

No. 595, A.]

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CHAPTER 528.

AN ACT to repeal subsection (4) of section 20.49, section 20.495, subsection (5) of section 83.04 and sections 87.02, 87.03, 87.04, 87.05 and 87.055; to create a new subsection (4) of section 20.49 and new sections to be numbered 84.10, 87.02, 87.03, 87.04 and 87.05; and to amend subsection (5) of section 20.49, subsection (9) of section 76.54, subsection (9) of section 84.03 and section 87.06 of the statutes, consolidating and revising statutes providing for the construction, reconstruction or purchase of intrastate and interstate bridges, eliminating certain obsolete provisions relating to highways and bridges, and making an appropriation.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsection (4) of section 20.49, section 20.495, subsection (5) of section 83.04 and sections 87.02, 87.03, 87.04, 87.05 and 87.055 of the statutes are repealed.

SECTION 2. A new subsection is added to section 20.49 and five new sections are added to the statutes to be numbered and to read: (20.49) (4) MAINTENANCE. On July 1, 1929, and annually thereafter, an amount sufficient to meet the maintenance allotments as provided by section 84.10.

84.10 (1) MAINTENANCE ALLOTMENTS. The state highway commission shall annually determine the amounts required for the maintenance of the state trunk highway system, connecting streets in cities and certain free bridges, as follows:

(a) There shall be allotted to each county for the maintenance of the state trunk highway system within their limits, the sum of five hundred dollars for each mile which is a primary federal aid highway, the sum of four hundred dollars for each mile which is a secondary federal aid highway, and the sum of three hundred dollars for each mile of the system not a federal aid highway.

(b) There shall be allotted to each city for the maintenance of streets within its limits selected by the state highway commission, not a part of the state trunk highway system but forming connections through said city between portions thereof, or between such system and the highway systems of adjoining states, the same amount per mile as the county is allotted for portions of the state trunk highway system of like classification.

(c) There shall be allotted to each city of the first, second and third class, for the maintenance of free, swing or lift bridges located on connecting streets in such cities, the following: If the movable portion of such bridge is more than fifty feet but not more than one hundred feet in length, one thousand dollars; if more than one hundred feet but not more than one hundred fifty feet in length, two thousand dollars; if more than one hundred fifty feet but not more than two hundred feet in length, three thousand dollars; if more than two hundred feet but not more than two hundred fifty feet in length, four thousand dollars; if more than two hundred fifty feet in length, five thousand dollars.

(d) There shall be set aside for the maintenance of bridges constructed, reconstructed, or purchased under the provisions of section 87.02 and 87.03 and free bridges located on the state trunk highway system or connecting streets in cities of the fourth class which have a length, not including approaches, of three hundred feet or more, or a swing or lift span, the sum of seventy-five thousand dollars. All matters relating to the maintenance of such bridges shall be under the jurisdiction and complete control of the state highway commission.

(e) Of the foregoing allotments, two per cent shall be deducted and used to pay the cost of supervision by the state highway commission.

(2) DISBURSEMENTS. (a) The funds allotted to the counties for the maintenance of the state trunk highway system shall be held to the credit of such counties and shall be paid to the treasurers thereof in accordance with the provisions of section 84.07.

(b) The funds allotted to cities for the maintenance of connecting streets and swing or lift bridges shall be held to the credit of such cities and shall be paid to the treasurers thereof upon presentation and approval by the commission of certified statements, itemized as may be required by the commission, setting forth the amounts expended by such cities in the maintenance of such connecting streets or swing or lift bridges, and provided such maintenance is satisfactory to the commission. Any city may arrange to have any work on connecting streets or swing or lift bridges for which an allotment is made under this section, performed by the county and in that case the allotment shall be expended as if made to the county.

