Bay.

(m) State trunk highway 141 from the city of Milwaukee to the Wisconsin-Michigan boundary line near the village of Niagara.

(n) State trunk highway 151 from the Wisconsin-Iowa boundary line near the city of Dubuque, Iowa to the city of Manitowoc.

(o) The total length of the state arterial highway system shall not exceed 2,200 miles including supplementary connections into and through urban areas and connecting with appropriate routes in adjoining states.

(3) **CHANGES IN THE SYSTEM.** Changes may be made in the state arterial highway system by the commission, if it deems that the public good is best served by making such

changes. The commission, in making such changes, may lay out new highways by the procedure under this subsection. Due notice shall be given to the localities concerned of the intention to make changes or discontinuances, and if the change proposes to lay a highway via a new location and the distance along such deviation from the existing location exceeds 5 miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective. Such notice shall also be given to the state conservation commission and to the state soil conservation committee by serving a copy upon the conservation director and by serving a copy upon the secretary of the state soil conservation committee either by registered mail or personally. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed. Where the distance along the deviation from the existing location exceeds five miles the change shall constitute an addition to the state trunk highway system. The pre-existing route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the state highway commission mutually agree to its discontinuance as a state trunk highway. Whenever such county board or boards and the state highway commission cannot so agree the state highway commission shall report the problem to the next ensuing session of the legislature for determination.

(4) **USE OF COUNTY ALLOTMENT PERMISSIVE.** That portion of the state trunk highway allotment under s. 84.03 (3) allotted to counties for improvements on the state trunk highway system may, with county board approval, be used for construction on the state arterial highway system, but no county shall be required by the commission to allot such funds for such purposes.

(5) **LAW GOVERNING.** All provisions relating to the state trunk highway system shall apply to the state arterial highway system except those in conflict with this section.

History: 1955 c. 4.

84.03 Federal aid; state and local funds. (1) **STATE AND FEDERAL AID.** (a) All moneys granted or allotted to the state of Wisconsin as federal aid for highways and all state appropriations and other funds available to match or supplement such federal aid funds and so utilized by the state highway commission shall be expended by the commission in accordance with the act of congress relating to such federal aid funds.

(b) Funds provided by any county, city, village or town to construct, reconstruct or improve any highway, street or bridge with state or federal aid under the provisions of this chapter, shall be paid to the commission or to the state treasury as the commission may require and shall be expended in accordance with the provisions of s. 84.06 and the federal acts relating to such federal aid. The use of state or federal aid in the construction, reconstruction or improvement of any highway, street or bridge not on the state trunk highway system shall not relieve the county, city, village or town of any obligation to maintain such highway, street or bridge. The state highway commission may allot to any city of the first class any state and federal highway funds to which such city may be entitled for the purpose of the payment of interest, debt charges, amortization or retirement of street or highway bonds issued pursuant to the provisions of s. 67.05 or other applicable provisions of law. Such cities are hereby empowered to use such highway funds so allotted for such purposes, paying interest, debt charges and costs, amortization or retirement of such bonds.

(c) On any highway, street or bridge hereafter constructed, reconstructed or improved with state or federal aid under the provisions of this chapter, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency shall be subject to the approval of the state highway commission; and the state highway commission is directed to approve only such installations as will promote the safe and efficient utilization of the highways, streets and bridges.

(3) **STATE TRUNK HIGHWAY ALLOTMENT; COUNTY MINIMUM.** (a) The appropriation made by s. 20.420 (75) shall be allotted by the state highway commission for the construction, reconstruction and improvement of the state trunk highway system and connecting streets in the several counties and expended by the commission in accordance with the provisions of s. 84.06 upon projects which have been approved by the counties, but such allotment shall be so expended subject to the provisions of s. 84.03 (4) relative to the retirement of bonds issued under s. 67.13 or 67.14. All or any part of any such allotment to the credit of any county not required for the retirement of bonds as herein provided may, with the consent of the county involved, be allocated by the commission to match or supplement federal aid for projects on the state trunk highway system or connecting streets within the county to which the allotment is credited. Eight million dollars of such appropriation shall be allotted, 40 per cent in the ratio that the number of motor vehicles registered from each county in the fiscal year ended the previous June 30 bears to the total number registered in the state and 60 per cent in the ratio that the

mileage of highways in each county, exclusive of highways and streets in cities and villages, bears to the total mileage of such highways in the state.

(b) In counties where more than 60 per cent of the state trunk highway system is constructed and surfaced with high type surfacing, satisfactory to the commission, and to the extent that there is no necessity to meet obligations on account of outstanding bonds, such portion of the allotment under this subsection as the commission approves may be added to the appropriation provided for such county by s. 83.10 (1) or used for the acquisition of rights of way for and construction of expressways and federal aid secondary projects in such county.

(c) Under the provisions of this section no county shall be allotted less than \$40,000 and no county which has constructed portions of its state trunk highway system with the proceeds of bonds issued under section 67.13 or 67.14, and expended with the approval of the state highway commission, shall be allotted for any year less than the amount necessary to pay the principal of such bonds maturing in such year.

(4) RETIREMENT OF BONDS. All allotments under subsection (3) to counties having bonds outstanding which were issued under section 67.13 or 67.14, and expended for construction on the state trunk highway system, shall be used exclusively to retire such bonds to the extent necessary each year.

(5) ALLOTMENTS NONLAPSIBLE. Allotments under sub. (3) shall not lapse, but shall stand to the credit of the county for which allotted until expended as provided by law. The commission and a county board, or a county highway committee when authorized by the county board, may agree upon projects on which one or more future years' allotments for such county shall be used. The cost of such projects to the extent so agreed may be advanced by the commission from any funds available in the state highway fund, and the amounts so advanced shall be deducted from subsequent allotments under sub. (3) becoming available to the credit of the county.

(9) IMPROVING STATE TRUNKS; LANDSCAPING AND ACQUIRING WAYSIDE AREAS. (a) That part of the appropriation made by s. 20.420 (82), not required for the other purposes therein provided, may be used by the commission for the improvement and traffic service of the state trunk highway system and connecting streets, for the purchase and operation of equipment, making surveys for locating local road materials, testing of materials, and for other purposes provided in this section, and to match or supplement federal aid for the construction, reconstruction or improvement of the federal aid highway system, secondary or feeder roads, the elimination of hazards at railroad grade crossings and for any other highway purpose for which the state may match or supplement federal aid funds pursuant to any act of congress. Where such funds are used for the improvement of the state trunk highway system or connecting streets or to match or supplement federal aid they shall be expended in accordance with s. 84.06 and any applicable act of congress. Any funds expended pursuant to this paragraph shall be expended by the commission on such projects within the provisions of this paragraph, and executed in such manner as the commission shall from time to time determine will best meet the needs of travel and best promote the general welfare. Such funds may be used for improvements, within the provisions of this paragraph, independent of or in conjunction with other funds available for such improvements. The requirements of any federal highway act, or regulations issued thereunder, may be met from such appropriation.

(b) In addition to the purposes provided in par. (a) there may be expended by the commission a sum sufficient, not exceeding \$20,000, for marking highways as civil defense evacuation routes as requested by the civil defense director.

(c) For the preparation of topographical maps of parts of Wisconsin in co-operation with the federal government, there may be expended annually an amount not exceeding \$15,000, and not exceeding the amount made available by the federal government for expenditure in Wisconsin for such purpose.

(10) IMPROVEMENT OF CONNECTING STREETS. All connecting streets shall be constructed or reconstructed by the state in the same manner as portions of the state trunk highway system. It shall not be compulsory for the state to construct or reconstruct any such street or highway to a greater width than those portions of the state trunk system connecting therewith.

History: 1953 c. 263, 318, 347, 625; 1955 c. 378, 636.

84.04 Roadside improvement. (1) As used in this section:

(a) "Roadside improvement" means the application of the principles of landscape architecture to highway planning, design, location, and construction.

(b) "Roadside" means that portion of the right of way not occupied by surface courses, curbs, paved gutters, or paved median strips or by other highway structures.

(c) "Wayside" means an area of land adjacent or in close proximity to the highway of not to exceed 5 acres, with facilities developed for the convenience, comfort, and en-

joyment of the motoring public, these developments to include parking, sanitary, cooking, and picnicking facilities, together with any other facility or improvement which the commission deems desirable or necessary to accommodate travelers and provide convenient and safe access thereto by pedestrians and vehicles.

(d) "Overlook" means a graded terrace, often inclosed by a masonry retaining wall, located on roadside areas where favorable topographic conditions provide an exceptional view or off-scape from the road.

