CHAPTER 86

MISCELLANEOUS HIGHWAY PROVISIONS

86.001 Definitions.
86.01 Materials left in highway; penalty.
86.02 Injury to highway.
86.021 Highways, cultivation of; injury by farm machinery.
86.022 Obstructing highway with embankment or ditch.
86.025 Camping on highways.
86.03 Trees on and adjacent to highway.
86.04 Highway encroachments.
86.05 Entrances to highways restored.
86.06 Highways closed to travel; penalties.
86.07 Digging in highways or using bridges for advertising.
86.073 Review of denial of permit.
86.075 Highway authorities to notify drainage board of highway construction.
86.08 Dust−free surfacing at licensed dairy or meat packing plants.
86.09 Access to cemetery preserved.
86.10 Salvage in highway construction.
86.105 Snow removal in private driveways.
86.11 Highways; railroad crossings; grade separation.
86.12 Highway railroad grade crossings; construction and repair.
86.13 Railroads to maintain highway crossings.
86.135 Railroad highway crossings; traffic control.
86.14 Strength of bridges.
86.15 Donations of highway aid to adjoining municipalities.
86.16 Utility lines on highways; place of poles; penalty.
86.17 Taking water from highway streams.
86.18 Milwaukee County highways; location, alteration, maintenance.
86.185 Populous counties; power over county trunk highways.
86.19 Highway signs, regulation, prohibition.
86.191 Advertising in highways prohibited, where.
86.192 Penalty for injuring guide board, markers, etc.
86.195 Specific information signs.
86.196 Tourist−oriented directional signs.
86.20 Interstate bridge corporations.
86.21 Interstate toll bridges.
86.22 Interstate railroad bridges must have convenient approaches.
86.23 Maintenance of drawbridges owned jointly.
86.25 Municipal cooperation as to highways improved with state or federal aid.
86.255 Limitation on moneys used to purchase land remote from highway project.
86.257 Transfer of highways.
86.30 General transportation aids.
86.302 Local roads; inventory.
86.303 Cost determinations.
86.305 Eligibility for transportation aids.
86.31 Local roads improvement program.
86.312 Local roads for job preservation program.
86.315 County forest road aids.
86.32 Connecting highways.
86.33 Population estimates.
86.34 Disaster damage aids.

86.001 Definitions. In this chapter:

(1m) "Department" means the department of transportation.

(2) "Division of hearings and appeals" means the division of hearings and appeals in the department of administration.

(2m) "Office" means the office of the commissioner of railroads.

(3) "Secretary" means the secretary of transportation.

History: 1987 a. 137; 1991 a. 39; 1993 a. 16, 123.

86.01 Materials left in highway; penalty. It shall be unlawful for any highway superintendent or any other person to leave any materials in the traveled portion of any highway not closed to public travel in piles or rows after sunset without placing within one hour after sunset upon such piles or at the end of such rows a lighted lantern containing sufficient oil or fuel to keep the same burning until daylight. Any person violating any of the provisions of this section shall be liable to a fine of not less than $10 nor more than $100.

86.02 Injury to highway. Any person who shall injure any highway by obstructing or diverting any creek or watercourse or sluiceway, or by dragging logs or timber thereon, or by any other act, shall be liable in treble damages, to be recovered by the political division chargeable with the maintenance of highway injured, and the amount recovered shall be credited to the highway maintenance fund.

86.021 Highways, cultivation of; injury by farm machinery. (1) No person shall, within the limits of any public highway, plow, cultivate or otherwise work any lands in such manner as to interfere with or obstruct the drainage in any public highway ditch, nor shall any person operate any farm or other machinery on, over, along or across any public highway in such manner as to materially damage the said highway.

(2) Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $10 nor more than $50, or by imprisonment in the county jail not less than 10 days nor more than 30 days, and shall in addition pay the whole cost of restoring the ditch or highway, or both, to their former condition.

86.022 Obstructing highway with embankment or ditch. Any person who shall willfully or maliciously make any ditch, depression or embankment or place any obstruction in any public highway intended or calculated to impede or incommode the use of such highway, or who shall place any obstruction in any ditch constructed to drain any highway, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $10 nor more than $100.

86.025 Camping on highways. It shall be unlawful for any person or persons to camp in wagons, tent or otherwise on the public highways or lands adjacent thereto, after a notice to remove therefrom by the owners of such adjacent lands, or the owner of land abutting on the highway, or by a member of the board of supervisors or any trustee of any town or village where such camping place is made. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $10, or imprisoned in the county jail not exceeding 30 days, or both.

86.03 Trees on and adjacent to highway. (1) REMOVAL OF FALLEN TREES. If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. It shall be the duty of every highway patrolman, street commissioner, or other officer in charge of the maintenance of streets or highways, to remove from any highway any fallen tree or trees therein.

(2) OWNERSHIP. All trees on land over which any highway is laid out shall be for the use of the owner of the land or person otherwise entitled thereto, except trees that have been acquired by and for the public in the acquisition of the highway right−of−way and except such trees within the highway as may be requisite to make or repair the highways on the land or within one mile of the same; but no trees reserved for shade or ornament, unless acquired by the public, shall be used for such purpose.

(3) PLANTING TREES AND SHRUBS IN HIGHWAY. (a) Any person owning or occupying land adjoining any highway may, with the approval of the public authority maintaining the highway, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway contiguous to and within 10 feet of that person's land. Such trees, shrubs or hedges shall be cut or removed only by the

owner or occupant of the abutting land or by the public authority having control of the highway.

(b) Notwithstanding par. (a), if the person who owns or occupies the land that adjoins a highway is a town, the town may, with the approval of the public authority that maintains the highway, authorize another person to plant trees, shrubs, or hedges on the land. If the public authority maintaining the highway is a county, the town may request approval under this paragraph from the county on behalf of the person to be authorized.

(4) CUTTING OR INJURING TREES ON HIGHWAY. No person shall cut down, break, girdle, bruise the bark, or in any other manner injure, or allow any animal under that person's control to injure, any public or private trees, shrubs, or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs, and hedges for the purpose of and conducing to the benefit and improvement of the owner's land or the highway facility, subject to sub. (7).

(5) MUTILATION OF TREES. It shall be unlawful for any person to injure, mutilate, cut down, or destroy any shade tree growing on or within any street or highway in any village in this state, unless express permission to do so has been granted by the village's board of trustees.

(6) FINES. Except as provided in sub. (7), any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $25 for each tree or shrub damaged, felled or destroyed.

(7) CUTTING OF VETERANS MEMORIAL TREES; PENALTY. No person may cut or trim any tree planted along any federal or state trunk highway as a memorial to the men and women who served in the armed forces of the United States in time of war, without the written permission of the department. Violations of this section shall be punishable by a fine of not less than $10 nor more than $200 or by imprisonment for not more than 30 days or both. Nothing in this section shall interfere with the rights of abutting property owners in those trees.

History: 1991 a. 316; 1993 a. 490; 2001 a. 107; 2005 a. 22, 253; 2015 a. 236.

86.04 Highway encroachments. (1) ORDER FOR REMOVAL. If any highway right−of−way shall be encroached upon, under or over by any fence, stand, building or any other structure or object, and including encroachments caused by acquisition by the public of new or increased widths of highway right−of−way, the department, in case of a state trunk highway, the county highway committee, in case of a county trunk highway, or the city council, village or town board, in case of a street or highway maintained by or under the authority of any city, village or town, may order the occupant or owner of the land through or by which the highway runs, and to which the encroachment shall be appurtenant, to remove the encroachment beyond the limits of the highway within 30 days. The order shall specify the extent and location of the encroachment with reasonable certainty, and shall be served upon the occupant or owner of the land through or by which the highway runs, and to which the encroachment shall be appurtenant.

(2) NONREMOVAL. If the occupant or owner upon whom the order is served shall not deny such encroachment, under sub. (3), and the encroachment is not removed within 30 days after the service of such order, the occupant or owner shall forfeit $1 for every day after the expiration of that time during which the encroachment continues. An action to recover such penalty may be brought in any court of record in the county. In all cases where a judgment is rendered, the judgment shall order that the occupant or owner remove the encroachment within the time fixed by the judgment, and upon failure to obey the order, the department, county highway committee, or city council, village or town board, as appropriate, may remove the encroachment and recover from the occupant or owner the cost thereof.

(3) DENIAL OF ENCROACHMENT, PROCEDURE. If, within 30 days after being served with the order issued under sub. (1), the owner or occupant delivers a denial in writing of the alleged encroachment to the ordering body, or fails to make a denial, the ordering body may commence an action to remove the encroachment in a court of record in the county where the property is located.

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1987 a. 137 s. 6; 1991 a. 316; 1993 a. 490; 1995 a. 225.

Cross−reference: For highway obstructions see s. 86.022.

Adverse possession is a defense to an encroachment action under this section. Department of Transportation v. Black Angus Steak House, 111 Wis. 2d 342, 330 N.W.2d 240 (Ct. App. 1983).

86.05 Entrances to highways restored. Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements; and if the premises are divided by the highway, then one such entrance shall be constructed on each side of the highway. Thereafter each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

86.06 Highways closed to travel; penalties. (1) Whenever any highway is impassable or unsafe for travel or during the construction or repair of any such highway and until it is ready for traffic the authorities in charge of the maintenance or construction thereof may keep it closed by maintaining barriers at each end of the closed portion. The barriers shall be of such material and construction and so placed as to indicate that the highway is closed and shall conform to the standards for traffic control devices in the manual adopted by the department of transportation under s. 84.02 (4) (e).

(2) Any person who, without lawful authority, removes, takes down, alters the position of, destroys, passes over or beyond any barrier so erected, or travels with any vehicle upon any portion of a highway closed by barriers as in this section provided, or walks or travels in any manner upon the materials placed thereon as part of the repair or construction work, shall be liable to a fine of not less than $10 nor more than $100, or to imprisonment not less than 10 nor more than 60 days, or both, and in addition thereto shall be liable for all damages done to the highway, said damages to be recovered by such governmental agency.

If a county has a contract to maintain state trunk highways, the county highway commissioner can temporarily close a highway in case of emergency. 67 Atty. Gen. 335.

History: 2011 a. 246.

86.07 Digging in highways or using bridges for advertising. (1) Any person who draws, paints, prints or pastes upon any culvert, bridge or guard rail on any highway shall be fined not less than $10 nor more than $200 or imprisoned for not more than 30 days or both.

(2) (a) Subject to par. (b) and s. 86.16 (1m) (a) 2. and (c), no person shall make any excavation or fill or install any culvert or make any other alteration in any highway or in any manner disturb any highway or bridge without a permit therefor from the highway authority maintaining the highway. Such permit shall contain the statement and be subject to the condition that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and in the case of temporary alterations that the highway or bridge shall be restored to its former condition, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the department, the county board or its highway committee, or any other local authority to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed

necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. If any culvert is installed or any excavation or fill or any other alteration is made in violation of the provisions of this paragraph, the highway or bridge may be restored to its former condition by the highway authority in charge of the maintenance thereof at the expense of the violator; and any person who violates this paragraph shall be punished by a fine of not less than $50 nor more than $500, or by imprisonment not exceeding 6 months, or both.

(b) 1. In this paragraph:

a. "Manure hose" means any hose, pipeline, or other conduit, whether temporary or permanent in nature, for the transmission of liquid manure within or across the right−of−way of a highway to a destination for spreading in a farm field or for storage.

b. "State trunk highway" has the meaning given in s. 340.01 (60).

c. "Support structure" means a bridge, a box culvert, or any other structure that is less than 20 feet in length and capable of supporting a manure hose.

2. A permit may not be issued by a local highway authority under par. (a) for a manure hose that is subterranean. Section 86.16 applies with respect to any manure hose that is subterranean and that is laid out or installed within or across the right−of−way of a highway maintained by the local highway authority.

3. For a manure hose that is not subterranean and is not laid out or installed within or across the right−of−way of a state trunk highway, a permit issued under par. (a) that authorizes the permittee to lay out or install the manure hose within or across the right−of−way of a highway may also authorize the permittee to temporarily affix to a support structure under the jurisdiction of the local highway authority issuing the permit hooks, flanges, fasteners, or other devices to or by which a manure hose may be attached or supported. The local highway authority may require the applicant for the permit to submit with the application, for the local highway authority's approval, a plan specifying how the manure hose would be attached to or supported by the support structure. The permit may impose reasonable conditions related to the authorization under this subdivision, including any of the following:

a. Requiring removal of the hooks, flanges, fasteners, or other devices, at the permittee's expense, at any time, or under any circumstances, specified in the permit.

b. Making the permittee liable to the issuing authority for any damage caused to the support structure by the installation or removal of the hooks, flanges, fasteners, or other devices.

(2a) The restriction or depriving of used access to highways from abutting lands through the use of posts under any program to delineate driveways is prohibited.

(3) The prohibitions in this section do not apply to highway authorities in the performance of their duties.

History: 1977 c. 29 s. 1654 (8) (c); 1987 a. 137 s. 6; 1989 a. 335; 2015 a. 231.

Cross−reference: See also chs. Trans 231 and 401, Wis. adm. code.

