

CHAPTER 84

STATE TRUNK HIGHWAYS; FEDERAL AID

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84.001 Definitions. As used in this chapter unless the context requires another interpretation:

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

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

History: 1977 c. 29; 1983 a. 27.

84.01 Department powers and duties. (1) OFFICES. The department shall maintain its principal office at Madison and district officers at such other cities as the necessities of the work demand.

(2) **POWERS AND DUTIES; GENERAL PROVISION.** The department shall have charge of all matters pertaining to the expenditure of state and federal aid for the improvement of highways, and shall do all things necessary and expedient in the exercise of such supervision.

(3) **DISTRICT OFFICES.** Any internal reorganization of the department under s. 15.02 shall provide for maintenance by the department of district offices throughout the state.

(5) **ADVISE LOCAL AUTHORITIES.** The department shall advise towns, villages, cities and counties with regard to the construction and maintenance of any highway or bridge, when requested. On the request of any town, village, city or county board, or county highway committee, any supervision or engineering work necessary in connection with highway improvements by any town, village, city or county may be performed by the department and charged at cost to such town, village, city or county.

(6) **SURVEYS AND PLANS.** The department shall make provision for and direct the surveys, plans, construction, inspection and maintenance of all highways, whenever the construction or maintenance is under its jurisdiction.

(7) **EXPERIMENTS, MEETINGS, CONVENTIONS.** The department shall conduct such investigations and experiments, hold such public meetings and attend or be represented at such meetings and conventions inside or outside of the state as may, in its judgment, tend to promote improved highways, and shall cooperate with state and national organizations in experiments and work for the advancement of improved highways.

(8) **DONATIONS.** The department shall receive gifts, appropriations and bequests made to it or to the state for highway purposes, pay all moneys received by it into the state treasury, and, as far as practicable, expend the same in accordance with the wishes of the donor, such expenditures to be audited and paid as other disbursements of the department are audited and paid, and shall apportion the allotments of state highway funds among the counties and municipalities as provided by law.

(9) **COUNTY TRUNK SYSTEM.** (a) The department shall review the system of county trunk highways and alter the same so as to connect the system of adjoining counties into continuous and direct routes.

(b) To insure modern safe design in the construction of county trunk highways, the department shall establish rules providing uniform minimum design standards for the improvement of county trunk highways. "Improvement" as used in this paragraph includes construction, reconstruction and the processes incidental to building, fabricating or bettering a highway, but not maintenance.

(10) **RIGHT OF ENTRY.** The department or its authorized representatives may enter private lands to make surveys or inspections.

(11) **REPORTS AND BULLETINS.** The department shall issue such bulletins, pamphlets and literature as it deems necessary.

(12) **ACTING COUNTY COMMISSIONER.** The secretary of transportation shall appoint, upon the request of any county board, a county highway commissioner, who shall have all the powers and duties conferred by statutes upon county highway commissioners.

(13) **ENGINEERING SERVICES.** The department may engage such engineering, consulting, surveying or other specialized services as it deems advisable. Any engagement of services under this subsection is exempt from ss. 16.70 to 16.75, 16.755 to 16.82 and 16.85 to 16.89, but ss. 16.528, 16.752 and 16.754 apply to such engagement. Any engagement involving an expenditure of \$3,000 or more shall be by formal contract approved by the governor.

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(14) LABORATORIES. The department shall maintain in connection with the performance of necessary engineering for highway work and other functions, a materials testing and research laboratory and adequate facilities for highway marking and signing.

(15) FEDERAL AID SYSTEMS OF HIGHWAYS. The department shall plan, select, lay out, add to, decrease, revise, construct, reconstruct, improve and maintain, or arrange for maintenance by subdivisions of the state or by any other means, the national system of interstate highways, federal aid highway system, system of secondary and feeder roads, federal aid grade crossings projects, federal forest highway systems and projects and other highway and related projects, all within the meaning of Title 23, USC and all acts amendatory thereof and supplementary thereto, and the federal regulations issued under such code; and receive all funds provided by any source to match or supplement such federal aid funds, and expend such funds in accordance with the requirements of acts of congress or of this state making such funds available and cooperate with federal authorities and subdivisions of the state in carrying out this subsection. This subsection shall not limit the other powers of the department relative to federal aid for highways.

(16) NOTICE OF COUNTY TRANSPORTATION AID. Annually, not later than June 30, the department shall notify each county clerk of the estimated transportation aid to the county for the following calendar year.

(17) IMPROVEMENTS FOR NEXT 6 YEARS. In each odd-numbered year, the department shall determine, as far as possible, what improvements will be made during the following 6-year period, and shall notify the county clerks prior to November 1 of each odd-numbered year, as to the improvements in their respective counties. Such notice shall also be given to the department of natural resources and to the department of agriculture, trade and consumer protection.

(19) NOTARIES PUBLIC. The department is authorized to expend from its proper appropriations a sum sufficient to pay all fees and expenses necessarily incurred in qualifying employes deemed necessary as notaries public and securing notarial seals or rubber stamps; but such notaries shall receive no fees for notarial services rendered to the state.

(21) MOTOR VEHICLE WEIGHING STATIONS. The department, as a part of the improvement and maintenance of highways, may acquire, construct and maintain lands and facilities, including scales or weighing stations, for weighing, measuring or inspecting vehicles and loads operating on any public highway in the state. Lands necessary may be adjacent or contiguous to the highway and weighing station facilities may be constructed and maintained upon the traveled portion of the highway or any other part thereof.

(23) BRIDGE STANDARDS. The department shall adopt standards and specifications for the design and construction of county, town, village and city bridges, arches or culverts. The standards shall be developed after consultation with the department of natural resources, and shall be directed at preventing undue impairment of public rights in navigable waters.

(26) COOPERATIVE AGREEMENTS. The department may, by agreement with the appropriate authority of an adjoining state, arrange for performing, financing and sharing of cost of construction, maintenance and operation of any bridge or other transportation project over or upon interstate boundary waters and approaches thereto under joint jurisdiction of the department and a governmental agency of the adjoining state.

(27) URBAN MASS TRANSIT SYSTEMS. The department may encourage generally and provide, without limitation by

enumeration, for the construction of exclusive or preferential bus lanes, highway control devices, bus passenger loading areas and terminal facilities, including shelters, fringe and corridor parking facilities to serve bus, car pool and other public mass transportation passengers and, with the approval of the local authority charged with the maintenance of the highway facility, preferential lanes for car pool vehicles. All moneys granted or allotted to this state as federal aid for the purposes specified in this subsection shall be expended by the department in accordance with the act of congress relating to such federal aid funds.

(28) TRANSPORTATION ADMINISTRATIVE FACILITIES. The department may acquire, construct, develop, enlarge or improve administrative or operating facilities for its use under s. 13.48 (10).

(29) PLANTING OF TREES. The department shall by rule establish procedures for increasing the number of hardy and aesthetically pleasing trees planted on state trunk highway rights-of-way, while maintaining highway safety.

History: 1971 c. 40, 125; 1973 c. 12; 1973 c. 243 s. 82; 1975 c. 189; 1977 c. 29 ss. 918 to 924, 1654 (1), (8) (a), (f), 1656 (43); 1977 c. 190, 272; 1979 c. 221, 314; 1981 c. 346 s. 38; 1983 a. 27, 130; 1985 a. 29, 300; 1987 a. 27; 1989 a. 31, 125, 345.

84.011 Who to sign contracts. The secretary, or the secretary's designees, may sign and execute in the name of the department any conveyance or any contract or agreement with the federal government or its departments, subdivisions of the state, corporations, associations, copartnerships and individuals.

History: 1977 c. 29.

84.012 Setoffs. All amounts owed by this state under this chapter are subject to being set off under s. 73.12.

History: 1985 a. 29.