(e) "Windbreak hedge" means a narrow planting of trees or shrubs for protection against the drifting of snow or sand.

(f) "Turnout" means an informal surfaced or unsurfaced parking space for one or more cars or trucks, constructed at selected locations on roadsides in open country for purposes of rest and relaxation.

(2) The commission may develop and maintain waysides, overlooks, windbreak hedges, turnouts and carry on roadside improvement along, or in close proximity with state trunk highways. These activities may be performed within highway rights of way and upon lands otherwise publicly owned or controlled, or on lands acquired in proximity therewith. The commission may acquire lands needed for such purposes.

(3) Funds appropriated by s. 20.420 (78) shall be expended for the purposes set forth in this subsection, but nothing herein shall limit the commission's power to expend other funds which it is otherwise authorized to expend for similar purposes.

History: 1953 c. 318 s. 20; 1953 c. 625.

84.05 Railroad crossing improvements. On a highway which the commission has authority to construct and which crosses a railroad or street railway, if the commission determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a grade crossing or other rearrangement of the highway or tracks is necessary in the interest of public safety or for convenience of public travel, the commission shall make a plan of the construction proposed and an estimate of the cost thereof, including the cost of needed right of way; and shall endeavor to make an arrangement with all persons concerned as to all matters involved in the plan, including the portion of the cost of the contemplated work which the persons shall defray. If the commission is unable to contract with the persons concerned as to the distribution and payment of the cost of the work, the commission shall lay the matter before the public service commission, and the public service commission shall review the proceedings and hold a hearing thereon in accordance with sections 195.28 and 195.29, and shall fix the portion of the cost which is to be paid by the persons or corporations concerned, and the portion of the cost, if any, to be paid by the public, which portion shall be paid from the highway construction fund. The public service commission shall determine the benefits, if any, which will inure to other highways, and apportion and charge to the units of government responsible for the construction of such other highways a fair portion of the cost.

84.06 Highway construction. (1) **DEFINITIONS, PLANS.** The word "improvement" as used in this section includes construction, reconstruction and the activities, operations and processes incidental to building, fabricating or bettering a highway or street, but not maintenance. The state highway commission may prepare plans, estimates and specifications and undertake and perform all surveys, investigations and engineering work for any highway improvement within its jurisdiction. When provision has been made for the necessary funds for any such highway improvement and, if federal aid is to be utilized, when the project has been approved by the proper federal authorities, the commission may proceed as provided in this section, with due regard to any applicable federal requirement or regulation.

(2) **BIDS, CONTRACTS.** All such highway improvements shall be executed by contract based on bids unless the commission finds that another method as provided in subsection (3), (4) or (5) would be more feasible and advantageous. Bids shall be advertised for in the manner determined by the commission. The contract shall be awarded to the lowest competent and responsible bidder as determined by the commission. If the bid of the lowest competent bidder is determined by the commission to be in excess of the estimated reasonable value of the work or not in the public interest, all bids may be rejected. The commission shall, so far as reasonable, follow uniform methods of advertising for bids and may prescribe and require uniform forms of bids and contracts. The contract shall be entered into on behalf of the state by the commission. Every such contract is excepted from the provisions of sections 15.54 to 15.67 and sections 15.79 and 15.81. Any such contract involving an expenditure of \$1,000 or more shall not be valid until approval of the governor is indorsed thereon. The commission may require the attorney-general to examine any contract and any bond submitted in connection therewith and report as to the sufficiency of the form and execution thereof. The bond required by section 289.16 for any such contract involving an expenditure of less than \$1,000 is exempt from ap-

proval by the governor and shall be subject to approval by the commission. The provisions of this subsection shall also apply to contracts with private contractors based on bids for maintenance under section 84.07.

(3) **CONTRACTS WITH COUNTY; DIRECT LABOR; MATERIALS.** If the commission finds that it would be more feasible and advantageous to have the improvement performed by the county in which the proposed improvement is located and without bids, the commission may, by arrangement with the county highway committee of the county, if possible, enter into a contract satisfactory to the commission to have the work done by the county forces and equipment and in such contract may authorize the county to purchase, deliver and store materials and may fix the rental rates of small tools and equipment. The contract shall be between the county and the state and shall not be based on bids, and may be entered into on behalf of the county by the county highway committee and on behalf of the state by the commission. Such contract is excepted from all provisions of chapter 15 and section 289.16, but in case the total indebtedness to be incurred thereby as therein estimated exceeds \$5,000 the contract shall not be valid until the approval of the governor is indorsed thereon.

(4) **SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES.** 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.

(5) **LABOR EMPLOYED DIRECTLY BY COMMISSION.** If the commission finds that it would be more feasible and advantageous to have the proposed improvement performed by labor employed directly by the commission, it shall submit a written report of its findings to the governor. If he approves the same he shall indorse his approval upon the report and thereupon the commission may do the work by labor employed directly by the commission, and may rent or purchase necessary small tools or equipment.

(6) **EXCESS COST.** Any excess in construction cost over the funds made available for any piece of work, shall be paid from the unobligated balance of funds allotted by section 84.03 (3) or as the commission may determine, and any balance shall be credited to the appropriation from which the work was financed.

(7) **INSPECTION AND PAYMENT.** The commission may provide for the inspection of each piece of work to insure its proper performance. All indebtedness incurred under this section for any highway improvement shall be paid out of the available funds subject, if federal aid is utilized, to any applicable federal requirement or regulation.

(8) **CONTRACT FOR MATERIALS.** Whenever an improvement has been determined upon and provision has been made for fully financing the cost the commission, if it concludes that a probable saving can be effected thereby, may contract for any or all of the materials to be used in the improvement and for the delivery and storage of said materials at suitable points, and pay for the same out of any funds available for the improvement.

(9) **CATTLE PASSES.** As a part of any highway improvement or as a separate project under this section, cattle passes may be constructed at places determined to be necessary and practical.

History: 1951 c. 247 s. 31, 446.

Cross Reference: See 103.50 for regulation of hours of labor and wage rates under highway contracts based on bids under 84.06 (2).

84.07 Maintenance of state trunk highways. (1) **STATE EXPENSE; WHEN DONE BY COUNTY; DEFINITION.** The state trunk highway system shall be maintained by the state at state expense. The commission shall prescribe regulations and specifications for such maintenance. The commission may arrange with any county highway committee to have all or certain parts of the work of maintaining the state trunk highways within its county performed by the county. Maintenance of state trunk highways includes the operations, activities and continuing processes for their repair, preservation, restoration and rein-

forcement, the removal and control of snow and the removal, treatment and sanding of ice, and all measures deemed necessary to provide adequate traffic service. It also includes the care and protection of trees and other roadside vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to section 80.01 (3).

(1a) BRIDGES IN CITIES AND VILLAGES. In the case of bridges on the state trunk highway system in cities or villages, the commission may elect to arrange with the city or village rather than the county to have all or part of the work of maintaining or operating the bridge performed by the city or village; and cities and villages are authorized to enter into such arrangements. In such case, the word "county" as used in subsection (2) shall mean "city" or "village".

(2) COUNTY REPAID FOR STATE WORK. When any county maintains the state trunk highways, in compliance with the arrangement with the state highway commission, the commission shall pay the actual cost of such maintenance, including the allowance for materials and the use of county machinery and overhead expenses agreed upon in advance. Such payments shall be made upon presentation by the county clerk of a properly itemized and verified account by the county highway committee.

(3) WEED CONTROL. The highway patrolman shall destroy all noxious weeds as provided in s. 94.20 on any highway which he patrols.

(4) EMERGENCY REPAIRS; BLOCKING STREETS; DETOURS. Except in case of emergency, no city or village shall obstruct any street over which any state trunk highway is marked unless it first makes arrangements with the state highway commission for marking a detour.

History: 1953 c. 381.

A county is not liable for damages sustained by water backed up by an insufficient culvert under a state trunk highway, since the duty of maintenance is on the state. *Lloyd v. Chippewa County*, 265 W 293, 61 NW (2d) 479, 62 NW (2d) 431.

84.08 Franchises. No franchise or permit granted by any town or village or city to any corporation to use any state trunk highway shall become effective unless such franchise or permit has been approved by the state highway commission. The order of the commission shall provide for or approve the method by which the work authorized by the franchise or permit is to be done or by which the highway is to be restored to its former condition.

