

No. 104, S.]

[Published April 21, 1933.]

CHAPTER 83.

AN ACT to amend subsection (1) of section 289.16 and subsection (1) of section 289.53 of the statutes, relating to lien for gasoline and oil furnished to contractors on public improvements.

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

SECTION 1. Subsection (1) of section 289.16 and subsection (1) of section 289.53 of the statutes are amended to read: (289.16) (1) All contracts involving one hundred dollars or more hereafter made or let for the performance of any work or labor or furnishing any materials when the same pertains to or is for or in or about any public building, public improvement, public road, alley or highway, or any other public work of whatsoever kind of the state, or of any county, city, village, town, school district, or of any public board or body, shall contain a provision for the payment by the contractor of all claims for such work and labor performed and materials furnished, *to be used or consumed in making such public improvement or performing such public work, including without limitation because of specific enumeration fuel, lumber, building materials, gasoline and other motor oil, lubricating oil, and greases, and including the premiums for workmen's compensation insurance, and no such contract shall hereafter be made or let unless the contractor shall give a good and sufficient bond, the penalty of which shall not be less than the contract price, conditioned for the faithful performance of the contract, and the payment to each and every person or party entitled thereto of all the claims for work or labor performed, and materials furnished for or in or about or under such contract, to be used or consumed in making such public improvement or performing such public work, including without limitation because of specific enumeration fuel, lumber, building materials, gasoline and other motor oil, lubricating oil, and greases, and including all premiums for workmen's compensation insurance, such bond in the case of the state to be approved by the governor, of a county by its district attorney, of a city or village by its attorney, if it has one, and if not, then by the mayor or president, respectively, thereof, of a town by its chairman, of a school district by the director or president of the school board, and in case of any other public board or body by the*

presiding officer thereof. No assignment, modification or change of the contract, or change in the work covered thereby, nor any extension of time for completion of the contract shall release the sureties on said bond.

(289.53) (1) Any person, firm or corporation furnishing any materials, *to be used or consumed in making such public improvement or performing such public work, including without limitation because of specific enumeration fuel, lumber, building materials, gasoline and other motor oil, lubricating oil, and greases, apparatus, fixtures, machinery or labor, including the premiums for workmen's compensation insurance, to any contractor for public improvements in this state, except in cities of the first class, however organized, shall have a lien on the money, or bonds, or warrants due or to become due such contractor for such improvements; providing, such person, firm or corporation shall, before the payment is made to such contractor, notify the officials of the state, county, township, city, or municipality, whose duty it is to pay such contractor, of his claim by written notice. It shall be the duty of such officer so notified to withhold a sufficient amount to pay such claim until it is admitted or established as provided in subsection (3) of this section and thereupon to pay the amount thereof to such person and such payment shall be a credit on the contract price to be paid such contractor. Any officer violating the duty hereby imposed upon him shall be liable on his official bond to the person serving such notice for the damages resulting from such violation which may be recovered in an action at law in any court of competent jurisdiction. There shall be no preference between the persons serving such notice, but all shall be paid pro rata in proportion to the amount under their respective contracts.*

SECTION 2. This act shall take effect upon passage and publication.

Approved April 20, 1933.

No. 177, S.]

[Published April 21, 1933.

CHAPTER 84.

AN ACT to amend subsection (1) of section 111.09 of the statutes, relating to sale of frozen fish.

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