84.013 Highway projects. (1) In this section:

(a) "Major highway project" means a project, except a project providing an approach to a bridge over a river that forms a boundary of the state, which has a total cost of more than \$5,000,000 and which involves either of the following:

1. Constructing a new highway 2.5 miles or more in length.
2. Reconstructing or reconditioning an existing highway by either of the following:

a. Relocating 2.5 miles or more of the existing highway.
b. Adding one or more lanes 5 miles or more in length to the existing highway.

(b) "Reconditioning" means work in addition to resurfacing. "Minor reconditioning" includes pavement widening and shoulder paving. "Major reconditioning" includes improvement of an isolated grade, curve, intersection or sight distance problem to improve safety. Major reconditioning projects may require additional property acquisition.

(c) "Reconstruction" means total rebuilding of an existing highway to improve maintainability, safety, geometrics and traffic service. It is accomplished basically on existing alignment, and major elements may include flattening of hills and grades, improvement of curves, widening of the roadbed, and elimination or shielding of roadside obstacles. Normally reconstruction will require additional property acquisition.

(d) "Resurfacing" means placing a new surface on an existing highway to provide a better all-weather surface and a better riding surface, and to extend or renew the pavement life. It generally involves no improvement in capacity or geometrics. Resurfacing may include some elimination or shielding of roadside obstacles, culvert replacements, signals, marking, signing and intersection improvements. Usually no additional property acquisition is required; except possible

minor acquisition for drainage and intersection improvements.

(2) (a) Major highway projects shall be funded from the appropriations under ss. 20.395 (3) (bq) to (bx) and (gq) to (gx) and (4) (jq) and 20.866 (2) (ur) to (uu).

(b) Reconditioning, reconstruction and resurfacing of highways shall be funded from the appropriations under s. 20.395 (3) (cq) to (cx) and (gq) to (gx).

(3) The department may proceed with construction of the following major highway projects:

(a) USH 12/18 extending easterly from the intersection with Fish Hatchery road to I 90, designated as the south Madison beltline, in Dane county.

(b) USH 18/151 between Ridgeway and Mt. Horeb in Dane and Iowa counties.

(c) STH 16 between I 94 and STH 190 in Waukesha county.

(d) USH 51 between CTH "S" and USH 8, designated as the Tomahawk bypass, in Lincoln county.

(e) USH 45 between USH 41 and CTH "D", designated as the West Bend bypass, in Washington county.

(em) USH 45 between USH 41 and CTH "D", designated as the West Bend bypass 2nd roadway, in Washington county.

(f) USH 53 between Rice Lake and Trego in Barron and Washburn counties.

(g) STH 167 between I 43 and Buntrock avenue in Ozaukee county.

(h) STH 50 between STH 83 and I 94 in Kenosha county.

(i) STH 172 between Webster avenue and I 43 in Brown county.

(j) STH 23 between STH 32 and CTH "P" in Sheboygan county.

(k) STH 16 between Bluff Pass road and CTH "OS" in La Crosse county.

(L) USH 51 between the south Marquette county line and the north Waushara county line.

(m) STH 16 between Oconomowoc and 0.8 mile east of CTH "PP", and STH 67 between Lexington drive and STH 16, in Waukesha county.

(n) USH 45 between Clintonville and Marion, designated as the Clintonville relief route, in Waupaca county.

(o) 43rd street between West Loomis road and West National avenue in Milwaukee county.

(p) STH 29 between Wausau and Ringle in Marathon county.

(q) STH 29 between Wausau and CTH "S", designated as the Wausau to Marathon City project, in Marathon county.

(r) STH 23 between STH 32 and STH 57 in Sheboygan county.

(s) USH 18/151 between CTH "Y" and Town Hall road, designated as the Dodgeville to Mount Horeb project, in Iowa and Dane counties.

(t) STH 441 between the Little Lake Butte des Morts bridge and USH 41, designated as the tri-county expressway, in Calumet, Outagamie and Winnebago counties.

(u) STH 29 between CTH "W" and the intersection of Memorial drive and Shawano avenue in Green Bay, designated as the Shawano county line to Green Bay project, in Brown county.

(v) New highway between the I 90/STH 157 interchange and STH 93, designated as the I 90 to Holmen project, in La Crosse county.

(vc) USH 8 extending easterly 6.5 miles from the junction with STH 47 in the city of Rhinelander, designated as the Rhinelander beltline, in Oneida county.

(vg) USH 18/151 extending easterly 7 miles from the east terminus of the Mt. Horeb bypass to the city of Verona in Dane county.

(vL) STH 29 between Hillcrest road and Maple avenue, designated as the Shawano bypass, in Shawano county.

(vp) STH 31 extending southerly between STH 50 and the state line in Kenosha county.

(vt) USH 45 extending 4.9 miles northerly and northwesterly between USH 45 one mile south of New London and USH 45 one mile north of New London, designated as the New London bypass, in Outagamie county.

(vx) USH 51 between USH 8 and CTH "K" in Lincoln and Oneida counties.

(w) USH 151 between Sun Prairie and that portion of USH 151 designated as the Columbus bypass, in Dane and Columbia counties.

(wg) A state trunk highway in the city of Milwaukee extending from the southerly terminus of the Daniel Webster Hoan Memorial bridge southerly approximately 3 miles on or adjacent to the Chicago and Northwestern railroad right-of-way to the intersection with East Layton avenue, designated as the Lake Arterial project, in Milwaukee county.

(wr) USH 53 extending approximately 7.4 miles between Solon Springs and Hawthorne in Douglas county.

(x) USH 18 extending easterly 7.5 miles from Manhattan drive in Waukesha county to the western Milwaukee county line.

(xb) USH 151 between the south interchange with STH 73 south of Columbus and USH 41 at Fond du Lac.

(xf) STH 35 extending between STH 35 southeast of River Falls and STH 35 north of River Falls as a bypass, and including STH 35 between Division street in River Falls to the northerly bypass connection, designated as the River Falls beltline, in Pierce and St. Croix counties.

(xo) STH 124 between USH 12 on the west side of Eau Claire and USH 53 on the east side of Eau Claire, designated as the North crossing, in Eau Claire county.

(xs) USH 61/151 between the Sandy Hook interchange and Dickeyville in Grant county.

(xw) STH 26 between approximately 1.0 mile south of Fort Atkinson and 1.0 mile north of Fort Atkinson, designated as the Fort Atkinson bypass, in Jefferson county.

(xy) USH 41 between Abrams and Oconto in Oconto county.

(y) STH 60 between USH 41 and Hartford, in Washington county.

(yb) USH 41 between the STH 114 Breezewood Lane interchange in Neenah and the CTH "OO" interchange west of Appleton, in Winnebago and Outagamie counties.

(yd) STH 29 between Green Bay and Chippewa Falls, in Brown, Shawano, Marathon, Clark and Chippewa counties.

(ye) USH 10 between Appleton and Marshfield, in Outagamie, Waupaca, Portage and Wood counties.

(yf) STH 54 between Wisconsin Rapids and Plover, in Wood and Portage counties.

(yk) USH 53 between Trego and approximately 4.0 miles north of CTH "A" in Solon Springs, in Douglas and Washburn counties.

(yo) STH 50 between approximately 1.0 mile east of Slades Corners and STH 83, designated as the New Munster bypass, in Kenosha county.

(ys) USH 51 between the Business 51 interchange north of Merrill and CTH "S" south of Tomahawk, in Lincoln county.

(yw) STH 29 between STH 29 west of Chippewa Falls and STH 29 east of Chippewa Falls, designated as the Chippewa Falls bypass, in Chippewa county.

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(yy) USH 18/151 approximately between CTH "G" west of Verona and Nesbitt road east of Verona, designated as the Verona bypass, in Dane county.

(z) STH 36 between Burlington and STH 100, in Racine, Waukesha and Milwaukee counties.

(4) (a) In preparation for future major highway projects, the department may perform preliminary engineering and design work and studies for possible major highway projects not listed under sub. (3), but no major highway may be constructed unless the project is listed under sub. (3) or approved under sub. (6).