84.09 Acquisition of lands and interests therein. (1) The state highway commission may acquire by gift, devise, purchase or condemnation any lands for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving and maintaining highways, streets, roadside parks and weighing stations which it is empowered to improve or maintain, or interests in lands in and about and along and leading to any or all of the same; and after establishment, layout and completion of such improvements, the commission may convey as hereinafter provided such lands thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such lands so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works. Whenever the commission deems it necessary to acquire any such lands or interests therein for any of such purposes, it shall so order and in such order or on a map or plat show the old and new locations and the lands and interests required, and shall file a copy of the order and map with the county clerk and county highway committee of each county in which such lands or interests are required. For the purposes of this section the commission may acquire private or public lands or interests therein. When so provided in the commission's order, such land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the commission shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required at a price, including any damages, deemed reasonable by the commission. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of register of deeds. The purchase or acquisition of lands or interests therein under this section is excepted and exempt from s. 20.926. The commission may purchase or accept donations of remnants of tracts or parcels of land existing at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation for highway purposes where in the judgment of the commission such action would assist in making whole the land owner, a part of whose lands have been taken for highway purposes and would serve to minimize the over-all cost of such taking by the public.

(2) If any of the needed lands or interests therein cannot be purchased expeditiously for a price deemed reasonable by the commission, the commission may acquire the same by condemnation under ch. 32, or in the manner provided for counties under s. 83.07, or may make an award of damages naming as recipients the owner or owners and any person known to have any legal or equitable interest in said lands. The original of said

award shall be recorded in the office of the register of deeds of the county wherein the lands are situated and shall then be filed with the commission. Thereupon the amount so awarded shall be tendered to the owner, or in the case of more than one owner to one of them by a bank check made payable to the owner, owners and any person known to have any legal or equitable interest in said lands. Said tender may be made by registered mail or by personal service. If the owner to whom tender is made shall refuse to accept the same, or if the whereabouts of any recipient cannot be ascertained, tender may be made by depositing the same with and payable to the clerk of any court of record in the county in which all or any part of the lands taken are situated. The award shall be received by said clerk, deemed in the custody of the court and paid out only on order of the court. A copy of said award shall also be filed with the court at the time. Any recipient may commence an action for the determination of the rights of the recipients and for distribution of the award. In all cases where tender is accepted or made through the court as aforesaid, it shall be without prejudice to the right of appeal for a greater sum but no interest on the amount of the original award shall be recoverable. A copy of said award and notice to whom the check has been delivered shall be delivered or mailed to all recipients whose addresses are known. In addition to the above provisions, if the name or address of any recipient is unknown, the award shall be published at least once each week for 3 successive weeks in a newspaper having general circulation in the same county in which the award was deposited, shall state where the award has been deposited and that it is available to the recipients if claimed within the time allowed by s. 59.89. After the award of damages has been recorded in the office of the register of deeds, and the amount of the award has been paid, tendered or deposited as herein set forth title to lands described in the award shall vest in the state for the use and to the extent designated in the award and the state may take possession of the lands and exercise full control of the interests in lands acquired. The circuit court of the county may upon 24 hours' notice to the occupant of such lands grant a writ of assistance to the state to place it in possession of such lands. Any recipient may, within 2 years after the recording of the award with the register of deeds, apply to the county judge on 20 days' written notice to the state highway commission to appraise his damages and thereafter proceedings shall be as provided in s. 83.07. Any recipient appealing shall join all other recipients by service of 20 days' notice of such appeal. In the event the award of the county judge shall be lower than the original award and tender of the award has been accepted by an owner, the state shall have a lien against such owner for the amount of the difference. The lien shall give the name and address of the owner or owners, refer to the original award and the award on appeal and state the difference in amounts. The lien may be filed in the office of the register of deeds and when so filed shall attach to all property of the owner presently owned or subsequently acquired in any county where such lien is filed. Such lien shall remain in force with interest until satisfied or until it is set aside by a judgment of the circuit court in an action pursuant to s. 32.11.

(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).

(b) Any property of whatever nature acquired in the name of the county pursuant to this section or any predecessor shall be conveyed to the state without charge by the county highway committee and county clerk in the name of the county when so ordered by the commission.

(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.

(d) The provisions of s. 59.07 (1) (c) shall not apply to any conveyance or transfer made under this section.

(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 created or selected and the state highway commission shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or 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 ch. 32, or in the manner provided in s. 83.07, or in the manner provided in s. 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.

(4) The cost of the lands and interests acquired and damages allowed pursuant to this section, expenses incidental thereto and the customary per diem (or if on an annual salary, a per diem not to exceed the lawful rate permitted for members of county boards) and expenses of the county highway committee incurred in performing duties pursuant to this section shall be paid out of the available improvement or maintenance funds, and members of the highway committee on an annual salary basis shall be entitled to such per diem as compensation for their services in addition to their annual salary fixed pursuant to section 59.03 (2) (f).

(5) Subject to the approval of the governor as herein provided, the highway commission is authorized and empowered to sell at public or private sale property of whatever nature owned by the state and under the jurisdiction of the highway commission when the commission shall determine that such property is no longer necessary for the state's use for highway purposes. The commission shall present to the governor a full and complete report of the property to be sold, the reason for the sale, and the minimum price for which the same should be sold, together with an application for the governor's approval of such sale. The governor shall thereupon make such investigation as he may deem necessary and approve or disapprove such application. Upon such approval and receipt of the full purchase price, the commission shall by appropriate deed or other instrument transfer the property to the purchaser. The funds derived from such sale shall be deposited in the appropriate highway fund, and the expense incurred by the commission in connection with the sale shall be paid from such fund.

(5m) Subject to the approval of the governor in the manner and form provided by subsection (5), the commission is authorized and empowered to convey lands or interests therein acquired pursuant to this section and improvements installed thereon to municipalities within whose limits such lands or interests therein are located. The conveyance of said lands or interests therein and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that said lands or interests therein declared by the commission to be excess may be so conveyed without restrictions as to use.

(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.

(7) When state highway funds or federal aid are involved in financing an expressway project pursuant to s. 59.965, the state highway commission, proceeding under the general authority in this section, may order that all or certain parts of the required land or interests therein shall be acquired by the county expressway commission. When so ordered, the expressway commission and the highway commission shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The expressway commission shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, to the county or the state

as grantee, all as directed in the highway commission's order. The instrument of conveyance shall be subject to approval by the highway commission, and shall be recorded in the office of the register of deeds and filed with the highway commission. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the expressway commission may acquire them by condemnation under ch. 32, or in the manner provided in s. 83.07 or, subject to approval by the highway commission, in the manner provided in sub. (2). For the purposes and in the manner provided in s. 59.965 (5) (d) 1, when so directed in the highway commission's order the expressway commission may acquire remnants, and with the approval of the highway commission the expressway commission may dispose of remnants and may improve, use, maintain or lease lands and interests acquired and held in trust for the state until they are actually needed for expressway construction. The net proceeds of such sales or rentals shall be remitted to the state or retained and used for expressway purposes when so directed by the highway commission.

History: 1951 c. 446; 1953 c. 61, 264, 308, 643; 1955 c. 530, 574.

See note to 32.10, citing *Townsend v. State*, 257 W 39, 43 NW (2d) 458.

In 84.09 (1) providing that the state highway commission may acquire by purchase or condemnation any lands for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving and "maintaining highways," the quoted words have reference to activities relating to the actual physical maintenance of highways and not to activities which only remotely and indirectly affect highway maintenance, such as the policing of the weight of trucks, and thereunder a county highway committee, acting under authority of the state highway commission and by the summary method of condemnation procedure authorized by 84.09 and 83.08, had no power to acquire private lands for the purpose of constructing thereon a truck-weighing station and access driveways adjacent to a state highway. *Webster v. Frawley*, 262 W 392, 55 NW (2d) 523.

See note to 32.10, citing *Carazalla v. State*, 269 W 593, 70 NW (2d) 208, 71 NW (2d) 276.

An easement to maintain a power line is an interest in land. Where highway construction across land acquired subject to

the easement necessitates relocation of line, the company is entitled to compensation. 39 Atty. Gen. 332.

Moneys expended by the state highway commission for purchase of right-of-ways in cities must be for lands purchased or condemned in the name of the state pursuant to this section. 40 Atty. Gen. 154.

Where state highway commission, pursuant to this section, has by order directed county highway committee to acquire fee title to parcel of land for highway purposes, and resort is had to ch. 32 by reason of inability to negotiate purchase for reasonable award, county acquires title in fee simple. 32.14, limiting interest to easement for highway purposes, deemed inapplicable. 21 Atty. Gen. 553 distinguished. 40 Atty. Gen. 218.

The state highway commission has power to condemn property owned by school districts and to condemn property of public utilities engaged in interstate commerce subject to the rights of such utilities under 84.16 and 182.017 (1). Previous opinions of the attorney general (29 Atty. Gen. 458 and 30 Atty. Gen. 266) to the contrary are no longer applicable because of statutory changes. 41 Atty. Gen. 229.