87.02 INTRASTATE BRIDGES. (1) PETITION, HEARING. Whenever any county, town, village or city, by its board or council, shall file a petition with the state highway commission setting forth that the construction or reconstruction of a free bridge wholly or partly within the limits of such county, town, village or city over a navigable water within this state is necessary, and that such bridge is not located on the state trunk highway system and will be necessarily more than four hundred seventy-five feet in length, not including approaches; or is located on the state trunk highway system, or on a road or street within a city of the fourth class, forming a direct connection between portions of the state trunk highway system, and will be necessarily more than three hundred feet in length, not including approaches, or is required by the laws of the United States to make provision for navigation by means of a swing or lift span, the state highway commission shall, within sixty days from the date of filing said petition, fix a time and place for a public hearing on said petition at some convenient point within the limits of one of such municipalities, and give ten days' notice of said hearing by publication in at least one newspaper published in the counties and municipalities concerned or likely to be especially benefited by such construction or reconstruction, or if no newspaper is published therein, in a newspaper designated by the commission as most likely to give notice of such hearing. Notice of such hearing shall also be served by registered mail on the clerks of the municipalities and counties likely to be especially benefited by such construction or reconstruction.

(2) FINDINGS AND DETERMINATION. If the commission after such hearing shall find that the material allegations set forth in said petition are true and that such bridge is necessary, it shall then locate the same, determine the character and kind of bridge adapted to the location, and estimate the cost thereof, including the cost of any approaches, embankments or other necessary appurtenances, the cost of any new right of way required and of the purchase or acquirement of any existing structure, and such other costs as shall be a necessary portion of the bridge project; and shall determine and designate the municipalities and counties deemed to be especially benefited by such construction or reconstruction, and the portion of such cost to be borne by each to be determined as provided by subsection (3) of this section. Certified copies of such findings and determination

shall be filed with the clerks of the municipalities or counties so determined to be especially benefited.

(3) **APPORTIONMENT OF COST.** The commission shall, at the time of filing its findings and determination, certify to the clerks of the municipalities or counties deemed especially benefited, the amount of the cost of said bridge project to be paid by each and shall certify to the secretary of state and state treasurer the amount to be paid by the state, as its portion of the cost thereof. The apportionment of costs of such bridge project shall be determined as follows:

(a) When such bridge is not on the state trunk highway system and is located wholly within one municipality, such municipality shall pay one-third the cost thereof. Any municipality situated within five miles of such bridge may contribute toward the cost thereof a sum not to exceed one-sixth of such cost. When such bridge is located between two municipalities, the said municipalities shall pay together one-third thereof to be borne by each in proportion to the equalized valuation of each as fixed by the county board. If the said municipalities are in different counties each shall then pay one-sixth thereof. The county shall in all such cases pay one-third of the cost except when such bridge project is located on the boundary line between two counties in which case each county shall pay one-sixth of such cost. The state shall in all such cases pay one-third of the cost.

(b) When such bridge project is on the state trunk highway system or on a road or street in a city of the fourth class forming a direct connection between portions of the state trunk highway system, the county or counties shall pay fifty per cent of the cost thereof, but no county shall be required to pay more than one hundred thousand dollars towards the cost of any such project when only one county is benefited, or more than fifty thousand dollars when more than one county is benefited. The balance of such cost shall be paid by the state. If more than one county is deemed especially benefited, the counties' shares shall be apportioned to each in proportion to the special benefits respectively derived as determined by the state highway commission. Any county which is in such reasonable proximity to such bridge as to be deemed directly served thereby may be so determined to be especially benefited although it does not actually border upon such navigable water and although no part of such bridge is located within its borders. The county board may assess not to

exceed forty per cent of its share of the cost of any such bridge project against the municipalities deemed to be especially benefited. All assessments against municipalities under this section shall be certified to the clerks thereof within five days after the adjournment of the county board. Each such municipality through its board or council shall then provide the amounts so assessed in any manner by which funds may be lawfully provided.

(c) When the commission shall have filed with the municipalities or counties findings favorable to the construction or reconstruction of any bridge project pursuant to this section, the governing body of each such municipality or county shall at its next regular or special meeting take action to provide the funds required to meet such municipality's or county's portion of the cost. The amount so to be provided may be provided in any manner by which funds may be lawfully made available. Within five days of the adjournment of the meeting of the governing body of each such municipality or county, the clerk thereof shall certify the action of such governing body in the matter to the state highway commission.

