

Assembly Bill 933

Published June 29, 1966.
Republished June 30, 1966.

Chapter 593

AN ACT to amend 20.420 (1) (x), (xd) and (3) (xm), as affected by chapter 396, laws of 1965, 67.13 (3), 78.01 (1), 78.12 (4) (b), 78.14, 78.40 (1), 78.49 (3) and 78.52; and to create 20.420 (1) (wc), 20.421 (2), 84.03 (6) and 84.40 to 84.42 of the statutes, authorizing the state highway commission to enter into lease agreements with nonprofit corporations, increasing the motor fuel tax, and making appropriations.

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

SECTION 1. It is the intent of the legislature that by this act Wisconsin shall accelerate the completion of its allotted interstate system mileage and the construction of urgently needed improvements on portions of the state arterial system and the state highways designated as freeways or expressways. This act authorizes the financing of interstate acceleration through lease agreements with nonprofit-sharing corporations and other acceleration through revenues from a motor fuel tax increase.

SECTION 1m. 20.420 (1) (wc) of the statutes is created to read:

20.420 (1) (wc) *County reimbursement.* An amount sufficient annually to reimburse any county for money it may contribute after the effective date of this paragraph (1965) for that portion of the capital improvement or construction project costs of the national system of interstate highways under s. 84.29 which is not paid by federal aid.

SECTION 2. 20.420 (1) (x), (xd) and (3) (xm) of the statutes, as affected by chapter 396, laws of 1965, are amended to read:

20.420 (1) (x) The amounts in the schedule for the execution of its functions under ss. 84.01 (7) and (21), 84.03 (6) and (9) and 84.07. *From the appropriations credited to this paragraph an amount equal to the amount appropriated under s. 20.421 (2) (a) shall be paid into the general fund as required for payments under such appropriation.*

(xd) ~~One sixth~~ *Two-sevenths* of the taxes collected under ss. 78.01 (1) and 78.40 (1), to supplement the appropriation made by par. (x). *One-half of the amount received under this paragraph shall be dedicated*

to accelerated construction of portions of the state arterial system and those state trunk highways designated as freeways or expressways.

(3) (xm) ~~One-sixth~~ One-seventh of the taxes collected under ss. 78.01 (1) and 78.40 (1), to supplement the appropriation made by par. (x).

SECTION 3. 20.421 (2) of the statutes is created to read:

20.421 (2) INTERSTATE ACCELERATION. (a) *Lease rental payments.* The amounts necessary to the state highway commission from the general fund for the payment of rentals on leases and subleases entered into pursuant to s. 84.40 on highway projects on the interstate system in this state when the projects are initiated.

SECTION 4. 67.13 (3) of the statutes is amended to read:

67.13 (3) The proceeds of county bonds issued under ~~the provisions of this section~~ shall be used only for road and bridge construction performed under ~~the provisions of ch. 83~~ or deposited with the state highway commission to be used for road or bridge construction performed under ~~the provisions of ch. 84~~. The amount to be received from the state in any year pursuant to s. 84.03 (3) shall, as required by ~~subsection (4) of that section~~ s. 84.03 (4), be used by the county board to reduce the county levy necessary to be made for paying the principal of the bonds maturing in such year in accordance with the bonding resolution, and such action by any county board shall in no way invalidate the bond issue. *The amount to be received from the state in any year pursuant to s. 84.03 (6) shall be used by the county board to reduce the county levy necessary to be made for paying the interest maturing in such year in accordance with the bonding resolution, and such action by any county board shall in no way invalidate the bond issue.*

SECTION 5. 78.01 (1) of the statutes is amended to read:

78.01 (1) An excise tax of 6 7 cents per gallon is ~~hereby~~ imposed on all motor fuel sold, used or distributed in this state except as otherwise provided. The motor fuel tax is to be computed and paid as provided in this chapter. Except as otherwise provided, the wholesaler, as hereinafter defined, shall collect from the purchaser and the purchaser shall pay to such wholesaler the tax imposed by this section on each sale of motor fuel by such wholesaler at the time of such sale, irrespective of whether such sale is for cash or on credit. In each subsequent sale or distribution of motor fuel on which the tax has been collected as herein provided, the tax so collected shall be added to the selling price so that said tax is paid ultimately by the user of said motor fuel.

SECTION 6. 78.12 (4) (b) of the statutes is amended to read:

78.12 (4) (b) The number of gallons thus obtained shall be multiplied by ~~six~~ *seven* one-hundredths and the resulting figure expressed in dollars shall be the amount of the motor fuel tax for such preceding month.