84.10 Maintenance and operation of bridges not on state trunks. The appropriation made by s. 20.420 (74) shall be expended by the commission for the maintenance and operation of bridges not on the state trunk highway system which were constructed, reconstructed, or purchased under ss. 84.11 and 84.12 and free bridges located on connecting streets in cities of the fourth class which have a length, not including approaches, of 300 feet or more, or a swing or lift span. All matters relating to the maintenance and operation of such bridges shall be under the control of the commission. Maintenance and operation shall not include the roadway lighting system and shall not include snow and ice removal and control for bridges located on connecting streets. The commission may arrange with the county highway committee or with the village or city for the operation or maintenance or both of any such bridge; and the county highway committee, village or city are authorized to enter into such arrangement.

History: 1953 c. 318.

84.103 Silent Cross Memorial Highway. (1) The state highway commission is authorized and directed to make plans for and construct in accordance with this section a beautiful highway to be known as the "Silent Cross Memorial Highway" as a living memorial to and in honor of our soldiers, living and dead, of all wars in which the United States of America has engaged. The highway shall consist of a horizontal and a vertical member. The horizontal member shall commence at or near Milwaukee, following generally present state trunk highway number 30 to Madison and thence proceed westerly, leaving the state at La Crosse or Prairie du Chien. The vertical member shall generally follow a route upon or along present United States highway No. 51, entering the state at or near Beloit, proceeding northerly passing near Janesville, Madison, Portage, Stevens Point, Wausau, Merrill and Tomahawk, extending on to a point near Trout Lake and thence northerly to the Michigan boundary.

(2) The alignment and grade of the highway shall be constructed to the most modern standards with structures of appropriate strength and designed with due regard to aesthetics. It shall, where practical to meet present and reasonably anticipated need for complete traffic and driver service, consist of a 4-lane, double-divided concrete highway, suitably landscaped, seeded and planted, and shall include appropriate wayside develop-

ment for emergency stops and for rest and observation. The economy, efficiency, safety and permanence and memorial quality of the highway shall be complemented and enhanced by complete border control and restrictions to access according to the latest and advanced standards of highway development.

(3) Careful consideration and study shall be given to preservation of natural growth and beauty, scenic development and sites for turnout and wayside development along with and as part of complete grading, construction and planting plans so as to provide the utmost in combining a permanent and beautiful route with the best in location and cross section, structural design and adequate right of way for vehicle and driver services.

(4) The Silent Cross Memorial Highway shall be developed over a period of 50 years and finally completed by July 1, 1997. The state highway commission shall proceed with such development, so far as practical, in the manner and order following:

(a) It shall establish definitely the final location of the highway;

(b) It shall lay out for acquisition as needed a right of way of sufficient width for ultimate development;

(c) It shall by orders regulate and restrict the location, shape, height, size and setback building lines of buildings and other structures along such location, right of way or highway and along any natural watercourse, body of water, stream, creek or place of vantage in near proximity thereto; and it may by orders regulate and restrict the use of land along such location right of way or highway and the operation of vehicles thereover. No such order shall prohibit the continued use or location of any building, structure or premises existing at the time such order takes effect, but the alteration of or addition to any building or structure so existing and not conforming to such order may be prohibited. No commercial enterprise or activity shall be authorized or conducted by the commission upon any part of the property designated as a part of such highway or acquired for such purpose. But the commission shall, in order to permit establishment of adequate fuel and other services for users of the highway by private owners or their lessees, provide for access roads within said right of way at points which in its opinion will best serve the public interest. All orders made pursuant to this paragraph shall be reasonable and designed to promote the public health, safety and public welfare. Any person violating this paragraph or any such order shall be punished by a fine of not exceeding \$500 or by imprisonment for a period not exceeding 6 months or by both such fine and imprisonment. Compliance with this paragraph and such orders may be also enforced by injunctive order at the suit of the state highway commission or any owner of real estate affected thereby.

(d) When plans are made for any construction on the highway such plans shall provide for the ultimate development even though only a part thereof is to be carried out at the time; all construction shall conform with the plans of development, both as regards elevation and alignment. Landscaping of the highway shall be considered and included in the plans prior to or at the time of construction and shall closely follow construction of the highway.

(5) Except as herein otherwise required all provisions of law relative to the acquisition of land for highway purposes, highway surveys and plans establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving, maintaining and financing of highways, bridges, streets and roadside parks shall apply to the acquisition of land for the Silent Cross Memorial Highway, surveys and plans therefor and establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving, maintaining and financing of the Silent Cross Memorial Highway and bridges, streets and roadside development in connection therewith.

See notes to 59.97, citing *Jefferson County v. Timmel*, 261 W 39, 51 NW (2d) 518.

84.104 32nd Division memorial highway. In order to commemorate the 32nd Infantry Division, also known as The Red Arrow Division, which, while composed mainly of men from Wisconsin, Illinois and Michigan, brought fame and glory to these states during World Wars I and II by their sacrifice, devotion and bravery and which is now established as a Wisconsin national guard division, the state highway commission is directed to establish a highway memorial designated route 32 by renumbering certain existing highways linking Illinois and Michigan through Wisconsin. Beginning at the Illinois-Wisconsin state line renumber state trunk highway 42 to a point where it joins the present Wisconsin state trunk highway 32 at Sheboygan; continuing over the present Wisconsin state trunk highway 32 north to the junction with U. S. highway 8 at Laona; continuing over the present Wisconsin state trunk highway 32 north to junction with U. S. highway 45 at Three Lakes; thence north on U. S. highway 45 to Michigan-Wisconsin state line at Land O'Lakes. The state highway commission is further directed that in addition to the numeral 32, the highway markers on this highway carry a red arrow, and that historical markers be erected and maintained along the highway in honor of the 32nd Division and its members.

History: 1951 c. 660.

84.105 National parkways. (1) **HIGHWAY COMMISSION TO CO-OPERATE WITH FEDERAL AGENCIES.** The legislature of the state of Wisconsin hereby declares that the intent of this section is to assent to any act of the United States congress authorizing the development of any national parkway located wholly or partly within the state of Wisconsin, to the full extent that is necessary to secure any benefits under such act, provided that the hunting of migratory waterfowl and other game and fishing shall not be prohibited or otherwise restricted by the United States government or any of its designated agencies in control of said project, and to authorize the appropriate state boards, commissions, departments and the governing bodies of counties, cities, towns and villages and especially the state highway commission to co-operate in the planning and development of all national parkways that may be proposed for development in Wisconsin, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop such national parkways. Whenever authority shall exist for the planning and development of any national parkway, of which any portion shall be located in this state, it shall be the duty of the state highway commission to make such investigations and studies in co-operation with the appropriate federal agency, and such state boards, commissions and departments as shall have an interest in such parkway development, to the extent that shall be desirable and necessary in order to provide that the state shall secure all advantages that may accrue through such parkway development and that the interests of the counties, cities, villages and towns along the route shall be conserved.

(2) **DEFINITIONS.** For the purposes of this section, all terms applying to any parkway, such as "secretary", "parkway", "scenic landscape", "sightly or safety easement", "access", "parkway road", "parkway development", "national parkway", "frontage", and other or similar terms, which are defined in any act of the United States congress applicable to such national parkway, shall have the meanings set forth in such act. The term "national parkway" as used in this section shall mean and include the Great River Road and appurtenances thereto, as provided in section 14 of P. L. 350, 83d congress, chapter 181, 2nd session, or any other parkway or road in Wisconsin projected in general accordance with the recommended plan set forth in the joint report submitted to the congress November 28, 1951, by the secretaries of commerce and interior pursuant to the act of August 24, 1949 (P. L. 262, 81st congress) to the end that the highway commission shall have authority to act with reference to them as provided by this section.

(3) **HIGHWAY COMMISSION SHALL MAKE INVESTIGATIONS.** The state highway commission shall have full authority to make such investigations, surveys, studies and plans in connection with any proposed national parkway or parkway development as it shall deem necessary or desirable in order to determine if the proposed development, under the terms of the act of the United States congress applicable to such parkway or any regulations under such act, are advantageous to the state. Such parkway development may be any portion of the proposed parkway, which it may be proposed to construct as a project under such act. The state highway commission may hold such hearings in connection with such investigations as it shall deem necessary or desirable, and shall give at least seven days' notice of such hearings by publication in at least two newspapers having general circulation in the locality.