(b) The department may not, within any 6-year period, construct a highway project consisting of separate contiguous projects which do not individually qualify as major highway projects but which in their entirety would constitute a major highway project without first submitting the project to the transportation projects commission for its recommendations and report and without specific authorization under sub. (3), except as provided in sub. (6).

(5) Commencing with the 1985-87 biennial budget bill and biennially thereafter, the department shall request adjustments to the list of major highway projects under sub. (3) as listed projects are completed, projects are approved under sub. (6) and new projects are ready for construction. The department shall submit the proposed biennial adjustments for major highway projects to the transportation projects commission for review and recommendation as provided under s. 13.489.

(6) If following the enactment of the biennial budget bill the department determines that a highway project which was initially planned or designed as a reconditioning, reconstruction or resurfacing project is a major highway project and is ready for construction, the department shall submit the proposal for the specific project to the transportation projects commission for review and recommendation as provided under s. 13.489. After the transportation projects commission has submitted its report on the project, the department may request approval of the specific project as a major highway project from the joint committee on finance. If the joint committee on finance approves the project, the committee shall make such transfer of funds among the highway appropriations as deemed necessary and the department may proceed with construction.

(6m) Notwithstanding sub. (1) (a), if a highway improvement project within the corporate limits of a city or village has a cost of more than \$2,000,000, the city or village may, by resolution, petition the transportation projects commission to designate the project as a major highway project. This subsection does not apply to a highway improvement project on a freeway within the corporate limits of a city or village. The department may not construct a highway improvement project designated as a major highway project by the transportation projects commission under this subsection without specific authorization under sub. (3).

(7) (a) No state or federal funds appropriated for the department may be expended for any highway construction, reconstruction or reconditioning which results in additional lanes on I 43 between Bender road and the north Ozaukee county line in Milwaukee and Ozaukee counties.

(b) Nothing in par. (a) prohibits expenditure of state or federal funds for maintenance or resurfacing of that portion of I 43 specified in par. (a).

(8) (a) No state or federal funds appropriated for the department may be expended for any highway construction, reconstruction or reconditioning which results in additional lanes on STH 145 between North 19th street and North 35th street in Milwaukee county.

(b) Nothing in par. (a) prohibits expenditure of state or federal funds for maintenance, resurfacing, reconditioning or reconstruction which does not result in additional lanes on that portion of STH 145 specified in par. (a). No business or residence may be relocated or displaced in order to make an improvement or conduct maintenance permitted under this paragraph.

(9) If the department, in consultation with the department of development, determines that a business development having a payroll exceeding \$10,000,000 in a calendar year is being located within a 3-mile radius of the intersection of I 90 and Town Line road in Rock county, the department shall construct an interchange funded from the appropriations under s. 20.395 (3) (gq) to (gx) off of I 90 to Town Line road.

History: 1983 a. 27; 1985 a. 29 ss. 1564 to 1566g, 3202 (51); 1987 a. 27 ss. 10cm, 1654un to 1654uws; 1987 a. 403; 1989 a. 31

NOTE: The applicability of the creation of this section by 1983 Wis. Act 27 is governed by s. 2203 (51) (c) of that act.

84.015 Federal highway aid accepted. (1) The state of Wisconsin assents to the provisions of Title 23, USC and all acts of congress amendatory thereof and supplementary thereto. The state of Wisconsin declares its purpose and intent to give assent to all federal highway acts and to make provisions that will insure receipt by this state of any federal highway aids that have been or may be allotted to the state including all increased and advanced appropriations, and insure that such highways and related facilities in this state as may be eligible to be improved or constructed in accordance with any such federal highway acts may be improved, constructed and maintained in accordance therewith. The good faith of the state is pledged to make available funds sufficient to adequately carry out such construction and maintenance.

(2) The department may enter into all contracts and agreements with the United States relating to the construction and maintenance of streets and highways and related facilities under Title 23, USC and all acts amendatory thereof and supplementary thereto, submit such scheme or program of construction and maintenance as may be required by said code or rules and regulations of the United States promulgated thereunder and do all other things necessary fully to carry out the cooperation contemplated and provided for by said code.

History: 1977 c. 29 s. 1654 (8) (a)

84.02 State trunk highway system. (1) DESIGNATION. The system of highways known as the trunk highway system heretofore selected and laid out by the legislature and by the highway commission and by special legislative state trunk highway committees and approved by said highway commission and as revised, altered and changed by and under authority vested by law in the highway commission, is hereby validated and confirmed and designated the state trunk highway system but without prejudice to the exercise of the power given to change such system, and all acts by which parts of said system were heretofore adopted or declared to be trunk highways are confirmed and validated. Section 80.32 (2) does not apply to the state trunk highway system.

(2) COUNTY LINE HIGHWAYS APPORTIONED. The apportionment heretofore made by the highway commission of portions of the state trunk highway system that lie on county lines is hereby ratified. The portion of such county line highways assigned to any county shall be considered as lying wholly within such county, and all the provisions for construction and maintenance shall apply to such portion just as though it lay wholly within the county to which assigned. Bridges on the state trunk highway system which span streams forming the boundary between 2 counties shall be considered as lying one-half in each county.

(3) **CHANGES IN SYSTEM.** (a) Changes may be made in the state trunk system by the department, if it deems that the public good is best served by making the changes. The department, in making the changes, may lay out new highways by the procedure under this subsection. Due notice shall be given to the localities concerned of the intention to make changes or discontinuances, and if the change proposes to lay a highway via a new location and the distance along such deviation from the existing location exceeds 2 1/2 miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective. The notice shall also be given to the secretary of natural resources either by registered mail or personally. Whenever the department decides to thus change more than 2 1/2 miles of the system the change shall not be effective until the decision of the department has been referred to and approved by the county board of each county in which any part of the proposed change is situated. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed. Where the distance along the deviation from the existing location exceeds 5 miles the change shall constitute an addition to the state trunk highway system. The preexisting route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the department mutually agree to its discontinuance as a state trunk highway. Whenever such county board or boards and the department cannot so agree the department shall report the problem to the next ensuing session of the legislature for determination.

(b) The action of any town, village or county board or city council discontinuing, relocating or altering any highway on the state trunk system shall be void unless the department approves the same in writing.

(4) **GUIDEBOARDS; WARNINGS; ROUTE MARKING.** (a) The department shall mark the highways of the state trunk highway system and also the connecting highways. The markers shall be uniform, except that the numbers thereon shall correspond with the numbers given to various routes by the department and found on the official highway maps issued by the department. No similar design or marker shall be used for marking other highway routes.

(b) No person shall mark any other highway routes or trails unless the route marked shall coincide exactly with the state trunk system. No such routes shall be marked until exact descriptions of the routes selected for marking have been filed with and the routes and markings approved by the department. Every route laid out and marked shall be made to conform to the state trunk system, and the person responsible for the marking of such route shall remove or erase such marks from every portion of such route which does not coincide with the state trunk highway system. The department shall report to the secretary of state any violations of or failure to comply with the provisions of this subsection, and the secretary of state shall thereupon revoke the privilege, license or incorporation of the offender, and the department shall cause the offending marks to be erased, removed or destroyed. The expense of such erasure, removal or destruction shall be paid out of funds appropriated to the department, and may be recovered in the name of the state from the person responsible for such unauthorized marking.

(c) The department shall erect and maintain such standard guide and warning signs and lighting as it deems necessary within the right of way along the state trunk system, and it is unlawful to erect any lighting or display any other guide or warning signs upon the state trunk system, except in cases of emergency or when approved by the department. Any

erection in violation hereof may be removed by the department.

(d) The department may cooperate with the Public Roads Administration or other designated agency of the federal government in formulating and adopting or changing a uniform system of numbering, or designating highways of interstate character within this state, and in the selection and erection of uniform danger signals and safety devices for the protection and direction of traffic.

(e) The department shall adopt a manual establishing a uniform system of traffic control devices for use upon the highways of this state. The system shall be consistent with and, so far as practicable, conform to current nationally recognized standards for traffic control devices.