(4) EXECUTION OF WORK. Subject to the control and supervision of the navigable waters of the state conferred by law upon the railroad commission and the control exercised by the government of the United States, the construction of such project shall be under the supervision and control of the state highway commission, which shall make and execute all contracts and have complete jurisdiction of all matters pertaining to said construction. All moneys provided therefor by the municipalities and the counties shall be deposited in the state treasury and paid out on order of the state highway commission.

87.03 INTERSTATE BRIDGES. (1) PETITION, HEARING. Whenever any county, town, village or city, by its board or council, shall file a petition with the state highway commission setting forth that the construction or reconstruction of a bridge across a navigable water forming a portion of the boundary between this and an adjoining state, and located partly within such county, town, village or city, so as to form a direct connection between the state trunk highway system of this state and the corresponding system of the adjoining state, is necessary, the commission shall fix a time and place, give notice and hold a hearing thereon within sixty days in the manner, so far as applicable, provided by

subsection (1) of section 87.02. The commission may determine to hold a hearing on its own motion, and subsequent proceedings shall be the same as if a petition had been filed as provided in this subsection. Notice of such hearing shall be served by registered mail on the clerks of the counties in this state deemed likely to be especially benefited and on the state highway department of the neighboring state.

(2) INVESTIGATION AND NEGOTIATIONS. If the state highway commission, after such hearing, shall determine that the conditions so warrant, it shall make such investigation as may be necessary to determine the most favorable location, the character and kind of bridge best adapted for such location, and estimate the cost thereof. The commission shall then negotiate with the state highway department of the adjoining state and shall have authority to determine, jointly with the highway department of such other state, the proportions of the cost of the bridge project to be borne by each of the states in conjunction with its subdivisions, such determination to be based upon the interest of each state in said bridge project and upon the benefits derived by each state therefrom.

(3) FINDINGS AND DETERMINATION. If the state highway commission, after such hearing, investigation, and negotiations with the state highway department of the adjoining state, shall find that the construction or reconstruction of such bridge project is necessary and warranted, and that provision has been made or will be made by the adjoining state, or any of its subdivisions, to bear its or their portion of the cost thereof, it shall file certificates to that effect with the county clerks of the counties in this state deemed and found to be especially benefited by said bridge project, which certificates shall state the location of said bridge, the character and the kind adapted to the location and the estimated cost thereof, including the cost of any approaches, embankments or other necessary appurtenances, the cost of any new right of way required and of the purchase or acquirement of any existing structure, and such other costs as shall be a necessary portion of the bridge project; and shall determine and designate the counties deemed to be especially benefited by such construction or reconstruction, and the portion of such cost to be borne by each to be determined as provided by subsection (4) of this section.

(4) **APPORTIONMENT OF COST.** (a) The commission shall, at the time of filing its said findings and determination, certify to the clerks of the counties deemed to be especially benefited, the amount of the cost of said bridge project to be paid by each and shall certify to the secretary of state and state treasurer the amount to be paid by the state as its portion of the cost thereof. One-third of Wisconsin's share of the cost of such bridge project, but not to exceed one hundred fifty thousand dollars for any one bridge project, shall be paid by the counties determined to be especially benefited.

(b) The county boards shall, at the next regular or special meeting, take action to provide the funds required to meet each such county's portion of the cost, which may be provided in any manner by which funds may be lawfully made available. The county boards may assess not to exceed forty per cent of their portion of such costs against the local units deemed to be especially benefited. Within five days after the adjournment of such meeting of the county board, the clerk thereof shall certify the action of the board in the matter to the state highway commission. After the county funds have been provided, the said commission shall enter into an agreement with the state highway department of the adjoining state, setting forth all matters pertinent in connection with the said bridge project, and specifying also the portion of the project to be maintained and operated by each state.