(4) **FINDING AND DETERMINATION.** When the state highway commission has completed its investigations with respect to any proposed national parkway development, it shall make its findings and determination with respect to such proposed development. Such finding and determination shall state whether or not such proposed national parkway development is deemed advantageous to the state, shall include such information with respect to the development as shall be necessary to state its character and extent, and shall estimate the cost thereof and separately, the amount and character of lands necessary to be acquired in fee simple and in easements, with their cost, and needed to carry out the development.

(5) **PARKWAY TO BE STATE TRUNK HIGHWAY.** If the state highway commission, after such investigations and studies, shall find that the proposed parkway development is advantageous to the state, it shall have full authority to perform, on behalf of the state, each and every duty required of the state by the act of the United States congress applicable to such parkway development, in order to secure the proposed development project for the state. For the purposes of such development project, the parkway shall be a portion of the state trunk highway system. Any moneys that may be available for the improvement of the state trunk highway system within any county shall be available for any proposed national parkway development within such county, in the same manner as such moneys shall be available for state trunk highways. The county board of any county may authorize the use of any moneys available to the county under s. 20.420, ch. 83 or ch. 84, for the purposes of the proposed parkway development, to the same amount

as for state trunk highways under such s. 20.420 and chs. 83 and 84. The county boards may provide money for any national parkway development project in the same manner and in the same amount as for state trunk highways, and any county bonds issued to provide funds for any such parkway development shall be retired in the same manner as bonds issued for state trunk highways.

(6) RIGHT OF WAY AND EASEMENTS. All lands for right of way to be acquired in fee simple and all easements necessary to be acquired for the purposes of the proposed national parkway development shall be acquired by the state highway commission in the name of the state, as may be required by the act of the United States congress applicable thereto. Any lands owned by the state or by any county, city, village or town, may be conveyed to the United States for the purposes of the parkway in the manner provided by law. The commission may acquire such lands by gift, purchase agreement, or by exercising the right of eminent domain in any manner that may be provided by law for the acquirement of lands for public purposes. The commission shall have authority to convey such lands to the United States government or any of its agencies, as may be required by the act of the United States congress applicable to such national parkway.

(7) SECTION TO BE LIBERALLY CONSTRUED. All powers granted in this section shall be liberally construed in favor of the state highway commission and any proposed national parkway development projects.

History: 1955 c. 268.

84.11 Intrastate bridges. (1) ELIGIBILITY. Bridge projects shall include all approaches and embankments, all lands necessary for right of way or other purposes, and all other necessary appurtenances. The word "construction" as used in this section shall include reconstruction. The word "commission" as used in this section means highway commission of Wisconsin. The following classes of bridge projects located wholly within the state shall be eligible to construction under the provisions of this section, provided that such eligibility shall not require that any such project be constructed under this section exclusively or bar any such eligible project from construction under any other provision of law that may be applicable:

(a) Any bridge project not eligible under paragraph (b) in which the bridge portion necessarily must be 475 feet in length or more, not including approaches;

(b) Any bridge project located wholly or partly on the state trunk highway system or on a street in a fourth class city, not a portion of the state trunk highway system, but selected by the commission as a direct connection between portions of such system, provided the bridge portion necessarily must be 300 feet or more in length not including approaches, or the cost of the bridge portion as estimated by the commission in its finding and determination is \$75,000 or more, or there must be provided a movable span to permit navigation.

(2) INITIATION OF PROCEEDINGS. (a) *By any county, city, village or town.* Proceedings for the construction of a bridge project under paragraphs (a) or (b) of subsection (1) may be initiated by a petition filed with the commission. Such petition shall state that the petitioner desires such construction, and the approximate location thereof, and shall further state that, in the opinion of petitioner, such construction is necessary and is a bridge project eligible to construction under the provisions of this section. Such petition may be filed by any county, city, village or town required to pay a portion of the cost of construction, in the case of a bridge project eligible under paragraph (a) of subsection (1), or by any county, city, village or town in which a portion of the bridge project will be located in the case of a bridge project eligible to construction under the provisions of paragraph (b) of subsection (1). Such petition shall be duly adopted by the governing body of the county, city, village or town, and a certified copy of the adopted petition shall be filed with the commission.

(b) *By the highway commission.* Proceedings for the construction of a bridge project under this section may also be initiated by the commission by the adoption of a resolution stating the approximate location of such construction and that such construction appears to be necessary and to be a bridge project eligible to construction under this section.

(3) HEARING. Within 60 days of the receipt of a petition under sub. (2) (a) or the adoption of a resolution under sub. (2) (b) the commission shall fix a time and place for a hearing which shall be held thereon, and give 10 days' notice of such hearing by publication in at least one newspaper published in and having general circulation in the vicinity of one of the counties, cities, villages or towns, in which any portion of the bridge project will be located, or if no newspaper is so published, in one or more newspapers deemed by the commission as likely to give notice of such hearing. Notice shall also be given by registered letter addressed to the clerks of the counties, cities, villages and towns in which any part of the bridge project will be located. Such notice shall also be given to the state conservation commission and to the state soil conservation committee by

serving a copy upon the conservation director and by serving a copy upon the secretary of the state soil conservation committee either by registered mail or personally. Such hearing may be held in any county, city, village or town in which any part of the bridge project will be located.

(4) FINDING, DETERMINATION AND ORDER. After such hearing the commission shall make such investigation as it shall deem necessary in order to make a decision in the matter. If the commission shall find that the construction is necessary it shall determine the location thereof, and if the project as so located is eligible to construction under this section the commission shall determine the character and kind of bridge most suitable for such location and estimate separately the cost of the bridge portion and the entire project. In the case of projects eligible to construction under subsection (1) (a) the commission shall also determine the respective portions of such estimated cost of the entire project to be paid by each county, city, village and town required to provide any portion thereof, and the portion to be paid by the state. The commission shall make its finding, determination and order, in writing, and file a certified copy thereof with the clerk of each county, city, village and town in which any portion of the bridge project will be located and also with the secretary of state and the state treasurer. The determination of the location of the project made by the commission and set forth in its finding, determination and order, shall be conclusive as to such location and shall constitute full authority for laying out new streets or highways or for any relocations of highways made necessary for the construction of the project and for acquirement of any lands necessary for such streets or highways, relocation or construction. The estimate of cost made by the commission shall be conclusive in so far as cost may determine eligibility of construction under this section.

(5) APPORTIONMENT OF COST. (a) The cost of projects eligible to construction under the provisions of subsection (1) (a) shall be borne as follows: The state shall pay one-third, the county or counties in which the bridge project will be located shall pay one-third, and the one or more cities, villages and towns in which any part of such bridge project will be located shall pay one-third, provided, that to the extent federal aid for highways allocated to Wisconsin is used to finance any portion of the cost of the project, the portion of the cost to be borne by the state, counties and local governmental units, respectively, shall be proportionately reduced. The portion to be paid by the counties shall be borne equally by the counties in which such bridge project will be located; provided, that no bridge project shall be considered as located within a county unless an entrance to the bridge proper shall be wholly or partly within the limits of such county. If a bridge project wholly within one county is located in more than one city, village or town, their respective portions of the cost shall be in proportion to their respective assessed valuations as last equalized by the county board. If such cities, villages or towns are located in more than one county, the portion of the cost paid by all cities, villages and towns shall first be apportioned equally according to the number of counties, and then to the cities, villages and towns in each county in proportion to their respective assessed valuations as hereinbefore provided.

(b) The cost of bridge projects eligible under paragraph (b) of subsection (1) shall be borne as follows: The county or counties in which any part of the bridge project will be located are authorized, but not required, to pay, jointly or severally, a total of not more than one-fourth; the one or more cities, villages or towns in which any part of the bridge project will be located are authorized, but not required, to pay, jointly or severally, a total of not more than one-fourth. The commission shall include in its finding, determination and order a statement of the amounts it shall find to be equitable for the respective counties, cities, villages and towns to pay toward such construction but such statement shall not require any such county, city, village or town to make any payment. Any county, city, village or town may, with the approval of the commission, make all or part of its total authorized payment by furnishing land necessary or suitable for use in such bridge project. The state shall pay the entire cost not otherwise paid as provided in this paragraph; provided, that if any bridge project to be constructed under this section meets the requirements for construction with federal aid, the commission may in its discretion apply federal aid to such project, in accordance with a project agreement to be entered into with the proper representatives of the federal government and use any money provided by the state or paid by any county, city, village or town to match such federal aid.