(f) The department shall adopt a manual establishing a uniform system of signs, signals, markings and devices for the purpose of regulating, warning or guiding bicycle traffic on highways, streets and bikeways, as defined in s. 84.60 (1) (a). The system, shall be consistent with and shall conform to the system established under par. (e).

(5) **MAPS.** (a) As often as it deems necessary, the department shall publish highway service maps showing the state trunk highway system and such other main highways and other features as may seem desirable. Such highway service maps shall be sold by the department at a price to be fixed by it, which shall be not less than cost. The department may permit the use of the base plates for other maps and publications in consideration of a fair fee for such use. The department shall make and publish or duplicate such highway service maps as are required for its use, and shall publish folded highway maps of Wisconsin for free distribution to the public. The department shall ensure that the folded highway maps bear information regarding the requirements of s. 347.48 (4).

(b) Upon publication of the highway service maps, the department shall distribute without charge 50 of these maps to each officer and member of the legislature. Any officer or member of the legislature may request additional highway service maps. The request may be written or oral. The fee for the additional maps shall be the fee set by the department under par. (a).

(c) Upon publication of the folded highway maps, the department shall distribute without charge 500 of these maps to each officer and member of the legislature and 300 of these maps to the legislative reference bureau. Any officer or member of the legislature may request additional folded highway maps. The request may be written or oral. No charge may be made for the additional folded highway maps.

(6) **ALTERNATE ROUTES THROUGH CITIES AND VILLAGES.** In cases where any state trunk highway passes near but not through the central or business portion of any city or village, the department may upon petition of any city or village designate an alternate route through such central or business portion, and shall install suitable marking to guide travelers over such alternate route. No such designation shall be made unless the department finds that public travel will be benefited. Any such designation may be revoked on 30 days' notice to the city or village if the department finds that public travel is not benefited. Such designation shall impose no responsibility on the state, except the cost of marking in the first instance. Such alternate routes shall be constructed and maintained and kept clear of snow, in a condition satisfactory to the department without expense to the state, and the department may require assurances to that effect before making such designation.

(7) **ADDITIONS FROM COUNTY TRUNK HIGHWAYS.** Whenever the traffic on any county trunk highway averages in any year

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250 or more vehicles daily, the county board may by resolution request that such county trunk highway be added to the state trunk highway system. A copy of such resolution shall be filed with the department. If after investigation the department finds that the traffic on said county trunk highway meets the requirements of this subsection, it may by order add said highway to the state trunk highway system, but the total additions under this subsection shall not exceed 500 miles. Whenever the traffic on any portion of a state trunk highway averages in any year 150 or less vehicles daily, the county board of the county wherein such state trunk highway is situated may by resolution request that such be transferred to the county trunk highway system. A copy of such resolution shall be filed with the department. If after investigation the department finds that the traffic on said state trunk highway is as stated in said resolution, it may order said highway taken from the state trunk highway system and made a county trunk highway.

(8) JURISDICTIONAL TRANSFERS: STATE-LOCAL AGREEMENTS.

(a) The department may make additions or deletions to the state trunk highway system by entering into a jurisdictional transfer agreement with any local unit of government. Addition to or deletion of any part of the state trunk highway system under this subsection may be made without regard to any mileage limitation or procedural requirement imposed under this section or chapter 518, laws of 1947.

(b) The jurisdictional transfer agreement must be approved by the department and the governing body of any municipality or county board involved before the transfer of any highway becomes effective.

(c) A jurisdictional transfer agreement may contain any terms and conditions that the department and the local unit of government may deem necessary regarding maintenance or rehabilitation of any highway transferred.

(d) Notwithstanding sub. (3), the discontinuance as part of the state trunk highway system of that segment of USH 12/18 associated with the major highway project authorized in s. 84.013 (3) (a) is eligible for payment under s. 20.395 (3) (cq) as a jurisdictional transfer under this subsection if the county assumes jurisdictional responsibility for the segment.

(10) TEMPORARY ROUTES; DETOURS. (a) In case it is impracticable to maintain any portion of the state trunk highway system as laid out, pending its improvement or construction, the department may designate a temporary route as part of the state trunk highway system, and in such case the temporary route shall be considered part of the state trunk highway system in every respect, except that it may not be constructed as a state trunk highway.

(b) When any portion of the state trunk highway system is impassable or dangerous to travel or when it shall be deemed necessary because of construction or maintenance work or for other reasons to suspend all or part of the travel thereon, the department may route such travel over a detour around such portion of the state trunk highway system. Such detour may be routed over any other public highway or temporary highway which may be improved or maintained as part of the cost of constructing or maintaining the state trunk highway system to the extent necessary, as determined by the department, because of such additional travel. Such routing of state trunk highway traffic over other public highways shall not alter the existing status of such other public highways.

(11) CONNECTING HIGHWAYS. The state trunk highway system shall not include the marked routes thereof over the streets or highways in municipalities which the department has designated as being connecting highways. Those municipal streets or highways so excluded as state trunk highways but marked as such and designated as connecting highways

are further described and the aids determined therefor under s. 86.32.

(12) STATE TRUNK SYSTEM MAPS. The department shall maintain in its permanent record a map of each county on a scale of not less than one-half inch per mile showing the official layout of the state trunk highway system. Annually, as soon as practical after January 1, a copy of such map, showing the official layout of the state trunk highway system in each county as it existed at the close of the previous calendar year, shall be filed with the county clerk and county highway commissioner thereof.

(13) PRIORITY. The department shall give high priority to the completion of the STH 28/USH 41 interchange in Washington county as part of the USH 41 corridor project.

History: 1971 c. 323 s. 27; 1973 c. 185; 1977 c. 29 ss. 926, 1654 (3), (6) (b), (8) (a); 1977 c. 272; 1979 c. 34, 221; 1981 c. 248, 346; 1983 a. 27; 1985 a. 29; 1989 a. 31.

Local unit of government is without jurisdiction to unilaterally change segment of state highway system. 61 Atty. Gen. 263.

84.03 Federal aid; state and local funds. (1) STATE AND FEDERAL AID.

(a) All moneys granted or allotted to the state of Wisconsin as federal aid for highways and all state appropriations and other funds available to match or supplement such federal aid funds and so utilized by the department shall be expended by the department in accordance with the act of congress relating to such federal aid funds.

(b) Funds provided by any county, city, village or town to construct, reconstruct or improve any highway, street or bridge with state or federal aid under this chapter, shall be paid to the department or to the state treasury as the department may require and shall be expended in accordance with s. 84.06 and the federal acts relating to such federal aid. The use of state or federal aid in the construction, reconstruction or improvement of any highway, street or bridge not on the state trunk highway system shall not relieve the county, city, village or town of any obligation to maintain such highway, street or bridge. The department may allot to any city of the 1st class any state and federal highway funds to which such city may be entitled for the purpose of the payment of interest, debt charges, amortization or retirement of street or highway bonds issued pursuant to s. 67.05 or other applicable provisions of law. Such cities may use such highway funds so allotted for such purposes, paying interest, debt charges and costs, amortization or retirement of such bonds.

(c) On any highway, street or bridge hereafter constructed, reconstructed or improved with state or federal aid under this chapter, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency shall be subject to the approval of the department; and the department is directed to approve only such installations as will promote the safe and efficient utilization of the highways, streets and bridges.

(9) IMPROVING STATE TRUNKS; LANDSCAPING AND ACQUIRING WAYSIDE AREAS. (a) That part of the appropriation made by s. 20.395 (3), not required for the other purposes therein provided, may be used by the department for the improvement and traffic service of the state trunk highway system and connecting highways, for the purchase and operation of equipment, making surveys for locating local road materials, testing of materials, and for other purposes provided in this section, and to match or supplement federal aid for the construction, reconstruction or improvement of the federal aid highway system, secondary or feeder roads, the elimination of hazards at railroad grade crossings and for any other highway purpose for which the state may match or supplement federal aid funds pursuant to any act of congress.