An existing right of access in s. 32.09 (6) (b) includes the right of an abutting property owner to gain ingress and egress, subject to criteria for granting permits for access points under s. 86.07 (2). Restriction of access was a compensable taking. Narloch v. Department of Transportation, 115 Wis. 2d 419, 340 N.W.2d 542 (1983).

Sub. (2) is not a broad grant of authority to promulgate regulations for the preservation of highways or for the safety of the public. It is a statement that the legislature does not intend in sub. (2) to limit the authority DOT has independent of this section to impose conditions or promulgate rules regarding excavations, fill, culverts, or other alterations or disturbances to a highway as long as the conditions and rules are consistent with sub. (2). Sub. (2) does not authorize DOT to regulate land divisions that are not subdivisions within the meaning of s. 236.02 (12). Wisconsin Builders Association v. DOT, 2005 WI App 160, 285 Wis. 2d 472, 702 N.W.2d 433, 04−2388.

If the department of transportation (DOT) confirms a district office's decision to revoke a permit under s. 86.073 (3), the DOT must "notify the applicant of a right to hearing before the division of hearings and appeals." This language, while not explicit, very clearly implies a right to revoke driveway permits and the only reasonable reading of the relevant statutes is that they allow the DOT to revoke a driveway permit. J & E Investments LLC v. Division of Hearings and Appeals, 2013 WI App 90, 349 Wis. 2d 497, 835 N.W.2d 271, 12−2081.

86.073 Review of denial of permit. (1) If a district office of the department denies a request for a permit under s. 86.07 (2) (a) to construct an entrance to a state trunk highway from abutting premises or revokes a permit issued under s. 86.07 (2) (a), the department shall, upon written request by the applicant within 30 days after the denial, review the decision of the district office.

(2) After review, the department may reverse, confirm or modify the decision of the district office.

(3) If the department confirms or modifies the decision of the district office, the department shall notify the applicant of the action and the grounds for the action and shall also notify the applicant of a right to a hearing before the division of hearings and appeals. Upon written request by the applicant within 30 days after the notice is mailed to the applicant, the division of hearings and appeals shall schedule a hearing to be held within 60 days after receipt of the request.

History: 1983 a. 177; 1993 a. 16; 2015 a. 231.

If the department of transportation (DOT) confirms a district office's decision to revoke a permit under sub. (3), the DOT must "notify the applicant of a right to hearing before the division of hearings and appeals." This language, while not explicit, very clearly implies a right to revoke driveway permits and the only reasonable reading of the relevant statutes is that they allow the DOT to revoke a driveway permit. J & E Investments LLC v. Division of Hearings and Appeals, 2013 WI App 90, 349 Wis. 2d 497, 835 N.W.2d 271, 12−2081.

86.075 Highway authorities to notify drainage board of highway construction. Whenever a highway crossing any draining ditch of a drainage district governed by ch. 88 is being constructed or reconstructed or a culvert in any such ditch is being replaced, the highway authority in charge of such work shall consult with the drainage board having jurisdiction of such district for the purpose of determining the depth at which such drainage ditch was laid out. If any culvert or similar opening in a highway is installed at a grade higher than the depth at which such drainage ditch was laid out, the expenses involved in any future lowering of the culvert pursuant to s. 88.68 (4) shall be borne by the unit of government in charge of maintenance of the highway unless the highway authority in charge of the installation was misled by the drainage board as to the proper grade at which to install the culvert. This section applies only to work done after January 1, 1965.

86.08 Dust−free surfacing at licensed dairy or meat packing plants. (1) The duly constituted authority charged with the maintenance of any highway not having a dust−free surface shall cause the main traveled portion thereof within 400 feet of any licensed dairy or meat packing plant to be rendered dust−free by palliative treatment or an improved surface approved by the department. The cost of such treatment or surface shall be paid from the funds for maintenance or improvement of highways which shall be made available by the division of government responsible for the highway.

(2) If such treatment or surface is not applied by the division of government responsible on or before June 1 of any year, the county shall cause the work to be done. It shall keep an accurate account of the cost of such work and the county clerk shall, on or before November 1 of each year, certify to the department the cost of such work. The amount so certified shall be credited to the county in its allotment and deducted from the allotment to the division of government responsible.

History: 1977 c. 29 s. 1654 (8) (c); 1987 a. 137 s. 6.

86.09 Access to cemetery preserved. In all cases where the paving, improvement, change of grade or any other change in the condition of any street or highway in this state shall operate to cut off, impede or obstruct the access or approach from such highway to a cemetery, it shall be the duty of the local or state authorities in charge of such paving, improvement or change to include in such work provisions for and to effect such grading and improvement of the access and approach to such cemetery as shall be necessary to preserve such access or approach in an equal degree of usability. And whenever in any city, village or town such paving, improvement or change of grade or condition heretofore made has operated so as to cut off, impede or obstruct the access or approach from such highway to a cemetery, it shall be the duty of the council or board of such city, village or town upon

the request of any person to restore such access or approach to its former condition of usefulness, and to provide for such work in the same way that street or highway improvements are provided.

86.10 Salvage in highway construction. Materials removed from a highway incident to its improvement or maintenance which are suitable for reuse or have a market value, and which are not used in or disposed of under the contract for the work, shall become the property of the duly constituted authority maintaining the highway from which the material was removed and may be used or disposed of by such authority in the manner as in its judgment is for the best interest of the public, and any money received for such material shall be paid into the maintenance fund.

86.105 Snow removal in private driveways. The governing body of any county, town, city or village may enter into contracts to remove snow from private roads and driveways.

This section must be construed narrowly. Plowing of private parking lots is not authorized. Only in exceptional circumstances would plowing private driveways be permissible. 67 Atty. Gen. 304.

86.11 Highways; railroad crossings; grade separation. Whenever any highway crosses a railroad at grade and the town, village or county board or the city council or city commissioners other than in a city of the first class, as the case may be, shall deem it for the best interest of the public that said highway and railroad shall cross at separate grades, and when an agreement can be made between such board and the railroad company as to the manner of constructing of such separated grade crossing and doing the necessary work they may contract therefor; and such board shall after entering into such contract levy a tax sufficient to raise the money required to carry out such contract on its part, which tax shall be collected at the time and in the manner as other taxes are, and when collected shall be set aside as a special fund and used for said purpose. The plans for such grade separation shall have the approval of the department before the contract shall be binding or the change shall be made.

History: 1977 c. 29 s. 1654 (10) (e).

86.12 Highway railroad grade crossings; construction and repair. (1) All railroad companies owning or operating tracks crossing streets or highways at grade shall keep the surface of the crossings between the tracks and rails and extending 4 feet on either side of the outside rails, in good condition and repair for highway travel. The county board or the common council, village board or town board of the municipality in which the crossing is located may, by resolution, require any such railroad company to pave, plank, repair, change or otherwise improve the crossings, as the needs require. The clerk of the county, city, village or town shall serve a copy of the resolution upon the local agent of the railroad company.

(2) If a railroad company fails to comply with the resolution in sub. (1) within 30 days after service of the resolution, the county board, common council, village board or town board may file a complaint with the office alleging the failure. The office shall investigate and determine the matter in controversy as provided in ch. 195. An order issued by the office under this subsection has the same effect as an order in a proceeding brought under ch. 195.

History: 1977 c. 29 s. 1654 (10) (b); 1977 c. 72; 1985 a. 29; 1993 a. 16, 123.

86.13 Railroads to maintain highway crossings. (1) When any street or highway crosses any railroad track at grade, the company owning or operating the railroad shall grade, construct and maintain in good and safe condition for public travel the portion of such street or highway extending across said track. When such street or highway shall be or is about to be paved, surfaced or otherwise improved, the railway company shall improve, pave or surface such crossing between the tracks and rails and extending 4 feet beyond the outside rails on its right−of−way in substantially the same manner as the adjacent highway and with substantially the same materials, but this provision applies in cities only when the work is under ch. 83 or 84. This section shall not restrict the application of s. 66.0727 relating to special assessments against railroads for street improvements.

(2) The public board, committee or officer in charge of an improvement of a portion of a street or highway adjacent to a railroad crossing shall notify the railway company of the company's responsibility to make the improvement in sub. (1). The notice to the company shall be in writing and shall specify with reasonable certainty the work to be done by the company and may be served on any station agent of the company in this state. But failure to give such notice shall not prevent a recovery from the company of such sum as may be equitably due for the performance of a duty imposed by this section upon the company.

(3) If any railroad company fails to grade, construct, pave, surface or otherwise improve or maintain in good and safe condition for public travel as required by this section any street or highway crossing after having been notified so to do by the officer in charge thereof or of the highway improvement for 30 days after such notification, the highway authorities may file a complaint with the office. The office shall investigate and determine the matter in controversy as provided in ch. 195. An order issued by the office under this subsection has the same effect as an order in a proceeding brought under ch. 195.

(5) Any railroad company that receives notice from the department under this section with respect to a state trunk highway may file a claim for reimbursement with the department. The department shall reimburse claimants for 85 percent of the eligible costs incurred in the repair of a highway grade crossing. No claim for reimbursement may be paid by the department under this subsection unless the department approved the plans and estimated cost of the project prior to the start of the project. The department may inspect each completed project to verify the amount of the claim for reimbursement. The department shall create a procedure for establishing the priority for projects with respect to state trunk highways under this section for the purpose of programming reimbursements.

History: 1977 c. 29; 1979 c. 34; 1981 c. 20; 1985 a. 29; 1987 a. 137 s. 6; 1993 a. 16, 123, 490; 1999 a. 150 s. 672.

86.135 Railroad highway crossings; traffic control. All railroad companies, and their officers, agents, and employees, constructing, maintaining, or repairing railroad highway crossings shall comply with the traffic control provisions directed to the safe and expeditious movement of traffic through construction and maintenance zones and to the safety of the work force performing these operations contained in the manual establishing a uniform system of traffic control as adopted by the department under s. 84.02 (4) (e).

History: 1983 a. 27; 1987 a. 137 s. 6.

86.14 Strength of bridges. (1) After July 1, 1943, no bridge or culvert shall be constructed in any highway unless it shall be designed to have sufficient strength to carry at least 15 ton truck loading in accordance with standard specifications covering design for structures as adopted by the department and in force at the time of design. Repairs to any bridge or culvert shall be of substantial character, strengthening same as much as practical.

(2) Any person who subjects any bridge or culvert to a load in excess of maximum limitations on weight of vehicles on highways imposed by law or regulations thereunder or limitation as to gross weight of vehicles as posted on or at any such bridge or culvert shall be liable for double the amount of damages that may be caused thereby. There shall be no recovery for any injury to that person or to the property in that person's keeping.

(3) Every person who willfully injures any highway structure shall be liable for treble damages to the subdivision of the state chargeable with the maintenance or repair of such structure.

History: 1977 c. 29 s. 1654 (8) (c); 1987 a. 137 s. 6; 1991 a. 316.

The value of a bridge is its value to its owner. Determinative factors include opinion evidence, cost, use, cost of restoration, ease or likelihood of repair, continued usefulness, and the age and condition of the bridge. Town of Fifield v. State Farm Insurance Co. 119 Wis. 2d 220, 349 N.W.2d 684 (1984).

86.15 Donations of highway aid to adjoining municipalities. (1) Any town, city or village to which is or has been bequeathed or donated money or other property for the construction of a proposed highway or the improvement of an existing highway, either or both of the terminals or any part of which highway are outside the limits of such town, city or village, may accept such bequest or donation, and with the consent of the councils of the cities, the boards of the towns and villages and the boards or other bodies in control of any state lands, through or into which such proposed highway may be constructed or such existing highway may be improved, which permission said councils and boards are hereby authorized to grant, may enter such towns, cities, villages, and state land, and may do all other things necessary for the purpose of carrying out the terms and conditions of such bequest or donation.

(2) Any city, of the fourth class, however organized, may appropriate a sum not to exceed one−fourth of one mill on each dollar of the assessed valuation of such city, according to the last preceding assessment therein, for the purpose of aiding any adjoining town, city or village in the construction or improvement of any highway or part thereof in accordance with the terms and conditions of any bequest or donation to such adjoining town, city or village, and any part of such moneys so appropriated may be expended within or without the corporate limits of such city.

86.16 Utility lines on highways; place of poles; penalty. (1) Any person, firm, or corporation, including any foreign corporation authorized to transact business in this state, may, subject to ss. 30.44 (3m), 30.45 and 196.491 (3) (d) 3m., with the written consent of the department with respect to state trunk highways, and with the written consent of local authorities with respect to highways under their jurisdiction, including connecting highways, construct and operate telegraph, telephone, or electric lines, or pipes or pipelines, for the purpose of transmitting messages, water, liquid manure, heat, light, or power along, across, or within the limits of the highway.

(1m) (a) If a pipe or pipeline transmitting liquid manure along, across, or within the limits of a highway under the jurisdiction of a local authority is not subterranean, all of the following apply:

1. Subject to par. (c), a person holding a permit issued by the local authority under s. 86.07 (2) for a manure hose that is the pipe or pipeline is not required to obtain written consent for the pipe or pipeline under sub. (1).