(6) PROVISION OF PORTIONS OF COSTS BY LOCAL UNITS. When the commission shall have made and filed its finding, determination and order favorable to the construction of any bridge project under the provisions of this section, the governing body of each county, city, village and town required by such order to pay a portion of the cost in the case of bridge projects eligible to construction under the provisions of paragraph (a) of subsection (1) shall take action at its next regular or special meeting to arrange to provide

such portion. Within 5 days after the adjournment of such meeting the governing body of any such city, village or town shall cause its clerk to certify the action of such governing body to the county clerk and the commission. Within 5 days after the adjournment of such meeting of the county board the county clerk shall certify the action of the county board to the commission. In the case of projects eligible to construction under the provisions of paragraph (b) of subsection (1), when the commission shall have made and filed its findings, determination and order favorable to such construction, the governing body of each county, city, village or town in which any part of the project will be located shall take action at its next regular or special meeting to determine what amount, if any, shall be offered and paid toward such construction and to arrange to provide any amount that shall be so determined upon. Such action shall be certified to the commission within 5 days after such meeting.

(7) EXECUTION AND CONTROL OF WORK. Subject to the control and supervision over the navigable waters of the state conferred by law upon the public service commission, and the control exercised by the United States, the construction under this section of any bridge project shall be wholly under the supervision and control of the commission. The commission shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town shall fail to pay the amount required of it as to any project eligible to construction under the provisions of paragraph (a) of subsection (1) or offered by it as to any project eligible to construction under the provisions of paragraph (b) of subsection (1), or in the event the commission shall determine that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys to be provided by counties, cities, villages and towns shall be deposited by them in the state treasury, when required by the commission, and paid out on order of the commission. Any of such moneys remaining in the state treasury after the completion of such project shall be repaid to the respective counties, cities, villages and towns in the proportion paid in.

History: 1953 c. 600.

Cities and villages which have constructed bridges under 84.11 may be taxed (3) and §1.38. 40 Atty. Gen. 29. for aid to town bridges pursuant to 84.14

84.12 Interstate bridges. (1) ELIGIBILITY. All bridge projects which include bridges located over any state boundary waters shall be eligible to construction and reconstruction under this section, but such eligibility shall not require that any such project be constructed under this section exclusively or bar any eligible project from construction under any other provision of law that may be applicable. Projects shall include all approaches and embankments, all lands necessary for right of way or other purposes, and all other necessary appurtenances. The word "commission" as used in this section means highway commission of Wisconsin. Such bridge projects shall be classified as follows:

(a) Any bridge project not included in paragraph (b).

(b) Any bridge project so located as to form an interstate connection between the state trunk highway system of this state and the corresponding system of the adjoining state, and where such bridge and approach in the adjoining state is under the jurisdiction of the state highway department of the said state.

(2) INITIATION OF PROCEEDINGS. (a) *By county, city, village or town.* Proceedings under this section may be initiated by a petition filed with the commission by any county, city, village or town in which a portion of the bridge project will be located. The petitioner shall state that the petitioner desires such construction and the approximate location thereof; and shall further state that, in the opinion of petitioner, such construction is necessary and is a bridge project eligible under this section. The petition shall be duly adopted by the governing body of the county, city, village or town and a certified copy of the petition, as adopted, shall be filed with the commission.

(b) *By the highway commission.* Proceedings under this section may also be initiated by the commission by the adoption of a resolution stating the approximate location of the construction and that it appears to be necessary and to be a bridge project eligible under this section.

(3) HEARING, INVESTIGATION AND NEGOTIATIONS. Within 60 days of the receipt of such a petition or the adoption of such a resolution the commission shall fix a time and place for a hearing thereon. The commission shall give notice and hold the hearing in the manner provided by section 84.11 (3). The commission shall also give notice by registered letter addressed to the state highway department of the adjoining state and to the governing body of the county, and of the city, village or town of the adjoining state in which any portion of the bridge project will be located. The commission may make such in-

vestigation as it deems necessary and conduct such negotiations with the state highway department and other authorities in the adjoining state as it deems advisable.

(4) **FINDING, DETERMINATION AND ORDER.** If the commission finds that the construction is necessary, and that provision has been made or will be made by the adjoining state or its subdivisions to bear its or their portions of the cost of the project, the commission, in co-operation with the state highway department of the adjoining state, shall determine the location thereof, the character and kind of bridge and other construction most suitable at such location, estimate the cost of the project, and determine the respective portions of the estimated cost to be paid by each state and its subdivisions. In the case of projects eligible to construction under subsection (1) (a) the commission shall further determine the respective portions of the cost to be paid by this state and by its subdivisions which are required to pay portions of the cost. The commission, after such hearing, investigation and negotiations, shall make its finding, determination and order in writing and file a certified copy thereof with the clerk of each county, city, village or town in this state in which any part of the bridge project will be located, with the secretary of state and the state treasurer and with the state highway department of the adjoining state. The determination of the location set forth in the finding, determination and order of the commission shall be conclusive as to such location and shall constitute full authority for laying out new streets or highways or for any relocations of the highways made necessary for the construction of the project and for acquiring lands necessary for such streets or highways, relocation or construction.

(5) **APPORTIONMENT OF COST.** The portion of the cost of such project to be paid by this state and its subdivisions shall be borne as follows:

(a) The cost of projects eligible to construction under subsection (1) (a) to be borne by this state and its subdivisions shall be borne by the state and the counties, cities, villages and towns in which any part of the project in this state will be located in the manner and proportion provided by section 84.11 (5) (a).

(b) The cost of projects eligible to construction under subsection (1) (b), to be borne by this state and its subdivisions shall be borne by the state; provided that such cost may be shared in the manner and proportion provided in section 84.11 (5) (b) by the one or more counties, cities, villages and towns in which any part of the bridge project in this state will be located and by the application and matching of federal aid in the manner and proportion provided in section 84.11 (5) (b).

(6) **PROVISION OF COSTS BY LOCAL UNITS.** When the commission has made and filed its finding, determination and order favorable to the construction of any bridge project under this section, the governing body of each county, city, village and town of this state required by the order to pay a portion of the cost, in the case of bridge projects eligible to construction under subsection (1) (a), shall take action at its next regular or special meeting to arrange to provide such portion. Within 5 days after the adjournment of such meeting the clerk of the governing body of the city, village or town shall certify the action of the governing body to the county clerk and the commission. Within 5 days after the adjournment of such meeting of the county board the clerk shall certify the action of the county board to the commission. In the case of projects eligible to construction under subsection (1) (b), when the commission shall have made and filed its finding, determination and order favorable to such construction, the governing body of each county, city, village and town in which any part of the bridge project in this state will be located shall take action at its next meeting to determine what amount, if any, shall be offered and paid toward such construction and to arrange to provide any amount so determined upon. Such action shall be certified to the commission within 5 days after any such meeting.

(7) **EXECUTION AND CONTROL OF WORK.** Subject to the control and supervision over the navigable waters of the state conferred upon the public service commission, and the control exercised by the United States, the construction under this section of any bridge project shall be under the joint supervision and control of the commission 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 their proper officers. Control shall be exercised in the manner deemed most expedient by the commission and such department or by the commission and the officers of the subdivisions of the other state concerned in the said construction. All contracts for the construction of said bridge projects shall be made and executed by the commission and the highway department of the other state jointly, or jointly by the commission and such subdivisions of the other state as may participate in the said construction. The commission may suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town fails to pay the amount required of it as to any project eligible to construction under subsection (1) (a)

or offered by it as to any project eligible to construction under subsection (1) (b), or in the event the commission determines that sufficient funds to pay the state's part of the cost of the bridge project are not available. All moneys available from this state, or its subdivisions, shall be deposited in the state treasury when required by the commission and shall be paid out only upon order of the commission. Moneys so deposited by such subdivisions and remaining in the state treasury after the completion of such project shall be repaid to the respective subdivisions in the proportion paid in.

(8) CONNECTION WITH STATE TRUNK HIGHWAY SYSTEM. To carry out the provisions of this section the commission may add to the state trunk highway system any bridge constructed or purchased under this section, and any road or street eligible to become a portion of the state trunk highway system, which will form the most reasonable and practical connection from such bridge to the state trunk highway system. In such cases limitations on the total mileage included in the state trunk highway system shall not apply.

84.13 Purchase of toll bridges. Any toll bridge eligible to be reconstructed as a free bridge under the provisions of section 84.11 or 84.12, may be purchased under such section and made a free bridge, and the procedure in such case, so far as applicable, shall be the same as for the construction or reconstruction of bridges. 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:

(1) The state highway commission may petition the public service commission to fix a time and place for public hearing in the matter of just compensation to be paid for the taking of said toll bridge, as provided by section 197.05, and the subsequent procedure, so far as applicable, shall be as provided by sections 197.05 to 197.09. The word "municipality" as used in such sections means 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 chapter in the same manner as other free bridges may be reconstructed.