(5) **EXECUTION OF WORK.** Subject to the control and supervision of navigable waters, conferred by law upon the railroad commission, and the control exercised by the government of the United States, the construction of such bridge project shall be under the joint supervision and control of the state highway commission of this state and of the state highway department of the other state concerned. If the highway department of such other state is not authorized to act jointly with this state in such bridge project, arrangements may be made with such subdivisions of the other state as may have proper authority, represented by its proper officers. Control shall be exercised in the manner deemed most expedient by the two departments or by the highway department of this state and the officers of the subdivision of the other state concerned in the said construction. All contracts for the construction of said bridge project shall be made and executed by the two states jointly, or by this state and such subdivi-

visions of the other state as may participate in the said construction. All moneys available from this state, or its subdivisions, shall be deposited in the state treasury of this state and shall be paid out only upon order of the state highway commission.

(6) CONNECTION WITH STATE TRUNK HIGHWAY SYSTEM. In order to carry out the provisions of this section, the state highway commission is authorized to add to the state trunk highway system any bridge constructed, reconstructed or purchased under the provisions of this section, and any road or street eligible to become a portion of the state trunk highway system, which will form the most reasonable and practical connection from such bridge to the state trunk highway system. In such cases the limitations stated in subsection (7) of section 84.02 shall not apply.

87.04 PURCHASE OF TOLL BRIDGES. Any toll bridge eligible to be reconstructed as a free bridge under the provisions of section 87.02 or 87.03, may be purchased under such section and made a free bridge, and the procedure in such case, so far as applicable, shall be the same as for the construction or reconstruction of bridges. If the state highway commission is unable to agree with the owners of such toll bridge as to purchase price, the said toll bridge may be condemned, by exercising the right of eminent domain, in the following manner: The state highway commission shall petition the railroad commission to fix a time and place for public hearing in the matter of the just compensation to be paid for the taking of said toll bridge, as provided by section 197.05, and the subsequent procedure, so far as applicable, shall be as provided by sections 197.05 to 197.09. The word "municipality" as used in such sections means the state highway commission in all proceedings brought under this section. Any toll bridge so purchased or acquired may be later reconstructed under the provisions of this chapter in the same manner as other free bridges may be reconstructed.

87.05 (1) OPERATION OF INTRASTATE BRIDGES. The operation of any bridge constructed, reconstructed, or purchased under the provisions of section 87.02, shall be under the management of the governing bodies of the respective municipalities in which it is located and such municipalities shall assume all operating costs including the cost of lighting. Any matters relating to the operation of such bridges upon which the said

governing bodies cannot agree shall be determined by the state highway commission.

(2) **MAINTENANCE OF INTRASTATE BRIDGES.** All matters relating to the maintenance of bridges constructed, reconstructed or purchased under the provisions of section 87.02 shall be under the jurisdiction and complete control of the state highway commission and the cost of such maintenance shall be the direct obligation of the state. Such portion of the approaches as may be determined by the state highway commission shall be considered a part of such bridge for maintenance purposes. Authority is given the commission to carry fire or tornado insurance, or both, on bridges where such hazard exists and the premium on such insurance shall be included as a portion of such maintenance costs.

(3) **INTERSTATE BRIDGES, WISCONSIN'S SHARE.** The provisions of this section shall also apply to all interstate bridges constructed, reconstructed or purchased under the provisions of section 87.03; and the term "bridge" as used in subsections (1) and (2) of this section shall be construed to mean Wisconsin's portion of such interstate bridges.

SECTION 3. Subsection (5) of section 20.49, subsection (9) of section 76.54, subsection (9) of section 84.03 and section 87.06 of the statutes are amended to read: (20.49) (5) **BRIDGES.** (a) On October 1, * * * 1929, * * * and annually thereafter, * * * five hundred * * * thousand dollars to pay the state's portion of the cost of bridges under * * * section 87.02 * * *.

(b) *On July 1, 1929, and annually thereafter, not to exceed four hundred thousand dollars to pay the state's portion of the cost of bridges under section 87.03 for which the commission has filed findings and determinations during the fiscal year immediately preceding.*

(76.54) (9) The taxes collected under this section shall be paid into the general fund of the state * * *.