2. Subject to par. (c), a person may obtain written consent under sub. (1) for the pipe or pipeline in lieu of obtaining a permit issued by the local authority under s. 86.07 (2).

(b) Any culvert installed in the ground for the purpose of running through it a hose transmitting liquid manure is considered a pipe or pipeline transmitting liquid manure under sub. (1) and, before such installation, written consent under sub. (1) is required.

(c) A local authority may specify that only the permit described in par. (a) 1. or only the written consent described in par. (a) 2. will be accepted by the local authority as the method for authorizing a pipe or pipeline transmitting liquid manure within or across a highway right−of−way.

(2) All poles used in the construction of such lines shall be set in such manner as not to interfere with the use of such highway by the public, nor with the use of the adjoining land by the owner thereof; and all pole lines shall hereafter be constructed so as to meet the requirements of the provisions of the state electrical code promulgated by the public service commission.

(3) No tree shall be cut, trimmed or the branches thereof cut or broken in the construction or maintenance of any such line without the consent of the owner of the tree.

(4) Any person erecting any telephone, telegraph, electric light or other pole or stringing any telephone, telegraph, electric light or other wire, or constructing any pipes or pipe lines in violation of the provisions of this section shall forfeit a sum not less than $10 nor more than $50.

(5) Any person, firm, or corporation whose written application for permission to construct such lines, pipes, or pipelines within the limits of a highway has been refused, or has been on file with the department or local authority for 20 days and no action has been taken thereon, may file with the department or local authority a notice of appeal to the division of hearings and appeals. The department or local authority shall thereupon return all of the papers and action of the department or local authority to the division of hearings and appeals, and the division of hearings and appeals shall hear and try and determine the appeal on 10 days' notice to the department or local authority, and the applicant. The order entered by the division of hearings and appeals shall be final.

History: 1977 c. 29 s. 1654 (8) (d), (e); 1979 c. 34; 1981 c. 347 s. 80 (2); 1989 a. 31; 1993 a. 16, 490; 1997 a. 204; 2007 a. 63; 2015 a. 231.

Cross−reference: See also s. Trans 200.05, Wis. adm. code.

Pipelines to transport water under sub. (1) include wastewater as well as freshwater pipelines. Review of a town's refusal to grant permission to a city to construct a sewer line was within the scope of DHA's authority under sub. (5). Town of Barton v. Division of Hearings & Appeals, 2002 WI App 169, 256 Wis. 2d 628, 649 N.W.2d 293, 01−1209.

86.17 Taking water from highway streams. (1) The general public shall have the right to use and take water from any spring, creek or running water that may be found running in or across the limits of any public highway, provided that this section shall not interfere with the tunneling or piping of water for the purpose of draining or improving lands on either side of such highway.

(2) Any person who shall wantonly interfere with the free use of the water from any spring or in any creek or stream running across or in any highway shall be guilty of a misdemeanor and be liable to any person damaged thereby for all damages sustained.

86.18 Milwaukee County highways; location, alteration, maintenance. (1) The county board of any county having a population of 250,000 or more may acquire, establish, lay out, relocate, widen, enlarge, extend, pave, repave, improve and maintain county trunk highways therein, and when requested by resolution adopted by the governing body of any municipality situated therein, any other highway located in such municipality; to construct and lay water pipes, sewers, curbs, gutters and all other public facilities in such highways; to make assessments of benefits and damages, levy assessments, and issue assessment certificates and bonds in the making of and paying for said improvement to the same extent as is given to cities on the same subject matter.

(2) In acquiring property for any purpose covered by sub. (1) the county board shall proceed under ch. 32, except that the board shall determine the necessity of the taking, and the county highway commissioner shall perform all the duties of the commissioners in making awards and appraisals under s. 32.05.

(3) Any party to the condemnation proceedings may appeal from the award of the county highway commissioner in the manner provided for appeals from awards of commissioners in ch. 32 and such appeal shall be heard and delivered as are appeals in ch. 32.

(4) The county highway commissioner shall have all the powers now given to the city board of public works in making assessments of benefits and damages in highway improvements, and the same proceedings shall be had and taken after the highway commissioner's report is filed with the county clerk as by s. 66.0703 is had and taken in the report of such board of public works in city assessments. Notices of both the preliminary and final reports shall be published as a class 2 notice, under ch. 985, in the official county paper, and the date of hearing in each case shall not be earlier than 5 days after the last insertion. Appeals from the final determination of the highway commissioner may be had, and shall thereafter be heard as provided in s. 66.0703 (12) and such remedy shall be exclusive.

History: 1989 a. 31; 1991 a. 32; 1999 a. 150 s. 672.

86.185 Populous counties; power over county trunk highways. Counties having a population of at least 150,000 may exercise any corresponding power over county trunk highways that is conferred upon cities in the widening or improving and maintaining of state trunk or county trunk highways, the constructing or laying of water pipes, sewers and all other public service facilities therein, and in the levying of special assessments and issuing of assessment certificates and special improvement bonds.

History: 1989 a. 31.

86.19 Highway signs, regulation, prohibition. **(1)** Except as provided in sub. (1m) or s. 84.01 (30) (g), no sign shall be placed within the limits of any street or highway except such as are necessary for the guidance or warning of traffic or as provided by ss. 60.23 (17m) and 66.0429. The authorities charged with the maintenance of streets or highways shall cause the removal therefrom and the disposal of all other signs.

(1g) (a) Subject to par. (b), the department shall erect and maintain 2 directional signs along eastbound and westbound I 94 and 4 directional signs along the exit ramps that correspond to the signs along the main roadway in Milwaukee County for the Basilica of St. Josaphat.

(b) Upon receipt of sufficient contributions from interested parties, including any county, city, village, or town, to cover the costs of fabricating, erecting, and maintaining the signs specified in par. (a), the department shall erect and maintain the signs. No state funds, other than from the receipt of contributions under this paragraph, may be expended for the fabrication, erection, or maintenance of the signs.

(1h) (a) Subject to par. (b), the department shall erect and maintain 2 directional signs along eastbound and westbound I 90/94 and 2 directional signs along the exit ramps that correspond to the signs along the main roadway for the Wisconsin Basketball Coaches Association Hall of Fame in Columbia County.

(b) Upon receipt of sufficient contributions from interested parties, including any county, city, village, or town, to cover the costs of fabricating, erecting, and maintaining the signs specified in par. (a), the department shall erect and maintain the signs. No state funds, other than from the receipt of contributions under this paragraph, may be expended for the fabrication, erection, or maintenance of the signs.

(1i) (a) Subject to par. (b), the department shall erect and maintain all of the following directional signs for the Iola Car Show:

1. Two signs along eastbound and westbound USH 10 at the intersection with STH 49 at Fulton Street in the city of Waupaca.

2. Two signs along eastbound and westbound USH 10 at the intersection with STH 161 in Portage County.

3. Two signs along eastbound and westbound STH 29 at the intersection with STH 49 in Marathon County.

4. Two signs along northbound and southbound STH 22 at the intersection with STH 110 and STH 161 in Waupaca County.

5. One sign along southbound STH 49 at the intersection with STH 66 in Portage County.

(b) Upon receipt of sufficient contributions from interested parties, including any county, city, village, or town, to cover the costs of fabricating, erecting, and maintaining the signs specified in par. (a), the department shall erect and maintain the signs. No state funds, other than from the receipt of contributions under this paragraph, may be expended for the fabrication, erection, or maintenance of the signs.

(1m) Notwithstanding sub. (1), the department shall place 100 signs near highways and in waysides that display a slogan or logo, or both, developed by the department of agriculture, trade and consumer protection to promote Wisconsin agricultural products. The signs shall be placed in prominent locations where they are likely to be seen by tourists from other states, except that no sign may be placed in violation of federal law.

(1r) The department shall maintain the directional sign existing on October 29, 1999, that is located along I 43 for America's Black Holocaust Museum in Milwaukee County. The department may not charge any fee related to the sign maintained under this subsection.

(1u) Notwithstanding sub. (1), the department may erect and maintain directional signs along any highway along the route described in s. 84.10255 (1) to aid navigation to the locations described in s. 84.10255 (2) (b) to (e).

(2) The department shall prescribe regulations with respect to the erection of signs on public highways. Such regulations shall have the full force of law. No advertising sign shall use prominently any words, or combination of words, commonly used for the guidance or warning of travel, nor shall any advertising sign be erected or be permitted to remain in any place or manner so as to endanger travel on the highways, either by reason of causing an obstruction to the view or otherwise.

(3) Any person who shall erect any sign on any public highway, or elsewhere in violation of any of the provisions of this section or the regulations of the department, or without the written consent of the department if the sign is to be erected on a state trunk highway, the county highway committee in the case of a county trunk highway, or the city council, village or town board in case of a street or highway maintained by a city, village or town, shall be fined not less than $10 nor more than $100, and for a second or subsequent violation shall be fined not less than $10 nor more than $500.

(4) This section shall not be construed as prohibiting the erection of such historical monuments or markers within the limits of public streets and highways as shall be approved by the department. The name of a newspaper on a newspaper tube or receptacle shall not be deemed a sign within the meaning of this section.

(5) The department shall assign to each county and local authority responsible for the placement and maintenance of signs, guide boards, mile posts, signals or markers erected for the warning, instruction or information of the public a code number which the county or local authority shall place on each warning, instruction or information device at the time of replacement or new installation of such device.

(6) At the request of any city, village or town, the department shall erect directional signs on state trunk highways at the intersection of those highways with streets or other highways where the streets or other highways lead to the city, village or town, provided the city, village or town is located within 5 miles of the intersection and provided the city, village or town agrees to pay for the installation and maintenance of the sign. The directional sign shall show the name of the city, village or town. For the purpose of this subsection, the term "intersection" includes exit ramps from any expressway or freeway or interstate highway.

History: 1975 c. 169; 1977 c. 29 s. 1654 (8) (c); 1977 c. 188; 1983 a. 92; 1987 a. 137 s. 6; 1987 a. 205; 1993 a. 246; 1999 a. 9; 1999 a. 150 s. 672; 2015 a. 51, 55, 213, 270.

Cross−reference: See also chs. Trans 200 and 201, Wis. adm. code.

86.191 Advertising in highways prohibited, where. **(1)** No person shall erect, or cause to be erected, any advertising, direction, guide, warning or other sign or marker within any public highway within a distance of 1,000 feet from the intersection of any 2 or more highways, when such intersection is beyond the corporate limits of any city or villages, unless permission is first obtained from the officials charged with the maintenance of such highways. The name of a newspaper on a newspaper tube or receptacle shall not be deemed to be any advertising, direction, guide, warning or other sign or marker within the meaning of this section.

(2) In case any person shall violate the provisions of this section, the authorities in charge of the maintenance of the highway upon which such violation occurs shall promptly remove such advertising, direction, guide, warning or other sign or marker.

(3) If any signs at present exist in the public right−of−way on any highway within 1,000 feet of the intersection of any 2 or more

highways or streets beyond the limits of any incorporated city or village which are, in the opinion of the officials in charge of the maintenance of such highway, a menace to the safety of the public traveling along such highways, said officials shall notify the owners of such signs to remove the same, or to remove the danger producing features, and in case the owners do not do so, or in case the owners cannot be found with reasonable effort, the authorities in charge of said highway shall remove said signs from within the right−of−way.

(4) The triangles bounded by any 2 adjacent intersecting highways and a line drawn between the points on the center lines of said highways 1,000 feet from the intersection of their center lines, are declared prohibited ground for the erection of any danger producing advertising signs, when such intersection is beyond the corporate limits of any city or village. No advertising sign, design or insignia shall hereafter be erected within said triangles which will endanger the safety of the public traveling along any highways, and if there now exist in any such triangle any advertising signs, designs, or insignia endangering the safety of the public traveling along such highways, the authorities in charge of the maintenance of such highways shall take up the matter with the owner of the sign and with the owner of the land, and shall cause the same to be removed, or to be so altered as to remove the danger producing features. Within the same triangles the authorities in charge of maintaining any road shall require the property owner to minimize the obstruction to the view across the triangle insofar as is possible, and shall make such arrangements with the property owner as will make travel on the intersecting highways as safe as is reasonably possible.

(5) Any person who violates sub. (1), (3), or (4) shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than $25 nor more than $100 for each offense, or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment in the discretion of the court.

(6) (a) In this subsection, "business entity" has the meaning given in s. 13.62 (5), but does not include any real estate broker or salesperson licensed under ch. 452 or any other individual selling real estate or personal property owned by the individual.

(b) Subject to subs. (1) and (4) and s. 86.19, and except as provided in par. (d), no business entity may place, or cause to be placed, within a highway right−of−way any sign that advertises or promotes a business identified on the sign or a business whose telephone number or Internet web site address appears on the sign.

(c) If a sign described in par. (b) has been placed within a highway right−of−way and the business identified on the sign or whose telephone number or Internet web site address appears on the sign had the sign made, there is a rebuttable presumption that this business caused the sign to be placed in violation of par. (b).