SECTION 7. 78.14 of the statutes is amended to read:

78.14 Every wholesaler who sells or distributes any motor fuel for any purpose in this state shall collect from the purchaser at the time of such sale or distribution 6 7 cents per gallon on all such motor fuel sold or distributed, and any and all sums so paid by the purchaser to the wholesaler as taxes upon such motor fuel, upon which the tax imposed by this chapter has not theretofore been paid, are public money, the property of ~~the this state of Wisconsin~~.

SECTION 8. 78.40 (1) of the statutes is amended to read:

78.40 (1) An excise tax of 6 7 cents per gallon is hereby imposed on the use (as defined in s. 78.44) of special fuel. Said tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, shall attach at the time of such delivery and shall be collected by such dealer from the special fuel user and shall be paid over to the department as hereinafter provided. Said tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, shall attach at the time of the use of such fuel and shall be paid over to the department by such user as hereinafter provided.

SECTION 9. 78.49 (3) of the statutes is amended to read:

78.49 (3) Each special fuel licensee at the time of making his monthly report shall compute and pay to the department the full amount of the special fuel tax for the next preceding month, which shall be computed as follows: the number of gallons of special fuel delivered or placed by such special fuel licensee into the fuel supply tanks of motor vehicles shall be multiplied by ~~six~~ *seven* one-hundredths and the resulting figure expressed in dollars.

SECTION 10. 78.52 of the statutes is amended to read:

78.52 Every motor vehicle operated by special fuel shall be equipped with a special fuel supply tank separate from and in no way connected to any cargo tank on or attached to such motor vehicle, except that any motor vehicle which is not so equipped on September 1, 1953, and which has a direct fuel supply line from the cargo tank to the motor of such vehicle shall be excluded from this requirement for the period that such motor vehicle is operated by the same owner and is not so equipped, and such cargo tank shall not be considered to be the fuel supply tank of that motor vehicle, ~~provided that~~. Such motor vehicle, which is not so equipped, shall have an accurate metering device installed in the fuel supply line to measure the amount of special fuel consumed in the operation of such motor vehicle. The number of gallons of special fuel so consumed, as determined by such metering device, shall be multiplied by ~~six~~ *seven* one-hundredths of the resulting figure expressed in dollars which figure shall be the special fuel tax due to the state therefor. The payment of the special fuel tax so computed shall be made to the state ~~in the same manner~~ as provided in s. 78.49.

SECTION 11. 84.03 (6) of the statutes is created to read:

84.03 (6) INTEREST ON BONDS. When county bonds are issued under s. 67.13 or 67.14 after the effective date of this subsection (1965), with the proceeds to be expended for the improvement of state trunk highways or connecting streets under a program approved by the state highway commission, the county shall be paid the net interest cost, after deducting any premium received, from the appropriation made by s. 20.420 (1) (x).

SECTION 12. 84.40 to 84.42 of the statutes are created to read:

84.40 STATE HIGHWAY COMMISSION; RELATION TO NON-PROFIT CORPORATIONS. (1) As used in this section, unless the context requires otherwise:

(a) "Existing highways and other improvements," in relation to any conveyance, lease or sublease made under sub. (2) (a), (b) and (c), means any portion of the national system of interstate and defense highways in this state, including all bridges, tunnels, overpasses, underpasses, interchanges, lighting, approaches, signing, weighing stations, administra-

tion, storage and other buildings, facilities or appurtenances which in the judgment of the state highway commission are needed or useful for interstate highway purposes, and all improvements and additions thereto which were erected, constructed or installed prior to the making of such conveyance, lease or sublease.

(b) "New highways and other improvements," in relation to any conveyance, lease or sublease made under sub. (2) (a), (b) and (c), means any portion of the national system of interstate and defense highways in this state, including all bridges, tunnels, overpasses, underpasses, interchanges, lighting, approaches, signing, weighing stations, administration, storage and other buildings, facilities or appurtenances which in the judgment of the state highway commission are needed or useful for interstate highway purposes, and all improvements and additions thereto or to existing interstate highways and other improvements which are erected, constructed or installed after the making of such conveyance, lease or sublease.

(c) "Nonprofit-sharing corporation" means a nonstock corporation which was in existence on the effective date of this section (1965) and was organized under ch. 181 or corresponding prior general corporation laws.

(2) In order to provide new highways or improve existing highways and to enable the construction and financing thereof, to refinance any indebtedness created by a nonprofit corporation for new highways or making additions or improvements to existing highways located on public right of way available for highway purposes or on lands owned by the nonprofit corporation, or for any one or more of said purposes, but for no other purpose unless authorized by law, the state highway commission:

(a) May sell and convey to a nonprofit-sharing corporation any public right of way available for highway purposes and any existing highways or other improvements thereon owned by the state or under the jurisdiction of the state highway commission for such consideration and upon such terms and conditions as the commission deems in the public interest.