Where such funds are used for the improvement of the state trunk highway system or connecting highways or to match or supplement federal aid they shall be expended in accordance with s. 84.06 and any applicable act of congress. Any funds expended pursuant to this paragraph shall be expended by the department on such projects within the provisions of this paragraph, and executed in such manner as the department shall from time to time determine will best meet the needs of travel and best promote the general welfare. Such funds may be used for improvements; within the provisions of this paragraph, independent of or in conjunction with other funds available for such improvements. The requirements of any federal highway act, or regulations issued thereunder, may be met from such appropriation.

(b) In addition to the purposes provided in par. (a) there may be expended by the department a sum sufficient, not exceeding \$20,000, for marking highways as civil defense evacuation routes as requested by the secretary of local affairs and development prior to September 1, 1980 or the secretary of the department of administration on or after September 1, 1980.

(10) IMPROVEMENT OF CONNECTING HIGHWAYS. All connecting highways shall be constructed or reconstructed by the state in the same manner as portions of the state trunk highway system. It shall not be compulsory for the state to construct or reconstruct any such highway to a greater width than those portions of the state trunk system connecting therewith.

History: 1971 c. 125; 1973 c. 243 s. 82; 1977 c. 29 ss. 928, 929, 1654 (1), (3), (8) (a), 1656 (43); 1977 c. 272; 1977 c. 418 ss. 572, 573, 929 (55); 1979 c. 34 s. 2102 (52) (a); 1979 c. 361; 1983 a. 130; 1987 a. 27.

84.04 Roadside improvement. (1) As used in this section:

(a) "Overlook" means a graded terrace, often inclosed by a masonry retaining wall, located on roadside areas where favorable topographic conditions provide an exceptional view or offscape from the road.

(b) "Roadside" means that portion of the right of way not occupied by surface courses, curbs, paved gutters, or paved median strips or by other highway structures.

(c) "Roadside improvement" means the application of the principles of landscape architecture to highway planning, design, location, and construction.

(d) "Turnout" means an informal surfaced or unsurfaced parking space for one or more cars or trucks, constructed at selected locations on roadsides in open country for purposes of rest and relaxation.

(e) "Wayside" means an area of land adjacent or in close proximity to the highway, with facilities developed for the convenience, comfort, and enjoyment of the motoring public, these developments to include parking, sanitary, cooking, and picnicking facilities, together with any other facility or improvement which the department deems desirable or necessary to accommodate travelers and provide convenient and safe access thereto by pedestrians and vehicles. "Wayside" includes rest areas.

(f) "Windbreak hedge" means a narrow planting of trees or shrubs for protection against the drifting of snow or sand.

(2) The department may construct and maintain parking areas, including car pool parking areas, waysides, overlooks, windbreak hedges, turnouts and carry on roadside improvement along, or in close proximity with state trunk highways. These activities may be performed within highway rights of way and upon lands otherwise publicly owned or controlled, or on lands acquired in proximity therewith. The department may acquire lands needed for such purposes.

(3) To the greatest extent practicable, the department shall encourage and utilize the Wisconsin conservation corps for appropriate projects.

History: 1973 c. 333 s. 201w; 1977 c. 29 ss. 930, 931, 1654 (6) (b), (8) (a); 1977 c. 101, 272; 1983 a. 189; 1985 a. 29.

84.05 Railroad crossing improvements. On a highway which the department has authority to construct and which crosses a railroad, if the department determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a grade crossing or other rearrangement of the highway or tracks is necessary in the interest of public safety or for convenience of public travel, the department shall make a plan of the construction proposed and an estimate of the cost thereof, including the cost of needed right-of-way; and shall endeavor to make an arrangement with all persons concerned as to all matters involved in the plan, including the portion of the cost of the contemplated work which the persons shall defray. If the department is unable to contract with the persons concerned as to the distribution and payment of the cost of the work or the maintenance thereof, the department shall lay the matter before the office of the commissioner of transportation, and the office of the commissioner of transportation shall review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and 195.29, and shall fix the portion of the cost of the construction and of the maintenance which is to be paid by the persons or corporations concerned, and the portion of the cost, if any, to be paid by the public, which portion shall be paid from the transportation fund. The office of the commissioner of transportation shall determine the benefits, if any, which will inure to other highways, and apportion and charge to the units of government responsible for the construction of such other highways a fair portion of the cost.

History: 1977 c. 29 s. 1654 (8) (b), (9) (f); 1981 c. 347 s. 80 (2); 1985 a. 187.

84.06 Highway construction. (1) DEFINITIONS, PLANS. "Improvement" or "highway improvement" as used in this section includes construction, reconstruction and the activities, operations and processes incidental to building, fabricating or bettering a highway, public mass transportation system or street, but not maintenance. The department may prepare plans, estimates and specifications and undertake and perform all surveys, investigations and engineering work for any highway improvement within its jurisdiction. When provision has been made for the necessary funds for any such highway improvement and, if federal aid is to be utilized, when the project has been approved by the proper federal authorities, the department may proceed as provided in this section, with due regard to any applicable federal requirement or regulation.

(2) **BIDS, CONTRACTS.** (a) All such highway improvements shall be executed by contract based on bids unless the department finds that another method as provided in sub. (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in the manner determined by the department. Except as provided in s. 84.075, the contract shall be awarded to the lowest competent and responsible bidder as determined by the department. If the bid of the lowest competent bidder is determined by the department to be in excess of the estimated reasonable value of the work or not in the public interest, all bids may be rejected. The department shall, so far as reasonable, follow uniform methods of advertising for bids and may prescribe and require uniform forms of bids and contracts. Except as provided in par. (b), the secretary shall enter into the contract on behalf of the state. Every such contract is exempted from ss. 16.70 to 16.75,

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16.755 to 16.82, 16.87 and 16.89, but ss. 16.528, 16.752 and 16.754 apply to the contract. Any such contract involving an expenditure of \$1,000 or more shall not be valid until approved by the governor. The secretary may require the attorney general to examine any contract and any bond submitted in connection with the contract and report on its sufficiency of form and execution. The bond required by s. 779.14 (1m) (b) for any such contract involving an expenditure of less than \$1,000 is exempt from approval by the governor and shall be subject to approval by the secretary. This subsection also applies to contracts with private contractors based on bids for maintenance under s. 84.07.

(b) The department may designate the governing body of a city, county, village or town as its agent on behalf of the state to perform those bidding and contracting responsibilities under par. (a) that the department determines are appropriate to delegate. An agent so designated who enters into a contract under this subsection shall do so on behalf of the department and the state, and the state shall be a party to the contract. Any such contract is subject to the conditions specified for contracts entered into by the secretary. The department may authorize an agent who is designated under this paragraph to perform bidding and contracting responsibilities under par. (a) to administer the resulting contract on behalf of the state.

(3) **CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS.** If the department finds that it would be more feasible and advantageous to have the improvement performed by the county in which the proposed improvement is located and without bids, the department may, by arrangement with the county highway committee of the county, enter into a contract satisfactory to the department to have the work done by the county forces and equipment. In such contract the department may authorize the county to purchase, deliver and store materials and may fix the rental rates of small tools and equipment. The contract shall be between the county and the state and shall not be based on bids, and may be entered into on behalf of the county by the county highway committee and on behalf of the state by the secretary. Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except s. 16.754. If the total estimated indebtedness to be incurred exceeds \$5,000 the contract shall not be valid until approved by the governor. The provisions of this subsection relating to agreements between a county and the state shall also authorize and apply to such arrangements between a city, town or a village and the state. In such cases, the governing body of the city, town or village shall enter into the agreement on behalf of the municipality.

(4) **SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES.** If an improvement undertaken by the department will cross or affect the property or facilities of a railroad or public utility company, the department may, upon finding that it is feasible and advantageous to the state, arrange to perform portions of the improvement work affecting such facilities or property or perform work of altering, rearranging or relocating such facilities by contract with the railroad or public utility. Such contract shall be between the railroad company or public utility and the state and need not be based on bids. The contract may be entered into on behalf of the state by the secretary. Every such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except ss. 16.528, 16.752 and 16.754. No such contract in which the total estimated debt to be incurred exceeds \$5,000 shall be valid until approved by the governor. As used in this subsection, "public utility" means the same as in s. 196.01 and "railroad" means the same as in s. 195.02. "Property" as used in this

subsection includes but is not limited to tracks, trestles, signals, grade crossings, rights-of-way, stations, pole lines, plants, substations and other facilities. Nothing in this subsection shall be construed to relieve any railroad or public utility from any financial obligation, expense, duty or responsibility otherwise provided by law relative to such property.