(84.03) (9) **HIGHWAY FUNDS; ALLOTMENT.** * * * The * * * funds available under the provisions of subsection (9) of section 20.49 shall be allotted by the state highway commission to the several counties of the state in the following manner: Forty per cent shall be allotted in the ratio that the number of motor vehicles registered in each county bears to the total number of motor vehicles registered in the state, and sixty per cent in

the ratio that the mileage of highways in each county, as determined from time to time by the highway commission, bears to the total mileage of highways in all the counties, and for the purposes of this subsection, one-half the mileage of all county line highways shall be considered as lying in each county, and the streets and highways in villages and cities shall be excluded. Twenty per cent of the allotment to each county shall be set aside for the improvement of the county trunk highway systems, and shall be used for constructing, repairing and maintaining the county trunk highways, and the bridges thereon under the supervision of the county highway committees; provided, that the highway commission may so set aside not more than fifty per cent of the allotment to any county in which one-half or more of the state trunk highway system is constructed and surfaced with surfacing of a high type, satisfactory to the commission. The remainder shall be expended in the improvement of the state trunk highway system. If the state highway commission shall determine to improve a portion of the state trunk highway system, which is also a federal aid highway, the commission may determine to use the allotment to the county in which the improvement is located for that purpose, and shall then proceed to execute the improvement as a federal aid project in the manner provided by section 84.06 of the statutes. Any portion of the allotment to any county that shall not be required for such federal aid projects shall be used to improve portions of the state trunk highway system in accordance with the provisions of chapter 83. Subject to the approval of the state highway commission, any portion of the allotment to any county with a population of two hundred and fifty thousand or more, not required for federal aid projects, may be used for the maintenance of the state trunk highway system in such county. Not more than two per cent of the amount allotted under this section for the improvement of the state trunk highway system under the provisions of chapter 83, shall be used to pay the cost of supervision by the highway commission. The county board of any county having a population of two hundred fifty thousand or more, may appropriate any portion of the state aid funds allotted to such county under this subsection to the cities and villages within such county for street construction. On or before the fifteenth day of March in each year each village and city clerk shall certify to the county clerk the total amount to be expended by such

village or city for street construction. Thereafter at its next meeting the county board shall determine the amount to be so apportioned to such villages and cities and the amount so determined shall be paid to various village and city treasurers.

87.06 (1) ORDER OF BRIDGE CONSTRUCTION. The state highway commission shall consider * * * all petitions under sections 87.02 and 87.03 * * * in the order in which said petitions are received, and shall allot aid for the construction, reconstruction or purchase of bridges * * * in * * * such order * * * as the commission may deem advisable. *Projects shall be undertaken in the order in which aid has been granted.*

(2) ANTICIPATION OF FUNDS. *If the amount appropriated by the state in any one year shall not be sufficient to pay the state's share of all bridges certified under sections 87.02 or 87.03, the appropriation for the ensuing year may be drawn upon to supply such sums as are necessary.*

(3) PARTICIPATION IN TOWN BRIDGE CONSTRUCTION. *Whenever any municipality shall have participated in the cost of the construction, reconstruction, or purchase of a bridge under the provisions of sections 87.02 and 87.03, the property in such municipality shall thereafter be subject to taxation by the county for the construction and repair of bridges within such county under section 87.01.*

(4) LEGALITY OF PROCEEDINGS HERETOFORE HAD. *All bridges which have been or shall be constructed, reconstructed or purchased pursuant to proceedings initiated by petitions heretofore filed with the state highway commission, or by the commission on its own motion, under the provisions of sections 87.02, 87.03, 87.04, 87.05, or 87.055 of pre-existing statutes, shall be construed to have been constructed, reconstructed, or purchased under the provisions of sections 87.02 or 87.03, and shall be operated and maintained as provided by section 87.05, and all proceedings, findings and determinations and all contracts for bridge projects now being or to be constructed, reconstructed or purchased with funds now available, are declared to be valid and in full force and effect.*

SECTION 4. This act shall take effect upon passage and publication.

Approved September 20, 1929.