(d) This subsection does not apply to any of the following:

1. Any sign placed with the permission of an official charged with the maintenance of the highway.

2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30, 86.195, or 86.196.

3. The name of a newspaper on a newspaper tube or receptacle.

4. Any sign advertising a yard sale, garage sale, rummage sale, or similar event.

5. Any sign advertising an event associated with a church or school.

(e) Any business entity violating this subsection is subject to a forfeiture of not more than $50 for each offense. Each sign placed in violation of par. (b) constitutes a separate offense.

History: 1991 a. 316; 1993 a. 490; 2009 a. 227.

Cross−reference: See also ss. Trans 200.02 and 200.04, Wis. adm. code.

86.192 Penalty for injuring guide board, markers, etc. **(1)** No person may injure, deface or remove any sign, guide board, mile post, signal or marker erected by the state or by any municipality thereof for the warning, instruction or information of the public. The following warning shall be affixed to the front of each such sign, guide board, mile post, signal or marker: "WARNING: $25 to $100 fine or imprisonment for removing or tampering with this sign."

(1m) No person may possess any sign, guide board, mile post, signal or marker of the type erected by the state or by any municipality for the warning, instruction or information of the public, unless the person can demonstrate that he or she obtained it in a legal manner. Possession of such a sign, guide board, mile post, signal or marker creates a rebuttable presumption of illegal possession. In this subsection, "possession" means the presence of such a sign, guide board, mile post, signal or marker on premises owned or controlled by the person, including but not limited to a rented apartment, rented room or dormitory room. Persons who voluntarily notify a law enforcement agency of the presence on their premises of such a sign, guide board, mile post, signal or marker shall be exempt from prosecution under this subsection.

(2) Any person who violates this section shall be fined $25 for the first violation, $100 for a subsequent violation, or imprisoned not exceeding 30 days for the first violation, or 60 days for a subsequent violation, or both fined and imprisoned in the discretion of the court. The court may, in addition, order any such person either to restore or replace any such damaged sign, mile post, signal or marker, or to pay the cost thereof.

(3) On conviction of any person of a violation of this section, the person or persons who informed against and aided in the prosecution of such offense to conviction shall be paid by the court one−half of the amount of the fine paid into the court.

(4) Any person who violates this section is guilty of a Class H felony if the injury, defacement or removal causes the death of a person.

History: 1975 c. 169, 421; 1997 a. 283; 2001 a. 109.

86.195 Specific information signs. **(1)** DEFINITIONS. Unless defined differently in this section, the terms used in this section are defined in accordance with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e). In this section:

(am) "Business" includes an attraction, whether public or private, described in sub. (3) (e).

(ar) "Business sign" means a separately attached sign mounted on the rectangular sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on a crossroad at or near an interchange or an intersection.

(c) "Motorist service" means a business which qualifies under sub. (3).

(d) "Specific information sign" means a rectangular sign panel which displays:

1. One or more of the words "GAS", "FOOD", "LODGING", "CAMPING", or "ATTRACTION";

2. Directional information; and

3. One or more business signs.

(2) SIGNS AND FEES. (a) Except as provided in par. (ag), the department may authorize the erection and maintenance of a specific information sign upon the request of any person within the right−of−way of a federal−aid primary highway or within the right−of−way of a federal−aid secondary highway under the jurisdiction of the department, except that no specific information sign may be erected within any city, village or town unless the specific information sign is erected in compliance with rules promulgated by the department for such signs in a city, village or town.

(ag) On and after May 8, 1990, the department may not authorize the erection of a specific information sign under par. (a) unless the highway is one of the following highways under the jurisdiction of the department:

1. I 43 from I 90 at Beloit to USH 41 at Green Bay.

2. I 90 from the state line in Rock County to the state line in La Crosse County.

3. I 94 from the state line in Kenosha County to the state line in St. Croix County.

4. STH 11 from STH 81 west of Monroe to I 43 at Delavan.

5. STH 11 from I 43 at Elkhorn to STH 32 at Racine.

6. STH 13 from STH 97 at Marshfield to STH 182 at Park Falls.

7. STH 16 from STH 67 at Oconomowoc to I 94 at Waukesha.

8. STH 21 from I 94 north of Tomah to CTH "Z" in the town of Strongs Prairie in Adams County and from STH 13 north of the village of Friendship in Adams County to USH 41 at Oshkosh.

9. STH 23 from STH 44 at Ripon to I 43 at Sheboygan.

10. STH 26 from I 90 at Janesville to USH 41 south of Oshkosh.

11. STH 29 from USH 41 at Green Bay to I 94 west of Elk Mound.

12. STH 33 from USH 41 at Allenton to STH 32 at Port Washington.

13. STH 36 from STH 50 at Springfield to STH 100 at Milwaukee.

14. STH 50 from STH 120 at Lake Geneva to STH 32 at Kenosha.

15. STH 53 from I 94 at Eau Claire to I 535 at Superior.

16. STH 57 from I 43 at Green Bay to Sturgeon Bay.

16m. STH 172 from I 43 southeast of Green Bay to USH 41 at Ashwaubenon.

17. USH 2 from USH 53 east of Superior to the state line in Iron County.

18. USH 8 from the state line in Polk County to USH 53 west of Cameron.

19. USH 8 from USH 51 southeast of Bradley to STH 47 at Monico.

20. USH 10 from STH 13 south of Marshfield to STH 42 at Manitowoc.

21. USH 12 from the state line in Walworth County to STH 67 north of Elkhorn.

22. USH 12 from I 90 east of Madison to I 90 north of Wisconsin Dells.

23. USH 18 from STH 35 at Prairie du Chien to USH 151 east of Dodgeville.

24. USH 41 from STH 181 at Milwaukee to the state line in Marinette County.

25. USH 45 from USH 41 at Richfield to STH 28 at Kewaskum.

26. USH 45 from USH 41 at Appleton to USH 8 at Monico.

27. USH 51 from STH 78 north of Portage to USH 2 at Hurley.

28. USH 63 from I 94 south of Baldwin to USH 2 west of Ashland.

29. USH 64 from the state line in St. Croix County to USH 63 east of New Richmond.

30. USH 78 from I 90 south of Portage to USH 51 north of Portage.

31. USH 141 from I 43 at Green Bay to the state line in Marinette County.

32. USH 151 from STH 11 south of Dickeyville to CTH "WH" northeast of Fond du Lac in Fond du Lac County.

33. STH 441 between the Roland Kampo Bridge and USH 41, designated as the tri−county expressway, in Calumet, Outagamie and Winnebago counties.

34. USH 53 from I 90 at La Crosse to STH 35 north of Holmen.

35. USH 14 from USH 12/18 at Madison to STH 138 at Oregon.

36. USH 12 from CTH "P" in Walworth County to Tri County Road in Rock County.

(b) 1. Subject to sub. (4) (c), upon the request of any person, the department may authorize the installation and maintenance of a business sign on an existing specific information sign.

3. The person requesting installation of a business sign shall provide, at his or her expense, a business sign which meets specifications established by the department.

4. Nothing in this section prohibits a person requesting installation of a business sign under sub. (3) (e) from advertising or displaying information on any sign under s. 84.30, subject to any limitation on such signs under s. 84.30.

(c) A person who requests the erection or installation of a sign under par. (a) or (b) shall pay to the department an annual permit fee of $40 to cover administrative costs and the cost of inspection of the signs erected or installed under this section. In addition, the person requesting a sign under par. (a) or (b) shall pay a fee for the manufacture, installation and maintenance of the specific information sign and the installation and maintenance of the business sign.

(d) The department shall contract for the erection, installation and maintenance of signs under this section. The department may require the contractor to provide liability insurance for purposes of this section.

(3) MOTORIST SERVICES. Specific information signs may only include business signs for the following categories of motorist services: "GAS", "FOOD", "LODGING", "CAMPING", and "ATTRACTION". To qualify for display on a specific information sign a business must meet the following standards for the respective category of motorist service:

(a) "GAS" shall have:

1. Vehicle services including fuel, oil and water;

2. Restroom facilities and drinking water;

3. Continuous operation of at least 16 hours a day, 7 days a week for freeways and expressways, and continuous operation of at least 12 hours a day, 7 days a week for other highways, provided automotive fuel is available under the energy fuel allocation program established under P.L. 93−159; and

4. Public telephone.

(b) "FOOD" shall have:

1. Licensing or approval, where required:

2. Regular operation at least 5 days a week, opening for service no later than 10 a.m. and remaining open until at least 7 p.m.;

3. Fifty percent of the sales price, as defined in s. 77.51 (15b), of the business is from the sale of food and food ingredients, as defined in s. 77.51 (3t), that are taxable under subch. III of ch. 77 or that are bakery items produced by the seller; and

4. Public telephone.

(c) "LODGING" shall have:

1. Licensing or approval, where required;

2. Adequate sleeping accommodations; and

3. Public telephone.

(d) "CAMPING" shall have:

1. Licensing or approval, where required;

2. Adequate parking accommodations; and

3. Modern sanitary facilities and drinking water.

(e) "ATTRACTION" shall have all of the following:

1. A primary purpose of providing amusement, historical, cultural, or leisure activities to the public.

2. Regional significance. For purposes of this subdivision, an agricultural research station owned or managed by a university has regional significance regardless of the number of visitors to the station.

3. Adequate parking accommodations.

(4) LOCATION. (a) Specific information signs shall be located so as to take advantage of natural terrain, to have the least impact

on the scenic environment and to avoid visual conflict with other signs within the highway right−of−way.

(b) The relative location of successive specific information signs near a particular intersection shall be in the following order, as seen by the traveling public: "ATTRACTION", "CAMPING", "LODGING", "FOOD" and "GAS".

(c) No business sign under sub. (3) (e) may be erected or maintained on a highway for a business that is more directly reached by any other highway on which specific information signs are authorized under sub. (2). No more than one business sign under sub. (3) (e) may be erected or maintained on a highway, for each direction of travel, for the same business.

(5) CRITERIA. (a) *Distance to services.* 1. Except as provided in subds. 2. to 4., a motorist service may not be located more than 3 miles from the federal−aid primary or secondary highway on which the specific information sign for the motorist service is erected.

2. Except as provided in subds. 3. and 4., if no business in the category of motorist service is available within the 3−mile limit, the limit in subd. 1. may be extended in 3−mile increments to a maximum distance of 15 miles from the federal−aid primary or secondary highway until a business in the category of motorist service is reached.

3. Except as provided in subd. 4., if no business in the category of motorist service is available within the 3−mile limit, the limit in subd. 1. may, on or after May 8, 1990, be extended to a maximum distance of not more than 5 miles from the highway.

4. A business in the category of motorist service specified in sub. (3) (e) may not be located more than 30 miles from the federal−aid primary or secondary highway on which the specific information sign for the motorist service is erected.

(b) *Number of signs permitted.* No more than 4 specific information signs for each category of motorist service may be erected along an approach to an interchange or intersection. No specific information sign may contain more than 6 business signs.

(c) *Conformity with discrimination laws.* Each business identified as a motorist service on a specific information sign shall, as a condition of eligibility for erection, installation and maintenance of a sign under this section, give written assurance to the department that the business conforms with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex or national origin.

(6) COMPOSITION. (a) Specific information signs and business signs shall have a blue reflectorized background with a white reflectorized border and white reflectorized legend. Sign panels may be illuminated.

(b) The design, lettering, spacing and size of specific information signs and business signs shall conform with the federal standards on specific information signs adopted under 23 USC 131 (f) on November 1, 1982 and with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e).

(7) EXIT RAMP SIGNS. If motorist services are not visible from the ramp terminal at single exit interchanges on freeways and expressways, specific information signs shall be installed along the ramp or at the ramp terminal and may be provided along the crossroad.

(8) SEASONAL SERVICES. Any sign for a "LODGING" or "CAMPING" motorist service which is operated on a seasonal basis shall be removed or covered during off seasons. The cost of removal and replacement or covering and uncovering shall be included in the fee paid.

(9) SIGN REMOVAL. (a) A sign may be removed upon the following grounds:

1. Failure to comply with the applicable motor service standards under sub. (3).

2. Failure to comply with the assurance of nondiscrimination required by sub. (5) (c).

3. Failure to pay the permit fee or the fee for the erection, installation or maintenance of a sign.

(b) Contested cases concerning removals under this subsection shall be heard and decided by the division of hearings and appeals.

(c) Sign removal shall not affect a sign requester's liability for unpaid fees.

(10) COMPLIANCE WITH FEDERAL LAW. (a) Subsections (2) to (8) are adapted from and in substantial conformity with the federal standards promulgated by the U.S. secretary of transportation under 23 USC 109 (d), 131 (f) and 315 as codified in 23 CFR 655.301 to 655.310 (1980).

(b) If, after November 1, 1982, the federal standards become more restrictive, the department shall submit proposed legislation to the appropriate standing committees of the legislature, as designated by the presiding officer of each house to bring this section into compliance with the federal standards. The department may promulgate an emergency administrative rule under s. 227.24 which supersedes this section until such time as the legislature acts on the legislation submitted under this paragraph or until the expiration of the effective period of the rule under s. 227.24 (1) (c) or (2), whichever comes first.