(2) The state highway commission may enter into and consummate agreements with the United States for the acquisition by the United States and subsequent transfer to this state of such toll bridge in the manner provided by the Act of Congress approved August 14, 1937, Public Law No. 286, Chapter 626, 75th Congress, first session, as subsequently amended or supplemented from time to time. Any toll bridge so acquired may be later reconstructed under the provisions of this chapter in the same manner as other free bridges may be reconstructed.

84.135 Purchase of interstate toll bridges. (1) The legislature intends by the enactment of this section to provide a means for the ultimate conversion of interstate toll bridges located in part in this state to free bridges. Where any portion of an interstate toll bridge on a route of a state trunk highway is located outside this state, it may be acquired pursuant to the provisions of this section in lieu of the methods of acquisition provided in section 84.13.

(2) The state highway commission, on its own initiative or upon petition adopted by a majority vote of the governing body of a county, town, city or village, may acquire such bridge by purchase or by exercising the right of eminent domain in such court as may have jurisdiction thereof and in accordance with the laws applicable thereto; or, with the consent and approval of the state highway commission, and on such terms and conditions as it may prescribe, such right of eminent domain may be exercised by the county, city or other political subdivision in which any part of such interstate toll bridge is located and revenue bonds for the acquisition of such bridge out of tolls may be issued in accordance with the statutes relating to municipal borrowing in so far as the same may be applicable. In acquiring such bridge the state highway commission may proceed in the manner provided by section 84.09 or chapter 32, and the county, town, city or village may proceed in the manner provided by section 83.07 or 83.08 or chapter 32.

(3) Such bridge may be acquired by the state highway commission subject to an agreement whereby all or part of the acquisition cost will be advanced to or later paid to the state by a county, town, city or village in which any part of such bridge is located, from the proceeds of revenue bonds or other source, and the commission will convey the bridge to such political subdivision. Pursuant to such agreement, such bridge shall be maintained and operated by such political subdivision from the date it is acquired by the state.

(4) If, under the provisions of this section, any bridge is acquired by, or conveyed by the state highway commission to a county, town, city or village, such political subdivision shall maintain and operate the same under the direction of the state highway

commission, charging such tolls as may be fixed by the commission. Such tolls shall be used for the maintenance, repair and operation of such bridge and to repay, or provide a sinking fund sufficient to amortize, within a period of not to exceed 20 years from the date of acquisition thereof, the acquisition cost of such bridge, including reasonable interest and financing costs, paid by such political subdivision. After such cost has been repaid, or a sinking fund sufficient for such amortization has been so provided, title to such bridge shall revert to the state and the bridge shall thereafter be maintained and operated by the state highway commission free of tolls, as part of the state trunk highway system.

(5) Any acquisition costs incurred by the state pursuant to this section shall be paid from any funds available for the improvement of state trunk highways and connecting streets.

(6) Any such bridge may be acquired, operated, maintained and reconstructed in co-operation with an adjoining state or municipality thereof.

84.14 Bridge construction. (1) **ORDER OF CONSTRUCTION.** The state highway commission shall hold hearings on proposed bridge projects under sections 84.11 and 84.12 in the order in which they are initiated by a petition filed with the commission or by a resolution adopted by the commission. The commission shall allot aid for the construction, reconstruction or purchase of bridges and may undertake such projects in the order the commission deems advisable.

(3) **PARTICIPATION IN TOWN BRIDGE CONSTRUCTION.** Whenever any municipality has participated in the cost of the construction, reconstruction, or purchase of a bridge under section 84.11 or 84.12, the property in such municipality shall thereafter be subject to taxation by the county for the construction and repair of bridges within the county under section 81.38.

(4) **LEGALITY OF PROCEEDINGS HERETOFORE HAD.** All bridges constructed, reconstructed or purchased pursuant to proceedings initiated by petitions heretofore filed with the state highway commission, or by the commission on its own motion, under the provisions of sections 87.02, 87.03, 87.04, 87.05 or 87.055 of pre-existing statutes, shall be construed to have been constructed, reconstructed or purchased under section 84.11 or 84.12, and shall be operated and maintained as provided by section 84.15, and all proceedings, findings and determinations and all contracts for bridge projects now being or to be constructed, reconstructed or purchased with funds now available, are declared to be valid. All proceedings relative to the construction of any bridge project, including, without limitation because of enumeration, all contracts, any authorization, issuance, sale, execution or delivery of bonds and all bonds issued in connection with any such project, constructed subsequent to January 1, 1928 which project was eligible to construction under present or pre-existing statutes, are hereby validated and confirmed notwithstanding any defects or irregularities therein or lack of power therefor other than constitutional and notwithstanding any such project was not constructed under sections 84.11, 84.12, 87.02, 87.03, 87.04, 87.05 or 87.055 of present or pre-existing statutes.

84.15 Bridges. (1) **MAINTENANCE AND OPERATION OF INTRASTATE BRIDGES.** All matters relating to the maintenance and operation of bridges constructed, reconstructed or purchased under the provisions of section 84.11 shall be under the jurisdiction and complete control of the state highway commission and the cost of such maintenance and operation thereof shall be the direct obligation of the state. Such portion of the approaches as may be determined by the state highway commission shall be considered a part of such bridge for maintenance and operation purposes. The portion of the approaches or highway not considered a part of such bridge for maintenance and operation purposes as determined by the commission shall be maintained by the town, city or village in which it lies but this provision shall not diminish or otherwise affect the duty of the county with respect to the county trunk highways or the state with respect to the state trunk highways. Authority is given the commission to carry fire or tornado insurance, or both, on bridges where such hazard exists and the premium on such insurance shall be included as a portion of such maintenance and operation costs.

(2) **ACROSS BAY OF GREAT LAKES.** In the case of any intrastate bridge built across a bay of any of the Great Lakes, the maintenance under subsection (1) of this section shall be deemed to include repair or reconstruction necessitated by any accidental damage done to such bridge by vessels using such bay, or some other catastrophe, in which event the highway commission may use for such repair or reconstruction moneys available for the construction of such bridges.

(3) **INTERSTATE BRIDGES, WISCONSIN'S SHARE.** The provisions of this section shall also apply to all interstate bridges constructed, reconstructed or purchased under the pro-

visions of section 84.12; and the term "bridge" as used in subsection (1) of this section means Wisconsin's portion of such interstate bridges.

84.20 State repair of damages to highways and streets. Damage to any county trunk or town highway or city or village street caused by reason of its use as a detour designated by the highway commission or for hauling materials incident to the maintenance, repair or construction by the highway commission of any state trunk highway or street over which a state trunk highway is routed, shall be repaired by the highway commission and the cost thereof paid from funds appropriated and available to the commission for the maintenance and improvement of state trunk highways and connecting streets under s. 20.420 (75), (80), (82) or (93) and (94).

84.25 Controlled-access highways. (1) **AUTHORITY OF COMMISSION; PROCEDURE.** The legislature declares that the effective control of traffic entering upon or leaving intensively traveled highways is necessary in the interest of public safety, convenience and the general welfare. The commission is authorized to designate as controlled-access highways the rural portions of the state trunk system on which, after traffic engineering surveys, investigations and studies, it shall find, determine and declare that the average traffic potential is in excess of 2,000 vehicles per 24-hour day. Such designation of a portion of any state trunk highway in any county as a controlled-access highway shall not be effected until after a public hearing in the matter shall have been held in the county courthouse or other convenient public place within the county following notice by publication once each week for 3 successive weeks in a newspaper published in the county, or if there be none, in a newspaper having general circulation in the county. If the commission shall then find that the average traffic potential is as provided by this subsection, and that the designation of the highway as a controlled-access highway is necessary in the interest of public safety, convenience and the general welfare, it shall make its finding, determination and declaration to that effect, specifying the character of the controls to be exercised. Copies of the finding, determination and declaration shall be recorded with the register of deeds, and filed with the county clerk, and published in the newspaper in which the notice of hearing was published, and the order shall be effective on such publication. Not more than 1,500 miles of highway shall be designated as controlled-access highways under authority of this section.

(2) **CONTROLLED-ACCESS HIGHWAY DEFINED.** For the purposes of this section, a controlled-access highway is a highway on which the traffic is such that the highway commission has found, determined and declared it to be necessary, in the interest of the public safety, convenience and the general welfare to prohibit entrance upon and departure from the highway or street except at places specially designated and provided for such purposes, and to exercise special controls over traffic on such highway or street.