(b) May lease to a nonprofit-sharing corporation, for terms not exceeding 30 years each, any public right of way available for highway purposes and any existing highways or improvements thereon owned by the state or under the jurisdiction of the state highway commission upon such terms, conditions and rentals as the commission deems in the public interest.

(c) May lease or sublease from such nonprofit-sharing corporation, and make available for public use, any such public right of way available for highway purposes and existing highways and other improvements conveyed or leased to such corporations under pars. (a) and (b), and any new highways or other improvements constructed upon such public right of way available for highway purposes or upon any other land owned by such corporation, upon such terms, conditions and rentals, subject to available appropriations, as the commission deems in the public interest. With respect to any property conveyed to such corporation under par. (a), such lease from such corporation may be subject or subordinated to one or more mortgages of such property granted by such corporation.

(d) Shall enter into lease and sublease agreements under par. (c) for highway projects only when the projects meet the commission's standard specifications for road and bridge construction and when arrangements are made that all construction be under the direct supervision of the commission.

(e) May establish, operate and maintain highways and other improvements leased or subleased under par. (c).

(f) Shall submit the plans and specifications for all such new highways or other improvements and all conveyances, leases and subleases and purchase agreements made under this subsection to the governor for approval before they are finally adopted, executed and delivered.

(g) May pledge and assign, subject to available appropriations, all moneys provided by law for the purpose of the payment of rentals pursuant to leases and subleases entered into under par. (c) as security for the payment of rentals due and to become due under any lease or sublease of such highways and other improvements made under par. (c).

(h) Shall, upon receipt of notice of any assignment by any such corporation of any lease or sublease made under par. (c), or of any of its rights under any such lease or sublease, recognize and give effect to such assignments, and pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by such corporation.

(i) May purchase and acquire from such nonprofit-sharing corporation any right of way available for highway purposes and any new highways and other improvements for which leases and subleases have been executed pursuant to par. (c) upon such terms and conditions as the commission deems in the public interest.

(3) All lease and sublease agreements executed under this section and all contracts entered into pursuant to the lease and sublease agreements shall be processed, governed by and performed in accordance with all applicable state and federal laws and regulations. Sections 66.29, 84.015, 84.03 and 84.06 are applicable to all contractual instruments for the construction of highway projects subject to lease and sublease in the same manner as they are applicable to the state highway commission.

84.41 STATE LIABILITY; APPLICABLE LAWS; TAX EXEMPTION; SECURING OF FEDERAL AIDS. (1) LIABILITY OF STATE. The state shall be liable for accrued rentals and for any other default under any lease or sublease executed under s. 84.40 and may be sued therefor on contract as in other contract actions pursuant to ch. 285, but it shall not be necessary for the lessor under any such lease or sublease or any assignee of such lessor or any person or other legal entity on behalf of such lessor to file any claim with the legislature prior to the commencement of any such action.

(2) **APPLICATION OF STATE LAWS.** All laws of this state including those pertaining to the regulation of motor vehicles and highways, shall apply to the projects subject to lease and sublease executed under s. 84.40.

(3) **EMPLOYMENT REGULATIONS.** Employment regulations set forth in s. 103.50 pertaining to wages and hours shall apply to all projects constructed under s. 84.40 in the same manner as such laws apply to projects on other state highways. Where applicable, the federal wages and hours law known as the Davis-Bacon act shall apply.

(4) **CONTRACTOR'S LIENS; PERFORMANCE AND PAYMENT BONDS.** The provisions of s. 289.53 pertaining to contractor's liens and related matters, and s. 289.16 relating to performance and payment bonds, shall apply in the same manner as such law applies to other state highway construction projects.

(5) **TAX EXEMPTION.** All lands leased and re-leased under any approved project shall be exempt from taxation.

(6) **NO STATE DEBT CREATED.** Nothing contained in this section or s. 84.40 shall create a debt of the state.

(7) SECURING OF FEDERAL AIDS. The state highway commission shall do all things necessary to secure federal aids in carrying out the purposes of this section and s. 84.40.

84.42 LIMITATIONS ON BONDING. The highway commission's authority to act under ss. 84.40 and 84.41 is limited to completion of highway I 94 between Tomah and Eau Claire, the interstate bridge, including the approaches, on highway I 94 at Hudson and highway I 90 between Tomah and La Crosse.

SECTION 13. SECTIONS 5 to 10 of this act shall take effect on the first of the month following passage and publication.

SECTION 14. The change in the distribution of the additional motor fuel tax, which is made by the amendment of section 20.420 (1) (xd) and (3) (xm) of the statutes by SECTION 2 of this act, shall become effective only as to motor fuel taxes collected beginning one month after the effective date of SECTIONS 5 to 10 of this act.

SECTION 15. SECTIONS 3 and 12 of this act shall take effect on May 1, 1967.

Approved June 27, 1966.