History: 1981 c. 362, 391; 1985 a. 29; 1985 a. 182 s. 57; 1987 a. 137; 1987 a. 403 s. 256; 1989 a. 98, 315; 1991 a. 265, 269, 315; 1993 a. 16, 237, 246; 1997 a. 124, 237; 1999 a. 9; 2005 a. 63, 136, 309; 2007 a. 55; 2009 a. 2, 28, 153; 2013 a. 20; 2015 a. 360.

Cross−reference: See also s. Trans 200.06, Wis. adm. code.

86.196 Tourist−oriented directional signs. (1) In this section:

(a) "Tourist−oriented directional sign" means a sign providing identification of and directional information for tourist−related businesses, services or activities.

(b) "Tourist−related business, service or activity" means a business, service or activity the major portion of whose income or visitors is derived during the normal business season from motorists not residing in the immediate area where the business, service or activity is located.

(c) "Urban areas" means the areas located within the urban area boundaries contained in the January 1, 1989, document prepared by the department in cooperation with the federal highway administration and entitled "Urban Federal Aid Systems".

(2) The department shall establish by rule standards for tourist−oriented directional signs. The rule shall conform to federal standards for tourist−oriented directional signs adopted under 23 USC 131 (q) and with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e). The rule shall include all of the following:

(a) Criteria for eligibility for signing.

(b) Criteria for limiting or excluding businesses, services and activities that maintain signs that do not conform to requirements under s. 84.30.

(c) Provisions for fees to cover costs of sign manufacture, erection and maintenance to be collected through a permit system.

(d) Provisions specifying sign design and composition.

(f) Criteria for determining when to permit advance signing.

(g) Criteria for determining when to permit signing for facilities that are not located on a crossroad of a highway upon which tourist−oriented directional signs are permitted.

(h) Criteria for signing at at−grade intersections of expressways.

(i) Provisions specifying conditions under which the time of operation of a business, service or activity is shown.

(j) Provisions for covering or removing signs during off seasons for businesses, services and activities operated on a seasonal basis.

(k) Provisions specifying the maximum number of signs permitted per intersection.

(L) Provisions for limiting the number of signs and for establishing information centers when the number of eligible sign applicants exceeds the maximum number of tourist−oriented directional signs permitted.

(m) Provisions to integrate specific information signs erected under s. 86.195 with tourist−oriented directional signs erected under this section.

(3) Upon the request of any person, a local authority that has adopted an ordinance permitting the erection of tourist−oriented directional signs may authorize their erection within the right−of−way of any highway under the jurisdiction of the local authority, except that tourist−oriented directional signs may be erected only outside of urban areas and not within the right−of−way of a freeway or the right−of−way of any highway designated in s. 86.195 (2) (ag) for specific information signs. No tourist−oriented directional sign may be erected unless it is erected in compliance with rules promulgated by the department for such signs.

(4) The department may contract for the erection, installation and maintenance of tourist−oriented directional signs within the right−of−way of any highway under the jurisdiction of the department, except that tourist−oriented directional signs may be erected only outside of urban areas and not within the right−of−way of a freeway or the right−of−way of any highway designated in s. 86.195 (2) (ag) for specific information signs. No tourist−oriented directional sign may be erected unless it is erected in compliance with rules promulgated by the department for such signs.

(5) A tourist−related business, service or activity may not be located more than 5 miles from the highway on which the tourist−oriented directional sign for that business, service or activity is erected.

(6) Notwithstanding any eligibility criteria established under this section and rules promulgated under this section, the department shall install and maintain, on I 94 in Milwaukee County, 2 signs meeting the specifications under this section and rules promulgated under this section. One sign shall be viewable from the northbound lanes of I 94 and shall be located between Rawson Avenue and College Avenue. The other sign shall be viewable from the eastbound lanes of I 94 and shall be located in the proximity of the Waukesha County line. Both signs shall highlight lakefront attractions in the city of Milwaukee and shall include information about the Milwaukee Art Museum, the Betty Brinn Children's Museum, Discovery World, Summerfest, and the Milwaukee County War Memorial.

History: 1989 a. 98, 315; 2007 a. 20.

Cross−reference: See also ss. Trans 200.03 and 200.08, Wis. adm. code.

86.20 Interstate bridge corporations. Any corporation organized for the purpose of constructing, operating and maintaining a bridge over navigable boundary waters of this state and authorized by congress to erect such bridge shall have all the rights and powers with respect to entry upon, and acquisition, of real estate for the construction, operation and maintenance of such bridge, with the necessary approaches, terminals and appurtenances thereto, that are possessed by railroad corporations.

86.21 Interstate toll bridges. (1) Any county or town, or any village or city however organized, bordering upon any navigable waters which form the boundary line between this and another state, may construct, maintain and operate a foot and vehicular toll bridge over and across such river or waters, commencing at a point within or near the limits of such county, town, village or city, and may acquire land in this and in such other state for approaches, abutments and piers, or may acquire, maintain and operate any such toll bridge which spans any such river or waters, whether such bridge is located wholly or partly only within the boundaries of this state and whether such bridge is located within or only partly within and partly without the limits of such county, town, village or city.

(2) (a) Before any such toll bridge is constructed or acquired under this section, a resolution authorizing the construction or acquisition thereof, and specifying the method of payment therefor, shall be adopted by a majority of the members of the governing body of such county, town, village or city at a regular meeting, after publication of said resolution, as a class 2 notice, under ch. 985. The resolution shall include a general description of the property it is proposed to acquire or construct. Any county, town, village or city constructing or acquiring a toll bridge under this section may provide for the payment of the same or any part thereof from the general fund, from taxation, or from the proceeds of either municipal bonds, revenue bonds or as otherwise provided by law. Such resolution shall not be effective until 15 days after its passage and publication. If within said 15 days a petition conforming to the requirements of s. 8.40 is filed with the clerk of such municipality, and filed as provided in s. 8.37, signed by at least 20 percent of the electors thereof requesting that the question of acquiring such toll bridge be submitted to the said electors, such question shall be submitted at the next general or regular municipal election that is held not sooner than 70 days from the date of filing such petition. The question submitted to the electors shall specify the method of payment for such toll bridge as provided in the resolution for the acquisition thereof. If no such petition is filed, or if the majority of votes cast at such referendum election are in favor of the acquisition of such toll bridge, then the resolution of the governing body for the acquisition of such toll bridge shall be in effect.

(b) Where such payment is to be made in whole or in part through the issuance of revenue bonds, such bonds shall be issued as provided in s. 66.0621. The amount of all incidental expenses incurred in connection with the construction or acquisition of the bridge and in connection with the authorization and issuance of the bonds may be included in the amount for which bonds are issued. Such revenue bonds shall be payable solely from the revenues to be derived from the operation of the bridge or bridges as acquired or constructed, and shall not constitute an indebtedness of the county, town, village or city. Any toll bridge property owned or acquired pursuant to this section is declared to be a public utility. The provisions of s. 66.0805 shall be applicable to the management of such bridge and the provisions of ss. 66.0621 and 66.0805 shall govern insofar as they may be applicable. For purposes of management, operation and financing, 2 or more such bridges, whether acquired or constructed, may be combined into a single project or public utility, and such revenue bonds may be issued payable from the revenues of such combined project or utility.

History: 1983 a. 207; 1989 a. 192; 1999 a. 150 s. 672; 1999 a. 182; 2005 a. 146; 2011 a. 75.

86.22 Interstate railroad bridges must have convenient approaches. Each corporation incorporated under the laws of this state and granted a franchise or permit by the U.S. congress to construct, maintain and operate a railroad bridge and provide for the passage of persons and vehicles across the waters forming a boundary line between this and any other state and to forever maintain the bridge in accessible and serviceable condition, shall construct or cause to be constructed, approaches making the bridge accessible and serviceable for the use of persons and vehicles as a connection between this state and the state connected therewith by the bridge, so that the bridge shall be accessible and serviceable to persons and vehicles at the time such bridge is used for railroad service, and if any such corporation fails or refuses to comply with this section within one year from the time the bridge is used for railroad service the charter of the corporation granted by this state shall thereupon be forfeited, as a result of the failure or refusal to comply with this section, without any further action whatever and the corporation shall forthwith discontinue the transaction or operation of its business in this state.

History: 1979 c. 110, 355; 1985 a. 187.

86.23 Maintenance of drawbridges owned jointly. (1) Each swing or drawbridge built or purchased by any city and town or by any other 2 municipalities, situated so that a part of the

bridge is in one municipality and a part in another, shall be operated and maintained at the joint expense of the municipalities that built or purchased the bridge in proportion to the amount of the cost of the bridge borne by each. If either municipality does not provide for or pay its full share of the expense of operating or maintaining the bridge in any year the other may provide for or pay the expense.

(2) A municipality that pays any portion of another municipality's share of the expenses of operating and maintaining a bridge under sub. (1) may recover the amount of the payment from the defaulting municipality, with interest from the time of payment and costs of suit. No action under this subsection to recover a payment may be brought until 30 days after demand of payment is made.

History: 1997 a. 253.

86.25 Municipal cooperation as to highways improved with state or federal aid. (1) Any county, city, village or town may by any lawful means provide funds to match or supplement state or federal aid for the construction, reconstruction or improvement, under ch. 84, of any highway, street or bridge which it is authorized to construct, reconstruct or improve, and to pay such funds to the department or state treasury as provided in s. 84.03 (1) (b).

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

(2) Any county, city, village or town, through its governing body or a committee which it may designate, may enter into agreements with the department providing for the construction, reconstruction or improvement with state or federal aid, of highways, streets or bridges which such county, city, village or town is authorized to construct, reconstruct or improve, providing for the subsequent maintenance by such county, city, village or town of any such highway, street or bridge improved with state or federal aid which it has authority to maintain, and providing for the subsequent regulation as to the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings and traffic signals on any such highway, street or bridge improved with state or federal aid.

(3) Any city, village or town may levy special assessments under s. 66.0703 not exceeding the cost to the city, village or town against the property benefited thereby to provide funds to match or supplement state or federal aid or both for the construction, reconstruction or improvement under ch. 84, or under any other statute of any highway or street which it is authorized to construct, reconstruct or improve, and any city, village or town is authorized to pay the proceeds of such assessments, certificates or special assessment bonds issued to finance the improvement to the department or state treasury as provided in s. 84.03 (1) (b).

(4) Sections 61.54, 62.15 and 66.0901 (1) and (2) to (9) shall not apply to funds provided or agreements made pursuant to this section.

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 418 s. 924 (48); 1981 c. 314; 1987 a. 137 s. 6; 1993 a. 246; 1995 a. 225; 1999 a. 150 s. 672; 2009 a. 173; 2011 a. 32.

86.255 Limitation on moneys used to purchase land remote from highway project. (1) Notwithstanding ss. 84.09 and 86.25, beginning with purchase contracts executed on October 29, 1999, and with relocation orders initially filed under ch. 32 on October 29, 1999, the department may not encumber or expend any moneys from the appropriations under s. 20.395 (3) for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one−quarter mile of the highway.

(2) Subsection (1) does not apply to any of the following:

(a) The purchase of any land that is acquired as compensatory mitigation for another wetland, as defined in s. 23.32 (1), that will suffer an adverse impact by degradation or destruction as part of a highway project.

(b) The purchase of any land, easements, or development rights in land, under an agreement executed in the name of the department before October 29, 1999, or under a relocation order filed under ch. 32 before October 29, 1999.

History: 1999 a. 9.

86.257 Transfer of highways. The department or a political subdivision, as defined in s. 86.31 (1) (d), may transfer jurisdiction and ownership of, or other property interest in, a highway that is under the jurisdiction of the department or political subdivision to a federally recognized American Indian tribe or band in this state or an agency of the United States government that is acting on behalf of a federally recognized American Indian tribe or band in this state by entering into a jurisdictional transfer agreement with the tribe or band or agency. The jurisdictional transfer agreement shall contain all of the following:

(1) A dispute resolution procedure.

(2) A provision that requires that the transferred highway remain open to the use of the public as a matter of right for the purposes of vehicular traffic unless the tribe or band or agency conducts proceedings, makes findings, and meets other conditions for discontinuation that would be applicable to the governing body of a 1st class city under s. 62.73, if the highway is located in a 1st class city; the governing body of a village or city, except a 1st class city, under s. 66.1003, if the highway is located in a village or city, except a 1st class city; or the governing body of a town under s. 82.10, if the highway is located in a town.

History: 2009 a. 231.

86.30 General transportation aids. (1) DEFINITIONS. In this section:

(b) "Mileage aids" means the amount determined under sub. (2) (a) 3.

(c) "Municipality" means a city, village or town.

(d) "Share of costs" means the amount determined under sub. (2) (a) 2. a. or b.

(e) "Statewide county average cost−sharing percentage" means a factor determined for counties by which multiyear average costs under s. 86.303 are multiplied to fully distribute the amounts specified in sub. (9) (b) for the purpose of determining the share of costs.

(f) "Statewide municipal average cost−sharing percentage" means a factor determined for municipalities by which multiyear average costs under s. 86.303 are multiplied to fully distribute the amounts specified in sub. (9) (c) for the purpose of determining the share of costs.