(3) **CONSTRUCTION; OTHER POWERS OF COMMISSION.** In order to provide for the public safety, convenience and the general welfare, the commission may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the commission may deem necessary or desirable. The commission may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbs, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

(4) **CONNECTIONS BY OTHER HIGHWAYS.** After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the commission in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

(5) **USE OF HIGHWAY.** No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the commission.

(6) **ABUTTING OWNERS.** After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

(7) **SPECIAL CROSSING PERMITS.** Whenever property held under one ownership is severed by a controlled-access highway, the commission may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

(8) **RIGHT OF WAY.** Any lands or other private or public property or interest in such property needed to carry out the purposes of this section may be acquired by the highway commission in the manner provided in section 84.09.

(9) **CO-OPERATIVE AGREEMENTS.** To facilitate the purposes of this section, the commission and the governing bodies of a city, county, town or village are authorized to enter into agreements with each other or with the federal government respecting the financing, planning, establishment, improvement, maintenance, use, regulation or vacation of controlled-access highways or other public ways in their respective jurisdictions.

(10) **LOCAL SERVICE ROADS.** In connection with the development of any controlled-access highway, the commission and county, city, town or village highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, or vacate local service roads and streets or to designate as local service roads and streets any existing roads or streets, and to exercise jurisdiction over local service roads in the same manner as is authorized over controlled-access highways under the provisions of this section, if, in their opinion, such local service roads or streets shall serve the necessary purposes.

(11) **COMMERCIAL ENTERPRISES.** No commercial enterprise shall be authorized or conducted within or on property acquired for or designated as a controlled-access highway.

(12) **UNLAWFUL USE OF HIGHWAY; PENALTIES.** It shall be unlawful for any person to drive any vehicle into or from a controlled-access highway except through an opening provided for that purpose. Any person who violates this provision shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(13) **VACATING.** A controlled-access highway shall remain such until vacated by order of the state highway commission except that the discontinuance of all state trunk highway routings over a highway established as a controlled-access highway shall summarily vacate the controlled-access status of such section of highway. The state highway commission shall record formal notice of any vacation of a controlled-access highway with the register of deeds of the county wherein such highway lies.

History: 1951 c. 247 s. 32; 1955 c. 270.

See note to 80.13, citing 42 Atty. Gen. 320.

84.27 Institution roads. The appropriation made by s. 20.420 (73) may be expended for improving highways forming the most convenient connection between the university, state colleges and state charitable or penal institutions, and the state trunk highway system, or to construct roadways under or over state trunk highways that pass through the grounds thereof, or to construct and maintain all drives and roadways on such grounds or the grounds of the state capitol. Within the limitations and for the purposes of this section, funds may be allotted by and work performed by or under the supervision or authority of the state highway commission, upon the request for such work filed by the board of regents of the university, the board of regents of the state colleges or the state boards, commissions, departments or officers, respectively, as to such work in connection with the institution controlled by them.

History: 1953 c. 318; 1955 c. 366.

84.28 State park roads. The appropriation made by s. 20.420 (77) may be expended for the construction and maintenance of roads, including fire roads, in the state parks, state forests, state fish hatcheries, other public used areas under the jurisdiction of the conservation commission and other public lands as defined in ch. 24, for highways or fire roads leading from the most convenient state trunk highways to such lands, and for the relocation and construction of state trunk highways in or near state parks when required in the interests of public safety. Within the limitations and for the purposes of this section, funds may be allotted by and work performed by or under the supervision or authority or with the approval of the state highway commission, upon the request for such work filed by the state conservation commission as to state park or forest lands, or the land commission as to other classes of public lands. Outside the limits of the said park, state forest and public land areas, direct connections to the most convenient state trunk highway may be built or maintained under this section. The expenditure of funds under this section shall not affect the eligibility of any highway for aids or the expenditure of other funds thereon.

History: 1953 c. 318; 1955 c. 121.

84.29 National system of interstate highways. (1) HIGHWAY COMMISSION TO CO-OPERATE WITH FEDERAL AGENCIES. The legislature of the state of Wisconsin hereby declares that the intent of this section is to assent to acts of the United States congress heretofore and hereafter enacted, authorizing development of the national system of interstate highways located wholly or partly within the state of Wisconsin to the full extent that it is necessary or desirable to secure any benefits under such acts and to authorize the appropriate state boards, commissions, departments, and the governing bodies of counties, cities, towns and villages, and especially the state highway commission, to co-operate in the planning, development and construction of the national system of interstate highways that may be proposed for development in Wisconsin, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop or aid in the development of such system. Whenever authority shall exist for the planning and development of a national system of interstate highways of which any portion shall be located in this state, it shall be the duty of the highway commission to make such investigations and studies in co-operation with the appropriate federal agency, and such state boards, commissions, departments and municipalities as shall have interest in such system development, to the extent that shall be desirable and necessary to provide that the state shall secure all advantages that may accrue through such interstate system development and that the interest of municipalities along such system shall be conserved.

(2) ROUTES OF INTERSTATE SYSTEM, STATE TRUNK HIGHWAYS. Upon finding by the highway commission that the development of any proposed highway as a route of the national system of interstate highways, hereinafter designated the interstate system or interstate highways, or any portion thereof, including the laying out, construction, maintenance and operation of any part thereof as a freeway or expressway, is in the promotion of the public and social welfare of the state and for the benefit of public travel, the highway commission is empowered and it shall have full authority to lay out, construct, operate and maintain such highway as a state trunk highway. Except as otherwise provided by this section, all provisions of law relative to the acquisition of land for highway purposes and for surveys, plans, establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving, maintaining and financing of state trunk highways shall apply to the interstate highways undertaken in this state.

(3) CHANGES IN EXISTING HIGHWAYS AND UTILITIES. It is recognized that in the construction of interstate highways in this state to modern standard and design, mutually agreed upon by the highway commission and the federal agency, to promote the public and social welfare, and benefit public travel of the state, and meet the needs of national defense, 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.

(4) LAYING NEW HIGHWAYS FOR INTERSTATE SYSTEM. Upon finding and determination by the highway commission that it is not in the public interest and that it is impractical to establish the route of the interstate system on or along an existing state trunk highway, the highway commission is authorized and empowered to lay out and establish a new and additional state trunk highway for the interstate highway. As an interstate highway may be established, laid out and constructed on a new location as an expressway or freeway which is not on and along an existing public highway, no right of access to the highway shall accrue to or vest in any abutting property owner. As an interstate highway may be established, laid out and constructed as an expressway or freeway on and along an existing public highway, 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 interstate highway 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 interstate highway improvement project. The occupation or use of any part of an existing public highway is authorized for the construction of the interstate system. The action of the highway commission relative to establishment, layout, location or relocation of any part of the interstate system shall be conclusive.

(5) 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 the interstate system, the highway commission is authorized and empowered to construct grade separations at intersections of any interstate highway with other public highways and railroads and to change and adjust the lines of public highways and if necessary combine or relocate the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations and alterations 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 interstate highway. The highway commission may by agree-

ment 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 an interstate highway 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 unit of government having jurisdiction over the local highway relocated or altered as a part of the interstate highway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocation [relocated] or altered highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated or altered, except any parts thereof which the highway commission determines to be useful in the operation of or for access to the interstate highway, which parts shall be maintained by the state as a part of the interstate highway. The action by the highway commission relative to vacation and relocation or combining a public highway under jurisdiction of any county, town, city or village shall be conclusive.

(6) POWER TO RELOCATE AND CLOSE HIGHWAYS. (a) Without limiting the authority extended by other provisions of this section, the highway commission is authorized on behalf of the state, to enter into an agreement with the governing body of any county or municipality having jurisdiction over any highway and, as provided in such agreement, to relocate any such highway or to close the same at or near the point of intersection with any interstate highway, or to make provision for carrying such highway over or under the interstate highway, 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 the interstate highway by a municipality unless and until the highway commission by resolution consents to the same and fixes the terms and conditions on which such connection 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.

(7) POWERS GRANTED LIBERALLY CONSTRUED. 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 interstate highway project.

(8) ESTABLISHING FREEWAY STATUS. From and after the adoption of an order or resolution by the highway commission laying out and establishing any portion of the interstate system as an expressway or freeway, the highway described in such resolution shall have the status of a freeway or expressway for all purposes of this section. Such declaration or order shall not affect private property rights of access to pre-existing public highways, and any property rights taken shall be acquired in the manner provided by law. No previously existing public highway shall be converted into a freeway or expressway without acquiring by donation, purchase, or condemnation the right of access thereto of the owners of abutting lands.

History: 1955 c. 296.