(6) **EXCESS COST.** Any excess in construction cost over the funds made available for any piece of work, shall be paid from unobligated funds as the department may determine, and any balance shall be credited to the appropriation from which the work was financed.

(7) **INSPECTION AND PAYMENT.** The department may provide for the inspection of each piece of work to insure its proper performance. All indebtedness incurred under this section for any highway improvement shall be paid out of the available funds subject, if federal aid is utilized, to any applicable federal requirement or regulation.

(8) **CONTRACT FOR MATERIALS.** Whenever an improvement has been determined upon and provision has been made for fully financing the cost the department, if it concludes that a probable saving can be effected thereby, may contract for any or all of the materials to be used in the improvement and for the delivery and storage of said materials at suitable points, and pay for the same out of any funds available for the improvement.

(9) **CATTLE PASSES.** As a part of any highway improvement or as a separate project under this section, cattle passes may be constructed at places determined to be necessary and practical.

(10) **STUDY REQUIRED FOR HIGHWAY DEVELOPMENT PROJECTS.** The department shall conduct a study of the costs and benefits of each major highway development project which is commenced after July 1, 1980, and funded from the appropriation under s. 20.395 (3) (bq).

(11) **STATE TRAILS.** As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit corporation may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided.

History: 1971 c. 125; 1977 c. 29 ss. 932, 1654 (8) (a); 1977 c. 196 s. 131; 1977 c. 273; 1979 c. 32 s. 92 (9); 1979 c. 34, 314; 1983 a. 27; 1983 a. 524 ss. 31, 50; 1985 a. 225 s. 100; 1985 a. 300, 332; 1987 a. 98, 399; 1989 a. 31, 345

Cross Reference: See 103.50 for regulation of hours of labor and wage rates under highway contracts based on bids under 84.06 (2).

The department of transportation may make a reevaluation of a bidder's prior qualification or reject the lowest bid on the ground of irresponsibility of the successful bidder, but, in both instances, notice and an opportunity for hearing on such reevaluation must be given to the contractor. 63 Atty. Gen. 60.

84.065 Railroad and utility alteration and relocation loan program. (1) **PURPOSE.** The purpose of this section is to promote the state's interest in preserving and improving state trunk and connecting highways by means of a program to provide loans for railroad and public utility alterations and relocations associated with highway improvement projects.

(2) **DEFINITIONS.** In this section:

- (a) "Improvement" has the meaning given in s. 84.06 (1).
- (b) "Public utility" has the meaning given in s. 196.01 (5).
- (c) "Railroad" has the meaning given in s. 195.02 (1).

(3) **ADMINISTRATION.** The department shall administer a loan program to assist public utilities and railroads with the costs of utility and railroad alterations and relocations that are associated with state trunk and connecting highway improvement projects and that are not subject to reimbursement by the department. The department shall have all powers necessary and convenient to implement this section, including the following powers:

(a) To specify conditions of eligibility for loans under this section. Such conditions shall include the requirement that the utility or railroad alteration or relocation must be part of a planned state trunk or connecting highway improvement project.

(b) To receive applications for loans under this section and to prescribe the form, nature and extent of the information which shall be contained in applications.

(c) To establish standards for the approval of loans under this section.

(d) To enter into loan agreements with applicants to ensure the proper use and prompt repayment of loans under this section. The loan agreement shall permit the loan to be repaid without interest before the date on which the contract for the improvement project with which the utility or railroad alteration is associated is awarded. The loan agreement shall require the payment of interest on the outstanding balance of any loan that is not repaid by the date on which that contract is awarded, accruing from the date on which that contract is awarded. Interest shall be charged at a rate equal to the weekly prime rate for the week prior to the date on which the contract is awarded, as reported by the federal reserve board in federal reserve statistical release H. 15, plus 1%. The loan agreement shall require repayment of the principal and payment of any accrued interest within one year of the date on which the contract is awarded.

(e) To audit and inspect the records of loan recipients.

(4) FUNDS. The department may make loans under this section from the appropriations under s. 20.395 (3) (bv), (cv), (dv) and (gv). The total outstanding balance of loans under this section may not exceed \$500,000.

(5) RULES. The department may promulgate rules as necessary to implement this section.

History: 1989 a. 31.

84.07 Maintenance of state trunk highways. (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The state trunk highway system shall be maintained by the state at state expense. The department shall prescribe by rule specifications for such maintenance and may contract with any county highway committee or municipality to have all or certain parts of the work of maintaining the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, performed by the county or municipality, and any county or municipality may enter into such contract. General maintenance activities include the application of protective coatings, the removal and control of snow, the removal, treatment and sanding of ice, interim repair of highway surfaces and adjacent structures, and all other operations, activities and processes required on a continuing basis for the preservation of the highways on the state trunk system, and including the care and protection of trees and other roadside vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to s. 80.01 (3), and all measures deemed necessary to provide adequate traffic service. Special maintenance activities include the restoration, reinforcement, complete repair or other activities which the department deems are necessary on an individual basis for specified portions of the state trunk system.

(1b) EMERGENCY REPAIR AND PROTECTION OF STATE TRUNK HIGHWAYS. To accomplish prompt repair, protection or preservation of any state trunk highway which has been closed or is being jeopardized by extraordinary damage by flood, structure failure, slides, or other extraordinary condition of necessity and emergency, the department may, if it is deemed for the best interest of the state, proceed at once to repair or protect the highway with forces and services of private

constructors and agencies, summarily engaged by the department and cause said work to be done by negotiated contract or agreement without calling for competitive bids, provided that any such contract or agreement involving an estimated expenditure in excess of \$10,000 shall be subject to approval of the governor before it becomes effective.

(1m) MASS TRANSIT SYSTEM, MAINTENANCE. When the public mass transportation system uses a state trunk highway, such facilities shall be maintained by the state at state expense in accordance with this section. Maintenance shall be performed within the highway right-of-way, upon facilities and lands within the highway corridor, and upon such terminal and parking facilities as may be reasonably adjacent to the highway corridor.

(2) REPAYMENT FOR STATE WORK. When any county or municipality maintains the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, in compliance with the arrangement with the department, the department shall pay the actual cost of the maintenance, including the allowance for materials and the use of county or municipal machinery and overhead expenses agreed upon in advance. The payments shall be made upon presentation by the county highway committee or municipal clerk of a properly itemized and verified account. The county highway committee or municipal clerk shall present the itemized accounts for general maintenance work no later than one month following the period during which the work is performed.

(3) WEED CONTROL. The highway patrolman shall destroy all noxious weeds as provided in s. 66.96 on any highway which he or she patrols.

(4) EMERGENCY REPAIRS; BLOCKING STREETS; DETOURS. Except in case of emergency, no city or village shall obstruct any street over which any state trunk highway is marked unless it first makes arrangements with the department for marking a detour.

(5) USE OF WISCONSIN CONSERVATION CORPS. To the greatest extent practicable, the department shall encourage and utilize the Wisconsin conservation corps for appropriate projects under subs. (1) and (1b).

History: 1971 c. 125; 1975 c. 39; 1975 c. 394 s. 27; 1975 c. 421; 1977 c. 29 ss. 933 to 935, 1654 (8) (a); 1977 c. 418; 1979 c. 161; 1985 a. 29.

84.075 Contracting with minority businesses. (1) In purchasing services under s. 84.01 (13), in awarding construction contracts under s. 84.06 and in contracting with private contractors and agencies under s. 84.07, the department shall attempt to ensure that 5% of the total amount expended in each fiscal year is paid to contractors, subcontractors and vendors which are minority businesses, as defined under s. 560.036 (1) (e) 1. In attempting to meet this goal, the department may award any contract to a minority business that submits a qualified responsible bid that is no more than 5% higher than the low bid.