(g) "Three−year average costs" means the amount determined based on the 3 most recent years of actual costs established under s. 86.303.

(2) TRANSPORTATION AIDS DISTRIBUTION. (a) *Amount of aids payment.* 1. Except as provided in pars. (b), (d) and (dm) and s. 86.303, the amount of transportation aids payable by the department to each county shall be the aids amount calculated under subd. 2. and to each municipality shall be the aids amount calculated under subd. 2. or 3., whichever is greater. If the amounts calculated for a municipality under subd. 2. or 3. are the same, transportation aids to that municipality shall be paid under subd. 2.

2. a. The share of costs for a municipality is the amount determined by multiplying the statewide municipal average cost−sharing percentage by the municipality's multiyear average costs under s. 86.303.

b. The share of costs for a county is the amount determined by multiplying the statewide county average cost−sharing percentage by the county's multiyear average costs under s. 86.303.

3. For each mile of road or street under the jurisdiction of a municipality as determined under s. 86.302, the mileage aid payment shall be $2,117 in calendar years 2013 and 2014 and $2,202 in calendar year 2015 and thereafter.

(b) *Minimum and maximum payments.* 1. Except as provided under par. (d) and s. 86.303 (5), no municipality whose aid is determined under par. (a) 2. may receive an increase in its annual transportation aid payment in excess of 15 percent of its last previous calendar year aid payment or a decrease in its annual transportation aid payment in excess of 10 percent of its last previous calendar year transportation aid payment.

1g. Except as provided under par. (d) and s. 86.303 (5), no municipality whose aid is determined under par. (a) 3. may receive a decrease in its annual transportation aid payment in excess of 10 percent of its last previous calendar year transportation aid payment.

1r. Except as provided under s. 86.303, no county may receive an increase in its annual transportation aid payment in excess of 15 percent of its last previous calendar year aid payment. Except as provided under par. (dm) and s. 86.303, no county may receive a decrease in its annual transportation aid payment in excess of 10 percent of its last previous calendar year transportation aid payment.

2. The last previous calendar year aid payment to a municipality whose aid is determined under par. (a) 3. is adjusted in proportion to changes in the mileage under the jurisdiction of the municipality before an adjustment under subd. 1g. is made.

(d) *Aid limitation based on reported costs.* No municipality may be paid an amount under this section greater than 85 percent of its 3−year average costs.

(dm) *Fiscal limits aid reductions.* 1. If the department of revenue requests the department to reduce the aids paid to a county under par. (e), the department shall reduce those aids by the amount specified under s. 59.605 (4) (b).

2. An amount equal to the amount of the reductions under subd. 1. is lapsed to the transportation fund.

(dr) *Aid reduction related to outdoor advertising sign condemnation.* The department may reduce aids paid to a county or municipality under par. (e) as provided in s. 84.30 (5r) (c).

(e) *Aid payments.* General transportation aids under this section shall be calculated and distributed on the basis of a calendar year. General transportation aids to municipalities shall be paid in 4 equal installments on the first Monday in January, April, July and October. General transportation aids to counties shall be paid in 3 installments consisting of 25 percent of the amount under sub. (9) (b) on the first Monday in January, 50 percent of the amount under sub. (9) (b) on the first Monday in July, and 25 percent of the amount under sub. (9) (b) on the first Monday in October. If adjustments are necessary, the department may adjust any of the scheduled aid payments in a calendar year. The payments shall be made from the appropriation under s. 20.395 (1) (as) or (at) for the fiscal year in which the payments are made.

(f) *Corrections of aid payments.* In making corrections to transportation aid payments under this section:

1. If the sum of all underpayments and overpayments results in a net underpayment, the net underpayment shall be paid from the appropriation under s. 20.395 (1) (ar).

2. If the sum of all underpayments and overpayments results in a net overpayment, the net overpayment shall be returned to the transportation fund.

(7) USE OF AIDS. All transportation aids distributed under this section shall be used for transportation related expenditures.

(9) AIDS CALCULATIONS. (b) For the purpose of calculating and distributing aids under sub. (2), the amounts for aids to counties are $94,615,600 in calendar years 2013 and 2014 and $98,400,200 in calendar year 2015 and thereafter. These amounts, to the extent practicable, shall be used to determine the statewide county average cost−sharing percentage in the particular calendar year.

(c) For the purpose of calculating and distributing aids under sub. (2), the amounts for aids to municipalities are $308,904,300 in calendar years 2013 and 2014 and $321,260,500 in calendar year 2015 and thereafter. These amounts, to the extent practicable, shall be used to determine the statewide municipal average cost−sharing percentage in the particular calendar year.

(11) LOCAL SEGREGATED ACCOUNT REQUIRED. (a) Notwithstanding sub. (2), the department may not pay state aid under this section to a municipality or county unless the municipality or county does all of the following:

1. Establishes and administers a separate segregated account from which moneys may be used only for purposes related to local highways.

2. Deposits in the account established under subd. 1. all moneys received from this state and from the federal government for local highway purposes.

(b) If a municipality or county does not meet the requirements under par. (a) at the time that aid should be paid under this section, the aid payment may be forfeited.

(c) Rules implementing this subsection may not require any eligible applicant to do any of the following:

1. Pay expenses related to law enforcement using moneys from an account established under this subsection.

2. Maintain separate checking accounts to implement this subsection, if the eligible applicant implements this subsection by segregating revenues and expenditures described in this subsection in the eligible applicant's bookkeeping system.

History: 1977 c. 29; 1979 c. 32 s. 92 (1); 1979 c. 34 ss. 934b, 2102 (52) (a); 1981 c. 20, 248; 1983 a. 27; 1985 a. 29 ss. 1604 to 1616r; 3202 (51); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1993 a. 16; 1995 a. 113, 338; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20, 226; 2009 a. 28; 2011 a. 32; 2013 a. 20.

86.302 Local roads; inventory. (1d) (a) "Highway" has the meaning given in s. 340.01 (22).

(b) "Municipality" means a city, village or town.

(1g) Except as provided in sub. (1m), beginning on January 1, 2001, the board of every town, village and county, and the governing body of every city, shall file with the department not later than December 15 of every year, a certified plat of the municipality or county showing the highways under its jurisdiction and the mileage thereof to be open and used for travel as of the succeeding January 1. The department may use the plats in making computations of transportation aids. One−half of the mileage of highways on boundary lines shall be considered as lying in each municipality or county.

(1m) (a) 1. In lieu of filing a certified plat under sub. (1g), if a municipality or county has not added or deleted jurisdictional mileage since filing its last preceding certified plat under sub. (1g), its board or governing body may file a certified statement to that effect with the department.

2. Notwithstanding subd. 1., the department may require every municipality and county to file a certified plat under sub. (1g) with the department in the year after the year in which a federal decennial census is conducted.

(b) Upon incorporation of a village or city, the board of the village and the governing body of the city shall file with the department a certified plat of the village or city showing the highways under its jurisdiction and the mileage thereof to be open and used for travel as of the date of incorporation, which may be used by the department in making computations of transportation aids. One−half of the mileage of highways on boundary lines shall be considered as lying in the village or city.

(2) Not later than December 15, 2001, and biennially thereafter, each municipality and county shall assess the physical condition of highways under its jurisdiction, using a pavement rating system approved by the department and report the results of that

assessment to the department. The department shall assess the accuracy of mileage or other data concerning highways reported by municipalities and counties and may use field investigations to verify a portion of the data constituting a valid random sample or such specialized sample as the department considers appropriate. The department shall cooperate with and provide assistance to local units of government in their efforts under this subsection. Information collected under this subsection is inadmissible as evidence, except to show compliance with this subsection.

(3) For the purposes of transportation aid determinations under s. 86.30, the department shall use changes in the highway mileage of a municipality or county indicated on the certified plat filed under sub. (1g) in making computations of transportation aids to be paid beginning in the 2nd year following the year in which the certified plat is filed. The department shall consider the following factors:

(a) New highways.

(b) Abandoned highways.

(c) Changes in jurisdictional mileage responsibilities for existing highways.

(4) Islands of this state consisting of one or more towns shall receive all state aids regularly payable to towns under s. 86.30. For purposes of determining aids payable under s. 86.30, mileage under the jurisdiction of an island under this subsection includes the number of miles equal to the distance between an island port and the closest mainland port where such distance is regularly traveled by a licensed ferry transporting persons, cars, trucks, buses and other mechanized equipment.

History: 1977 c. 29; 1981 c. 20; 1983 a. 27; 1987 a. 27 ss. 1675m, 1684m; 1989 a. 31; 1991 a. 39; 1995 a. 216; 1999 a. 9.

86.303 Cost determinations. (4) MULTIYEAR AVERAGE COSTS. (a) The multiyear average costs used to determine the share of cost aids amount for local units of government shall be based on the 6 most recent years for which actual costs are available.

(b) In the case of municipalities formed within the previous 6 years, the information needed for the determinations under this section shall be calculated as follows: for those years for which the necessary data does not exist, the data for the new municipality and the municipality from which it was formed shall be combined and the sum shall be apportioned to each municipality in proportion to the total mileage of highways under their respective jurisdictions. In making these calculations, the department shall use the certified plats filed under s. 86.302 (1g).

(5) ANNUAL COSTS DATA. (ag) In this subsection, "working day" has the meaning given in s. 227.01 (14).

(am) The department, with the assistance of the department of revenue and representatives of local governments and their associations appointed by the secretary, shall prescribe a uniform cost reporting procedure.

(b) Cost data shall be reported on a calendar year basis, and financial report forms or a written request for extension shall be submitted to the department of revenue as provided under pars. (c) and (d). All extensions under this paragraph shall be until May 15 and no extension beyond that date may be granted.

(c) The department and the department of revenue shall prescribe a statewide uniform financial reporting procedure under s. 73.10 for municipalities having a population of 2,500 or less. The financial report form or a written request for extension shall be submitted to the department of revenue by March 31 by municipalities having a population of 2,500 or less for the purposes under this section. All extensions under this paragraph shall be until May 15 and no extension beyond that date may be granted. The department of revenue shall forward the highway−related cost data to the department.

(d) The department and the department of revenue shall prescribe a statewide uniform financial reporting procedure under s. 73.10 for counties having a population of more than 2,500 and municipalities having a population of more than 2,500. The financial report forms or a written request for extension shall be submitted to the department of revenue by May 1 by counties having a population of more than 2,500 and municipalities having a population of more than 2,500 for the purposes under this section. All extensions under this paragraph shall be until May 15 and no extension beyond that date may be granted. The department of revenue shall forward the highway−related cost data to the department. Counties having a population of 25,000 or more and municipalities having a population of 25,000 or more are required to submit a financial report form to the department of revenue under this paragraph and financial reports under par. (g).

(e) Except as provided in par. (f), if a county or municipality fails to submit a substantially complete and accurate financial report form by the applicable date under par. (c) or (d) each year, the aids payable to the county or municipality during the following year shall be equal to 90 percent of the aids actually paid to the county or municipality under s. 86.30 (2) during the preceding year.

(f) If a county or municipality submits a substantially complete and accurate financial report form within 30 calendar days after the applicable date under par. (c) or (d), the aids payable to the county or municipality for the following year shall be reduced by an amount equal to 1 percent of the aids payable to the county or municipality for the following year for each working day after the date required in par. (c) or (d) that the report form is actually submitted, subject to the following limitations:

1. The amount of the reduction may not exceed 10 percent of the aids payable to the county or municipality under s. 86.30 (2) for the following year.

2. The amount of aids payable to the county or municipality under s. 86.30 (2) during the following year may not be reduced to less than 90 percent of the aids actually paid to the county or municipality under s. 86.30 (2) during the preceding year.

(g) The department and the department of revenue shall prescribe a uniform financial reporting procedure under s. 73.10 for counties having a population of 25,000 or more and municipalities having a population of 25,000 or more for the purposes under this section and for the purposes of administering other local aid programs, as defined by the department of revenue by rule. The financial reports specified by the department of revenue shall be submitted to that department by July 31 each year. The department of revenue shall forward the highway−related cost data from the reports to the department.

(h) Except as provided in par. (i), if a county or municipality under par. (g) fails to submit the financial reports required under par. (g) by July 31 each year, the aids payable to the county or municipality during the following year shall be equal to 90 percent of the aids actually paid to the county or municipality under s. 86.30 (2) during the preceding year.

(i) If a county or municipality under par. (g) submits the financial reports required under par. (g) within 30 calendar days after July 31, the aids payable to the county or municipality for the following year shall be reduced by an amount equal to 1 percent of the aids payable to the county or municipality for the following year for each working day after July 31 that the report form is actually submitted, subject to the following limitations:

1. The amount of the reduction may not exceed 10 percent of the aids payable to the county or municipality under s. 86.30 (2) for the following year.

2. The amount of aids payable to the county or municipality under s. 86.30 (2) during the following year may not be reduced to less than 90 percent of the aids actually paid to the county or municipality under s. 86.30 (2) during the preceding year.

