

No. 176, A.]

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**CHAPTER 661**

AN ACT to amend 88.38 (2) of the statutes, relating to culverts and outlets to permit natural drainage.

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

88.38 (2) of the statutes is amended to read:

88.38 (2) Any county, town, city, village or railway company which \* \* \* *fails* to provide such necessary ditches or culverts or other outlets,

*and the state, when the state highway commission fails to do so, shall be liable for all damages caused by reason of such failure or neglect. Claims for damages under this section shall be filed with the county, town, city, village, railway company or the state highway commission, which is responsible for the public highway or grade through which the claimants' claims arise. If such claim is not allowed within 90 days after filing thereof, the claimant shall have a right of action against the county, town, city, village or railway company which is responsible for the public highway or grade through which the claim arises, and the state, when the state highway commission is responsible for the public highway or grade through which the claim arises. Such action shall be commenced in a court of record within 3 years of the time of the alleged damages in the county wherein the damages occurred. An action on any claim against the state for damages under this section may be commenced as provided in s. 285.01; but disallowance of the claim by the legislature shall not be necessary or a prerequisite to the commencement or prosecution of such action. No bond for security for payment of costs shall be required of the claimant and ss. 15.94 and 16.53 shall not apply. Amounts awarded or recovered as damages against the state under this section shall be deemed a purpose referred to and shall be charged to and the state highway commission is authorized to pay such amounts out of the allotment provided in s. 20.420 (82).*

Approved January 31, 1962.

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