(2) The contractor shall report to the department any amount of the contract paid to subcontractors and vendors which are minority businesses.

(3) The department shall at least semiannually, or more often if required by the department of administration, report to the department of administration the total amount of money it has paid to contractors, subcontractors and vendors which are minority businesses under ss. 84.01 (13), 84.06 and 84.07 and the number of contacts with minority businesses in connection with proposed purchases and contracts. In its reports, the department shall include only amounts paid to businesses certified by the department as minority businesses.

History: 1983 a. 27; 1983 a. 390 ss. 4, 6; 1987 a. 27.

84.076 TRUNK HIGHWAYS

89-90 Wis. Stats. 1890

84.076 Disadvantaged business demonstration and training program. (1) DEFINITIONS. In this section:

(a) "Disadvantaged individual" means a minority group member, a woman or any other individual found to be socially and economically disadvantaged by the department as provided in 49 CFR 23.62, unless successfully challenged as provided in 49 CFR 23.69.

(b) "Disadvantaged business" means a sole proprietorship, partnership, joint venture or corporation that fulfills all of the following requirements, as certified by the department:

1. It is at least 51% owned by one or more disadvantaged individuals who are U.S. citizens or persons lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20).

2. Its management and daily business operations are controlled by one or more of the disadvantaged individuals who own it.

3. It is currently performing a useful business function as defined in s. 560.036 (1) (h).

(c) "Minority business" has the meaning given under s. 560.036 (1) (e) 1.

(d) "Minority group member" has the meaning given under s. 560.036 (1) (f).

(2) ADMINISTRATION. (a) The secretary shall administer a demonstration and training program for the purpose of developing the capability of disadvantaged businesses to participate in construction projects funded under s. 20.395 (3) (bq), (bv), (bx), (cq), (cv), (cx), (dq), (dv), (dx), (fq), (fv), (fx), (hq), (hv) and (hx). Beginning in fiscal year 1988-89, from the amounts appropriated under s. 20.395 (3) (bq), (bv), (bx), (cq), (cv), (cx), (dq), (dv), (dx), (fq), (fv), (fx), (hq), (hv) and (hx), the secretary shall allocate \$4,000,000 each fiscal year for the awarding of contracts under this section. The secretary shall attempt to ensure that 75% of the amount so allocated each fiscal year is for the awarding of contracts under this section to minority businesses. The secretary may award 100% of the amount so allocated each fiscal year to one disadvantaged business.

(b) The secretary shall establish requirements for programs of preapprenticeship training and management and technical assistance designed to develop the expertise of disadvantaged individuals and disadvantaged businesses in transportation construction.

(3) BIDS, CONTRACTS. Section 84.06 (2) applies to bids and contracts under this section, except that the secretary shall reject low bids that do not satisfy the requirements under sub. (4).

The secretary shall establish a list of disadvantaged businesses that are eligible to submit bids for contracts awarded under this section and subcontractors who meet the requirements under sub. (4) (b). Each bid submitted under this section shall include the agreement specified under sub. (4) and all of the following conditions:

(a) A goal that at least 25% of the total number of workers in all construction trades employed on the project will be disadvantaged individuals.

(b) A subcontracting plan that provides sufficient detail to enable the secretary to determine that the prime contractor has made or will make a good faith effort to award at least 20% of the total contract amount to bona fide independent disadvantaged business subcontractors.

(4) CONTRACTOR RESPONSIBILITIES. Each contractor shall agree to do one of the following in its bid submitted under sub. (3):

(a) 1. Assure that the contractor has developed a program of preapprenticeship training that satisfies the requirements established by the secretary under sub. (2) (b) and has

experience in providing the training to disadvantaged individuals; and

2. Assure that the contractor has developed and has experience in providing a program of management and technical assistance to disadvantaged business subcontractors. The management and technical assistance program shall satisfy the requirements established by the secretary under sub. (2) (b) and shall include all of the following:

a. On-site administrative support.

b. Assistance with managing scheduling, finances and property.

c. The provision of other management services necessary to assist disadvantaged businesses in developing construction capabilities and opportunities for participation in construction projects.

(b) Obtain from a subcontractor that has experience in providing training to disadvantaged individuals a program of preapprenticeship training that satisfies the requirements established by the secretary under sub. (2) (b), and assure that the subcontractor has experience in providing a program of management and technical assistance to disadvantaged business contractors, and that the subcontractor's management and technical assistance program satisfies the requirements established by the secretary under sub. (2) (b) and includes all of the requirements of par. (a) 2. A subcontractor under this paragraph need not be a disadvantaged business, but if the subcontractor is not a disadvantaged business, it may not be included within the goal established under sub. (3) (b).

(5) SUNSET. This section does not apply after June 30, 1995.

History: 1987 a. 399; 1989 a. 31.

This section is unconstitutional as applied to goals for disadvantaged business subcontractor participation in exclusively state-funded projects, but constitutional as applied to federally-funded projects. Subs. (3) (b) and (5) are unconstitutional; they go beyond the bounds of federal authorization. *Milwaukee County Pavers Assoc. v. Fiedler*, 731 F Supp. 1395 (W.D. Wis. 1990).

84.078 Use of recovered material. (1) In this section:

(a) "Recovered material" means a material that is recovered or derived from solid waste.

(b) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(2) The department shall use or encourage the use of the maximum possible amount of recovered material, including ash from industrial or utility boilers, foundry sand, glass, paper mill sludge, wastepaper, pavement and rubber recovered from waste tires as surfacing material, structural material, landscaping material and fill for all highway improvements, as defined under s. 84.06 (1), consistent with standard engineering practices. The department shall specify the proportion of recovered material that may be used in various types of highway improvements.

History: 1987 a. 27, 110; 1987 a. 403 s. 106; Stats. 1987 s. 84.078; 1989 a. 335.

84.08 Franchises. No franchise or permit granted by any town or village or city to any corporation to use any state trunk highway shall become effective unless such franchise or permit has been approved by the department. The order of the department shall provide for or approve the method by which the work authorized by the franchise or permit is to be done or by which the highway is to be restored to its former condition.

History: 1977 c. 29 s. 1654 (8) (a).

84.09 Acquisition of lands and interests therein. (1) The department may acquire by gift, devise, purchase or condemnation any lands for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving and maintaining highways and other transportation related facilities, or interests in lands in and about and along

and leading to any or all of the same; and after establishment, layout and completion of such improvements, the department may convey such lands thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such lands so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works. Whenever the department deems it necessary to acquire any such lands or interests therein for any transportation related purpose, it shall so order and in such order or on a map or plat show the old and new locations and the lands and interests required, and shall file a copy of the order and map with the county clerk and county highway committee of each county in which such lands or interests are required. For the purposes of this section the department may acquire private or public lands or interests in such lands. When so provided in the department's order, such land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the department shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required at a price, including any damages, deemed reasonable by the department. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. The purchase or acquisition of lands or interests therein under this section is excepted and exempt from s. 20.914 (1). The department may purchase or accept donations of remnants of tracts or parcels of land existing at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation for transportation purposes where in the judgment of the department such action would assist in making whole the landowner, a part of whose lands have been taken for transportation purposes and would serve to minimize the overall costs of such taking by the public.

(2) If any of the needed lands or interests therein cannot be purchased expeditiously for a price deemed reasonable by the department, the department may acquire the same by condemnation under ch. 32.

(3) (a) The department may order that all or certain parts of the required land or interests therein be acquired by the county highway committee. When so ordered, the committee and the department shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The committee shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the department's order. The instrument of conveyance shall name the county as grantee, shall be subject to approval by the department, and shall be recorded in the office of the register of deeds and filed with the department. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the county highway committee may acquire them by condemnation under ch. 32.