(j) The aids payable to a county or municipality that is required to submit a financial report form under par. (d) and financial reports under par. (g) shall be reduced under any applicable provi-

sion of par. (e), (f), (h) or (i), subject to the limitations under pars. (f) and (i).

(6) ELIGIBLE COST ITEMS. All public road, street or alley construction and maintenance expenditures within the right−of−way are generally reportable as eligible cost items.

(a) Maintenance items include without limitation because of enumeration:

1. Pavement and curb and gutter repair.
2. Maintenance of bridges, culverts and storm sewers.
3. Snow plowing and ice control.
4. Maintenance of traffic control devices.

(b) Construction items include without limitation because of enumeration:

1. Storm drainage systems, culverts and bridges.
2. Grading, base and surface.
3. Marking, signs and traffic control signals.
4. Engineering.
5. Right−of−way acquisition, including relocation assistance.

(c) The following other costs to the extent they are highway related are reportable:

1. Machinery and vehicle costs.
2. Expenditures for buildings required for road or street purposes.
3. Interest cost related to funds borrowed to finance any eligible cost item.
4. Street lighting costs.

(cm) Some portion of law enforcement costs determined by the department, in consultation with the representatives appointed under sub. (5) (am), may be reported as eligible cost items. The department may establish different portions under this paragraph for different classes of counties or municipalities.

(d) Road, street or alley costs not eligible include costs that are financed with public funds other than road or street funds, items that are by statute, ordinance or local policy not a public expense or responsibility and all administrative costs. Costs not eligible include costs incurred on every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road, alley or driveway upon the grounds of public institutions.

(e) Cost data shall not include state or federal contributions to the work, all other public agency fund contributions, and all private contributions other than local assessments or special assessments paid by governmental agencies.

(f) The department shall provide a manual of cost reporting guidelines which further details eligible and ineligible costs.

(7) COST REVIEW AND AUDIT. (a) The department shall analyze the county and municipal highway−related cost data to identify that data that does not conform to reasonable averages and statistical groups or with previous reported costs. The department may request information from those municipalities or counties to explain the deviation. If not satisfied, the department may order the municipality or county to conduct and report to the department an independent certified audit of its financial report or, if the county or municipality has already conducted an audit of its financial report which complies with requirements under 31 USC 7501 to 7505, may require the county or municipality to provide the department with an itemization of data comprising that audit. The costs of an audit or of providing the department itemized data comprising an audit shall be a reportable cost item if the audit substantially verifies the original financial report.

(b) If the county or municipality fails to conduct an independent audit when ordered to do so by the department, the aids payable during the following year shall be equal to 90 percent of the aids actually paid during the preceding year. If the department has reason to believe that the 90 percent payment will be greater than the actual payment should be, the department may itself order an independent audit and deduct the audit costs from the transportation aids paid to the county or municipality under s. 86.30 (2). Any underpayment or overpayment of aids resulting from financial reporting errors shall be rectified by adjusting aids paid in the following year.

(c) Any municipality having a population of 2,500 or less which has submitted its financial report form may amend it prior to March 31 or prior to May 15 if a written request for extension has been received by the department of revenue. Any county or any municipality having a population over 2,500 which has submitted its financial report form may amend it prior to May 1 or prior to May 15 if a written request for extension has been received by the department of revenue. Any amendments shall be submitted to the department of revenue. Any county or municipality which desires to amend its financial report form after May 15 shall submit an independent, certified audit to the department of revenue no later than August 15.

(d) Any county or municipality that desires to amend past−year cost reports shall submit an independent, certified audit to the department. Any county or municipality that desires to amend past−year financial report forms shall submit amendments to the department of revenue.

History: 1977 c. 29; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27, 192, 405; 1985 a. 29, 332; 1987 a. 27; 1989 a. 167; 1991 a. 39; 1995 a. 216; 1997 a. 106; 1999 a. 9.

86.305 Eligibility for transportation aids. The restriction of access to a street under s. 66.0429 (3) may not affect the eligibility of a city to receive any state transportation aids.

History: 1993 a. 113; 1999 a. 150 s. 672.

86.31 Local roads improvement program. (1) DEFINITIONS. In this section:

(a) "County highway improvement program district" means a group of counties established by the department by rule under sub. (6) (f).

(am) "County highway improvement program district committee" means a committee established by the department by rule under sub. (6) (f) consisting of all of the county highway commissioners from counties within a county highway improvement program district.

(ar) "Entitlement" means the amount of aid made available under sub. (3) for reimbursement within a county for the components specified in sub. (3) (a) 1. to 3.

(b) "Improvement" means a highway construction project with a projected design life of at least 10 years or a feasibility study of a highway construction project with a projected design life of at least 10 years.

(c) "Local roads" means county trunk highways, town roads, or streets under the authority of cities or villages.

(d) "Political subdivision" means a county, city, village or town.

(e) "Program" means the local roads improvement program.

(f) "Street" has the meaning given in s. 340.01 (64).

(2) ADMINISTRATION. (a) The department shall administer a local roads improvement program to accelerate the improvement of seriously deteriorating local roads by reimbursing political subdivisions for improvements. The selection of improvements that may be funded under the program shall be performed by officials of each political subdivision, consistent with par. (h) and the requirements of subs. (3), (3g), (3m), and (3r). The department shall notify each county highway commissioner of any deadline that affects eligibility for reimbursement under the program no later than 15 days before such deadline.

(b) Except as provided in par. (d), improvements for highway construction projects funded under the program shall be under contracts. Such contracts shall be awarded on the basis of competitive bids and shall be awarded to the lowest responsible bidder. If a city or village does not receive a responsible bid for an improvement, the city or village may contract with a county for

the improvement. Subject to s. 59.52 (30), a town may contract with a county for the improvement subject to the criteria and procedures promulgated as rules under sub. (6) (h).

(c) Improvements consisting of feasibility studies funded under the program may be performed by political subdivisions or the department of transportation, including the making and execution of all contracts.

(d) County trunk highway improvements funded under the program, including the hauling and laying of asphaltic hot mix, may be performed by county highway departments, subject to the following restrictions:

1m. The county highway department demonstrates that it is cost−effective for it to perform the work and that competitive bidding is to be used for improvements with an estimated total cost at least equal to the total funds allocated for its county trunk highway improvements under the program during the current biennium.

4. Contracts for the purchase of asphaltic hot mix shall be awarded on the basis of competitive sealed bidding.

5. Each county highway improvement program district committee shall do all of the following with respect to any work to be performed by any county highway department within the county highway improvement program district:

a. Review the proposed work and determine that it is cost−effective for the county highway department to perform the work.

b. Approve the proposed work prior to its being performed by the county highway department.

(e) The department of transportation may not require as a condition of reimbursement that the design and construction of any improvement with eligible costs totaling $65,000 or less be certified by a registered professional engineer.

(h) A double seal coat project on a town road may be funded under the program if it has a projected life of at least 10 years, similar projects in the same geographic area have performed satisfactorily, and the county highway commissioner of the county in which the project is located approves the project's eligibility for funding.

(3) ENTITLEMENT COMPONENT. (a) Funds provided under s. 20.395 (2) (fr) shall be distributed under this subsection. For purposes of entitlement, the program shall consist of the following components:

1. County trunk highway improvements.

2. Town road improvements.

3. City and village street improvements.

(b) From the appropriation under s. 20.395 (2) (fr), the department shall allocate funds for entitlement as follows:

1. For county trunk highway improvements, 43 percent.

2. For town road improvements, 28.5 percent.

3. For city and village street improvements, 28.5 percent.

(c) Entitlements for each component under this subsection will be determined by a formula and calculated for each county, except that cities and villages with a population of 20,000 or more shall receive a proportionate share of the entitlement for city and village street improvements for the applicable county. No county may receive less than 0.5 percent of the total funds allocated to counties for county trunk highway improvements under par. (b) 1.

(3g) COUNTY TRUNK HIGHWAY IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate $5,127,000 in fiscal years 2011−12 and 2012−13, $4,727,000 in fiscal year 2013−14, and $5,127,000 in fiscal year 2014−15 and each fiscal year thereafter, to fund county trunk highway improvements with eligible costs totaling more than $250,000. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

(3m) TOWN ROAD IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate $732,500 in fiscal year 2009−10 and in fiscal year 2010−11, and $5,732,500 in fiscal year 2011−12 and each fiscal year thereafter, to fund town road improvements with eligible costs totaling $100,000 or more. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

(3r) MUNICIPAL STREET IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate $1,020,000 in fiscal year 2007−08, $1,040,400 in fiscal year 2008−09, and $976,500 in fiscal year 2009−10 and each fiscal year thereafter, to fund municipal street improvement projects having total estimated costs of $250,000 or more. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

(3t) PAYMENTS RELATED TO ENVIRONMENTAL REVIEW OF LOCAL PROJECTS. Notwithstanding limitations on the amount and use of aids provided under this section, or on eligibility requirements for receiving aids under this section, and subject to any applicable interagency agreement between the department of transportation and the department of natural resources, the department of transportation may make a payment in each fiscal year to the department of natural resources to support 3.0 full−time equivalent positions in the department of natural resources related to the environmental review of local transportation projects. Notwithstanding sub. (3), any payment under this subsection shall be made from the appropriation under s. 20.395 (2) (fr) before making any other allocation of funds under sub. (3). After the department of transportation makes the payment under this subsection, the allocation of funds under sub. (3) shall be reduced proportionately to reflect the amount of the payment.

(4) REIMBURSEMENT FOR IMPROVEMENTS. All costs of an improvement funded under this section shall be the responsibility of the political subdivision. At the completion of an improvement, the political subdivision may apply to the department for reimbursement of not more than 50 percent of eligible costs in the manner and form prescribed by the department. Eligible costs for which no reimbursement is made by the department may be paid by the political subdivision from contributions of tribal funds received from federally recognized American Indian tribes or bands in this state.

(5) EXCEPTIONS. Nothing in this section prevents improvements under other highway aid programs if applicable.

(6) RULES. The department shall promulgate rules to implement and administer the program. The rules shall include all of the following:

(a) Criteria for county administrative responsibilities.

(b) Reallocation of any uncommitted funds, including a procedure to reallocate uncommitted funds between counties.

(c) Formulas and procedures for entitlements and reimbursements for each program component under sub. (3) (a) 1. to 3.

(d) Procedures for reimbursements for county trunk highway improvements under sub. (3g), for town road improvements under sub. (3m) and for municipal street improvements under sub. (3r).

(e) Procedures for the selection and administration of improvements.

(f) Procedures for the establishment, administration and operation of county highway improvement program districts and county highway improvement program district committees.

(g) Specific criteria for making determinations of cost−effectiveness under sub. (2) (d) 5. a. and procedures for review by the department of disputes relating to whether proposed work to be performed by a county highway department is cost−effective for purposes of sub. (2) (d) 5. a.

(h) Subject to s. 59.52 (30), criteria and procedures for contracting with a county for a town road improvement that includes at least all of the following:

1. A requirement that a written and sealed estimate of the cost of the improvement that includes the source of the estimate be pre-

pared prior to the time set for the opening of bids for the improvement and not be opened until after the opening of all bids.

2. A requirement that all bids may be rejected and the contract awarded to a county for the improvement if the lowest bid exceeds the cost estimate under subd. 1. by at least 10 percent and the town board notifies the 2 lowest bidders or, if only one bid was received, the bidder to provide information on the accuracy of the cost estimate under subd. 1.

3. A requirement that the amount of the contract with a county for the improvement be at least 10 percent below the lowest bid received for the improvement.

4. A provision that permits rebidding if the amount of the proposed contract with a county for the improvement is less than 10 percent below the lowest bid received for the improvement.

(i) Authorization for a political subdivision to apply towards its eligible expenses for which reimbursement is not sought under sub. (4) contributions of tribal funds deriving from any source to the extent allowed under federal law.

History: 1991 a. 39, 269; 1993 a. 16, 437; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32, 257; 2013 a. 49; 2015 a. 55.

Cross−reference: See also ch. Trans 206, Wis. adm. code.

86.312 Local roads for job preservation program. (1) In this section:

(a) "Job" means an employment position providing full−time equivalent employment. "Job" does not include initial training before an employment position begins.

(b) "Local roads" means streets under the authority of cities or villages, county trunk highways or town roads.

(c) "Political subdivision" means any city, village, town or county.

(d) "Population" means the number of inhabitants in the previous year determined by the department of administration under s. 16.96 (2) for purposes of revenue sharing distribution.

(e) "Project" means the development, construction, repair or improvement of a local road.

(2) (a) The department shall administer a local roads for job preservation program to award grants to political subdivisions for any project that the department determines is necessary to support business and retain jobs in the vicinity of the local road. The department may award grants under this section for any costs related to a project, including costs of acquiring rights−of−way, planning, designing, engineering, and constructing a local road. The department may specify the pavement to be used in any project funded under this section for the purpose of enhancing the pavement life and cost−effectiveness of the project.

(b) The department may, upon application, award a grant to any political subdivision under this section for a project if the secretary determines all of the following:

1. That if the project is not completed, the political subdivision could lose a number of jobs equal to or greater than 5 percent of the population of the political subdivision, or that the project is necessary to retain jobs of one or more employer who employs at least 5 percent of the work force residing in the political subdivision.

2. That the political subdivision will provide the local share required under sub. (3).

(3) Each political subdivision that receives a grant under this section shall provide a local contribution toward the costs of the project in an amount equal to at least 20 percent of the cost of the project.

(4) (a) Except as provided in this subsection, grants under this section may be paid from the appropriations under ss. 20.395 (2) (fb) and (fz) and 20.866 (2) (uwz). Notwithstanding par. (b), the department may pay from the appropriation under s. 20.866 (2) (uwz) that portion of a grant that is intended to be used to acquire rights−of−way or to plan, design or engineer a project.

(b) 1. Except as provided in subds. 2. and 3., the portion of any grant awarded under this section for local road construction shall be paid from the appropriation under s. 20.395 (2) (fz).

2. Except as provided in subd. 3., if the portion of any grant awarded under this section for local road construction exceeds the amount of unencumbered funds under s. 20.395 (2) (fz), the department shall pay from the appropriation under s. 20.395 (2) (fb) the amount by which that portion exceeds the unencumbered funds available in the appropriations under s. 20.395 (2) (fz).

3. If the portion of any grant awarded under this section for local road construction exceeds the amount of unencumbered funds under s. 20.395 (2) (fb) and (fz), the department shall pay from the appropriation under s. 20.866 (2) (uwz) the amount by which that portion exceeds the unencumbered funds available in the appropriations under s. 20.395 (2) (fb) and (fz).

(5) Costs incurred by a city, village, town or county for a project awarded under this section are not eligible for reimbursement under s. 86.31.

(6) The sum of grants awarded under this section may not exceed $10,000,000.

History: 1999 a. 146; 2001 a. 109.

86.315 County forest road aids. (1) From the appropriation under s. 20.395 (1) (fu), the department shall annually, on March 10, pay to counties having county forests established under ch. 28, for the improvement of public roads within the county forests which are open and used for travel and which are not state or county trunk highways or town roads and for which no aids are paid under s. 86.30, the amount of $336 per mile of road designated in the comprehensive county forest land use plan as approved by the county board and the department of natural resources. If the amount appropriated under s. 20.395 (1) (fu) is insufficient to make the payments required under this subsection, the department shall prorate the amount appropriated in the manner it considers desirable.

(2) The amounts allotted under this section shall be paid into the county forest road fund and shall be administered by the committee designated to administer the county forest program for the maintenance, brush control, snow plowing and rebuilding of the roads.

(3) County forest roads must meet the minimum design standards under s. 82.50 (1) (a) 2. and 3. in order to qualify for aids under this section.

(4) (a) Except as provided in par. (b), the committee designated to administer the county forest program shall, not later than September 15 of every odd−numbered year, file with the department and the county clerk a certified plat of the county forests showing the roads to be open and used for travel as of the succeeding January 1. The certified plat shall show the mileage of the roads for use by the department in making computations of road aids under this section.

(b) The committee designated to administer the county forest program need not file a certified plat under par. (a) if the county has not added or deleted public road mileage within the county forests as specified in sub. (1) since the committee last filed a certified plat under par. (a).

History: 1987 a. 137; 1989 a. 31; 1995 a. 113; 1997 a. 27; 2003 a. 214.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

86.32 Connecting highways. (1) The department may designate, or rescind the designation of, certain marked routes of the state trunk highway system over the streets or highways in any municipality for which the municipality will be responsible for maintenance and traffic control and the maintenance and operation of any swing or lift bridge. Such maintenance, operation and traffic control of the connecting highways and swing and lift bridges shall be subject to review and approval by the department. Those marked routes of the state trunk highway system designated

as connecting streets prior to July 1, 1977, shall become the connecting highways in municipalities which are eligible for aids payments under this section. The character of travel service provided by a route, uniformity of maintenance, the effect on the maintaining agency, and the municipality's maintenance capability will be considerations by the secretary, in cooperation with the municipalities and counties in making changes in the connecting highways of the state trunk highway system in municipalities. The decision of the secretary to designate or rescind a designation may be appealed to the division of hearings and appeals, which may affirm, reverse or modify the secretary's decision.

(2) (a) Cities, villages and towns shall be reimbursed for actual costs, as approved by the department, incurred in maintaining and operating lift bridges. Documentation of costs shall be submitted by each city, village and town by January 31 and reimbursement shall be made, starting in 1982−83, on the first Monday in July for costs incurred during the prior calendar year. If the amount appropriated under s. 20.395 (1) (ft) is insufficient to pay the actual costs approved by the department for the maintenance and operation of lift bridges, the department shall prorate the amount appropriated in the manner it deems desirable.

(am) Reimbursement for maintenance of connecting highways shall be determined using the following rates per lane mile:

7. For 1995,1996 and 1997, $10,468 per lane mile for municipalities having a population over 500,000; $9,696 per lane mile for municipalities having a population of 150,001 to 500,000; $8,641 per lane mile for municipalities having a population of 35,001 to 150,000; $7,612 per lane mile for municipalities having a population of 10,000 to 35,000; and $6,558 per lane mile for municipalities having a population under 10,000.

8. For 1998 and thereafter, $11,724 per lane mile for municipalities having a population over 500,000; $10,860 per lane mile for municipalities having a population of 150,001 to 500,000; $9,678 per lane mile for municipalities having a population of 35,001 to 150,000; $8,525 per lane mile for municipalities having a population of 10,000 to 35,000; and $7,345 per lane mile for municipalities having a population under 10,000.

(b) 1. For the first 2 lanes of a highway, the applicable rate per lane mile shall be paid in full. For the 2nd 2 lanes of a highway, the payable rate per lane mile shall be 75 percent of the appropriate rate per lane mile prescribed in this section. For the 3rd 2 lanes, and any additional lanes, of highway, the payable rate per lane mile shall be 50 percent of the appropriate rate per lane mile prescribed in this section.

2. For the purpose of this section, the term "lane miles" means miles of through traffic carrying lanes and does not include lanes on which parking is permitted. Lane miles on any section of connecting highway which have been certified by the department for payment purposes under this section shall not be increased unless they are needed for through traffic and approved by the department. The "lane miles" as of January 1, 1977, are the certified lane miles.

3. The amount appropriated under s. 20.395 (1) (fq) shall be distributed according to the per lane mile rate established in this subsection.

4. Annual connecting highway aids shall be paid in 4 installments on the first Monday in July, October, January and April. Unless fiscal year adjustments are necessary, the July and October installments shall equal the January and April installments of the previous fiscal year. If fiscal year adjustments are necessary, the department shall make these fiscal year adjustments in the July installment. If a fiscal year adjustment is made in the July installment, the next subsequent October installment shall equal the average of the most recent January, April and July installments.

5. If the amount appropriated under s. 20.395 (1) (fq) is insufficient to make the payments for lane mile reimbursement under this subsection, the department shall prorate the amount appropriated in the manner it deems desirable.

(4) Municipalities may arrange to participate in the cost of improvement projects on connecting highways. When a connecting highway is reconstructed the municipality shall be required to pay to the department the construction cost of that part of the connecting highway on which parking is to be permitted. However, if lanes on which parking is permitted are required for through traffic and parking is no longer allowed, the department shall reimburse the municipality for the remaining life of those lanes based on a pavement life of 25 years and the original municipal cost for the lanes.

History: 1973 c. 333 s. 201w; 1975 c. 224 s. 146; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20; 1981 c. 347 s. 80 (2); 1983 a. 27; 1985 a. 29 ss. 1618 to 1620, 3202 (51); 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 16, 246; 1995 a. 113; 1997 a. 27; 1999 a. 85.

86.33 Population estimates. Population determination for the purpose of calculating aids under ss. 86.30 and 86.32 shall be based on the final population estimates arrived at by the department of administration under s. 16.96 as of November 30 of the preceding year.

History: 1973 c. 333 s. 201w; 1977 c. 29.

86.34 Disaster damage aids. (1g) In this section:

(a) "Catastrophic highway failure" means the sudden failure of a major element or segment of the highway system due to a cause that is external to a highway, but does not include any failure primarily attributable to gradual and progressive deterioration or lack of proper maintenance of a highway.

(b) "Disaster" means any of the following:

1. A severe storm, flood, fire, tornado, mudslide, or other natural event external to a highway or a catastrophic highway failure.

2. An event or recurring damage caused by any governmental unit or person acting under the direction or approval of, or permit issued by, any governmental unit and in response to an event described in subd. 1.

(c) "Governmental unit" means the state or any state agency, as defined in s. 20.001 (1); any county, city, village, town, or other political subdivision of the state; or the federal government or any of its agencies.

(d) "Highway" means a highway, as defined in s. 340.01 (22), that is not on the state trunk highway system.

(1m) (a) When any highway is damaged by a disaster, the county highway committee, or the governing body of the municipality having jurisdiction over the maintenance of the highway, may adopt a petition for aid under this section and file a certified copy of the petition with the department. To be eligible for aid the petition shall be filed not later than 2 months after the occurrence of the disaster damage, except as provided in par. (b). All such petitions shall state the dates on which the disaster damage occurred and as nearly as practical state the location, nature, and extent of the damage.

(b) The department may extend the filing deadline under par. (a) if it appears reasonably likely that federal disaster aid may be forthcoming or when widespread or continuous disaster damage makes an evaluation of damage difficult.

(c) A county or municipality having jurisdiction over the facilities damaged may apply for both state and federal aid for damage to the facilities pending a determination of eligibility. If federal aid is granted for damage to a particular facility, the federal aid shall be in lieu of aid otherwise available for such damage under this section.

(2) The department shall make such investigation as it deems necessary and within 6 months from the date of filing the petition shall make its determination as to the granting of aid, the amount thereof, and the conditions under which it is granted. In making its determination the department shall cause an estimate to be made of the cost of repairing or replacing the facilities damaged or destroyed to standards and efficiency similar to those existing immediately before the damage or destruction, and also an estimate of the cost of reconstructing the facilities to a higher type or

improving any such facilities if determined to be warranted and advisable. Except as provided in subs. (2m) and (6), the amount of aid payable for damage caused by a disaster described in sub. (1g) (b) 1. shall be 75 percent of the cost of repair or replacement to standards similar to those existing immediately before the damage or destruction, plus 50 percent of the increased cost of the reconstruction to a higher type or the improvement of any of the facilities. Except as provided in subs. (2m) and (6), the amount of aid payable for damage caused by a disaster described in sub. (1g) (b) 2. shall be 70 percent of the cost of repair or replacement to standards similar to those existing immediately before the damage or destruction. The department may revise estimates on the basis of additional facts. The county, town, village, or city shall pay the remainder of the cost not allowed as aid, but this shall not invalidate any other provision of the statutes whereby the cost may be shared by the county and the town, village, or city.

(2m) Subject to sub. (6), if the department's estimate under sub. (2) of the cost of repair or improvement of the facilities determined by the department to be eligible for aid is $15,000 or less, the department shall offer the petitioner an amount of aid equal to 75 percent of the total amount of the department's estimate for damage caused by a disaster described in sub. (1g) (b) 1. or 70 percent of the total amount of the department's estimate for damage caused by a disaster described in sub. (1g) (b) 2. If the petitioner accepts aid under this subsection, the aid shall be paid to the petitioner or, subject to sub. (5), the county, and no other form of aid is available under this section for the repair or improvement of such facilities.

(3) Aid allotted under sub. (2) shall be held to the credit of the county, town, city or village for not more than 2 years or for such other period as the department may grant, and, except as otherwise provided in this section, shall be paid to the treasurer thereof upon presentation to and approval by the department of certified statements setting forth the cost of the construction, reconstruction, repair or improvement of the facilities determined by the department to be eligible for aid. The certified statement shall set forth separately the amount expended on each such facility. The aid to be paid shall be the summation of the amounts determined or revised under sub. (2), as adjusted by the certified statements approved by the department. This subsection does not apply to aid awarded under sub. (2m).

(5) Any town, city or village may, and at the discretion of the department shall, arrange to have such work for which aid is granted performed by the county, and in such case, on order of the town, city or village, the aid from the state for such work shall be paid to the county.

(6) The department may not pay aid under this section in excess of $1,000,000, in connection with disaster damage resulting from a single disaster, unless the payment of aid is approved by the governor.

(7) Beginning in the 2nd fiscal year of the 2013−15 fiscal biennium, and in the 2nd fiscal year of each fiscal biennium thereafter, the department shall calculate the amount of aid paid under this section, during the biennium, in excess of $1,000,000, in connection with disaster damage resulting from a single disaster. The amount calculated under this subsection shall be transferred under s. 20.855 (4) (fr) from the general fund to the transportation fund in the 2nd fiscal year of each fiscal biennium.

History: 1971 c. 125 s. 522 (1); 1973 c. 333 s. 201w; 1977 c. 29 ss. 981, 1654 (8) (c); 1979 c. 34 s. 2102 (52) (a); 1979 c. 110 s. 60 (12); 1981 c. 20; 1985 a. 29 s. 3202 (51); 1987 a. 137 s. 6; 1993 a. 16, 437; 2013 a. 20.