(b) Any property of whatever nature acquired in the name of the county pursuant to this section or any predecessor shall be conveyed to the state without charge by the county highway committee and county clerk in the name of the county when so ordered by the department.

(c) The county highway committee when so ordered by the department is authorized and empowered to sell and shall sell at public or private sale, subject to such conditions and terms authorized by the department, any and all buildings, structures, or parts thereof, and any other fixtures or personalty acquired in the name of the county under this section or any predecessor. Any instrument in the name of the county, transferring title to the property mentioned in the foregoing sentence, shall be executed by the county highway committee

and the county clerk. The proceeds from such sale shall be deposited with the state in the appropriate transportation fund and the expense incurred in connection with such sale shall be paid from such fund.

(d) Section 59.07 (1) (c) shall not apply to any conveyance or transfer made under this section.

(3m) The department may order that all or certain parts of the required land or interest therein be acquired for the department by a board, commission or department of the city within whose limits the land is located. The city board, commission or department shall be created or selected by the common council subject to the approval of the department. When so ordered, the board, commission or department created or selected and the department shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The city board, commission or department shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the department's order. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the city board, commission or department may, subject to approval by the department, acquire them by condemnation in the name of the state under ch. 32. The city attorney may act as counsel in any proceedings brought under authority of this subsection. Special counsel may be employed with the consent of the governor and the secretary. The city, upon agreement with the department, may pay for the land or interests acquired from city funds made available for such purpose or not otherwise appropriated, as an advance subject to reimbursement by the department or as part of the city's contribution toward the cost of the improvement.

(4) The cost of the lands and interests acquired and damages allowed pursuant to this section, expenses incidental thereto and the customary per diem (or if on an annual salary, a per diem not to exceed the lawful rate permitted for members of county boards) and expenses of the county highway committee incurred in performing duties pursuant to this section shall be paid out of the available improvement or maintenance funds, and members of the highway committee on an annual salary basis shall be entitled to such per diem as compensation for their services in addition to their annual salary fixed pursuant to s. 59.03 (3) (i).

(5) Subject to the approval of the governor, the department may sell at public or private sale property of whatever nature owned by the state and under the jurisdiction of the department when the department determines that the property is no longer necessary for the state's use for highway purposes. The department shall present to the governor a full and complete report of the property to be sold, the reason for the sale, and the minimum price for which the same should be sold, together with an application for the governor's approval of the sale. The governor shall thereupon make such investigation as he or she may deem necessary and approve or disapprove the application. Upon such approval and receipt of the full purchase price, the department shall by appropriate deed or other instrument transfer the property to the purchaser. The approval of the governor is not required for public or private sale of property having a fair market value at the time of sale of not more than \$3,000. The funds derived from sales under this subsection shall be deposited in the transportation fund, and the expense incurred by the department in connection with the sale shall be paid from such fund.

(5m) Subject to the approval of the governor in the manner and form provided by sub. (5), the department may convey

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lands or interests therein acquired pursuant to this section and improvements installed thereon to municipalities within whose limits such lands or interests therein are located. The conveyance of said lands or interests therein and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that said lands or interests therein declared by the department to be excess may be so conveyed without restrictions as to use.

(6) Lands held by any other state department or independent agency may, with the approval of the governor, be conveyed to the department in the manner prescribed by statute and, if none is prescribed, then by a conveyance authorized by appropriate order or resolution of the head of the department or independent agency concerned.

(7) When transportation funds or federal aid are involved in financing an expressway project under s. 59.965, the department, proceeding under the general authority in this section, may order that all or certain parts of the required land or interests therein shall be acquired by the county board or its designated standing committee. When so ordered, the county board or its designated standing committee and the department shall appraise and agree on the maximum price, including all damages recoverable in condemnation proceedings, considered reasonable for the lands or interests to be so acquired. The county board or its designated standing committee shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, to the county or the state as grantee, all as directed in the department's order. The instrument of conveyance shall be subject to approval by the department, and shall be recorded in the office of the register of deeds and filed with the department. If the needed lands or interests therein cannot be purchased expeditiously within the agreed appraised price, the county board or its designated standing committee may acquire them by condemnation under ch. 32, but any award by the county board or its designated standing committee in excess of the agreed appraisal price shall be subject to review by the department. For the purposes and in the manner provided in s. 59.965 (2) (d) 1, when so directed in the department's order, the county board or its designated standing committee may acquire remnants, and with the approval of the department the county board may dispose of remnants and may improve, use, maintain or lease lands and interests acquired and held in trust for the state until they are actually needed for expressway construction. The net proceeds of the sales or rentals shall be remitted to the state or retained and used for expressway purposes when so directed by the department.

(8) (a) In this subsection, "surplus land" means land under the jurisdiction of the department which is unused and not needed for department operations or included in the department's plan for construction or development.

(b) Biennially, beginning on January 1, 1984, the department shall submit to the state building commission and the joint committee on finance an inventory of surplus land containing a general description of the location and an estimated value of each parcel.

History: 1971 c. 40; 1973 c. 118 s. 7; 1977 c. 29 ss. 936, 1654 (1), (8) (a), (b); 1977 c. 272, 418; 1979 c. 310; 1983 a. 27

The commission has the power to condemn lands of one property owner to provide a public access road to another property owner who would otherwise be landlocked. 61 Atty. Gen. 36

The highway commission may properly engage in hardship acquisitions under this section without the filing of an environmental impact statement under either federal or state law but must in such instances comply with the requirements of 84.09 and 32.25 (1). 62 Atty. Gen. 200.

84.10 Maintenance and operation of bridges not on state trunks. The amount allocated therefor from s. 20.395 (3) (eq) shall be expended by the department for the maintenance and operation of bridges not on the state trunk highway system

which were constructed, reconstructed, or purchased under s. 84.11 before August 9, 1989, and under s. 84.12 and free bridges located in connecting highways in cities of the 4th class which have a length, not including approaches, of 300 feet or more, or a swing or lift span. Except as provided in a jurisdictional transfer agreement under s. 84.16, all matters relating to the maintenance and operation of such bridges shall be under the control of the department. Maintenance and operation shall not include the roadway lighting system and shall not include snow and ice removal and control for bridges located on connecting highways. The department may arrange with any county highway committee or with any village or city for the operation or maintenance or both of any such bridge; and any county highway committee, village or city may enter into such arrangement.

History: 1971 c. 125 s. 522 (1); 1973 c. 243 s. 82; 1977 c. 29; 1979 c. 34 s. 2102 (52) (a); 1989 a. 31

84.102 Governor Nelson Dewey Memorial Highway. In order to commemorate the first governor of the state of Wisconsin, the department shall designate and mark as the "Governor Nelson Dewey Memorial Highway" STH 81 from its junction with STH 35 in Grant county to Cassville, Governor Dewey's hometown.

History: 1989 a. 76

84.103 Veterans memorial highways. (1) WISCONSIN VETERANS MEMORIAL HIGHWAY. The department shall designate and mark the following routes as parts of the "Wisconsin Veterans Memorial Highway" as living memorials to and in honor of all Wisconsin veterans, living and dead, of all wars in which the United States has engaged:

(a) I 94 commencing at Milwaukee and proceeding westerly to Madison.

(b) I 90 and I 94 commencing at Madison and proceeding northwesterly to the junction of I 90 and I 94 approximately 2 miles east of Tomah.

(c) I 90 commencing at the junction in par. (b) and proceeding westerly to La Crosse.

(e) I 94 commencing at the junction in par. (b) and proceeding northwesterly to Hudson.

(f) I 90 commencing at Madison and proceeding southerly to Beloit.

(g) I 94 commencing at Milwaukee and proceeding southerly to the state line.

(1m) **WORLD WAR I VETERANS MEMORIAL HIGHWAY.** The department shall designate and mark STH 29 commencing at Kewaunee and proceeding westerly to the state line at Prescott as the "World War I Veterans Memorial Highway" as a living memorial to and in honor of all Wisconsin veterans, living and dead, of World War I.

(1r) **WORLD WAR II VETERANS MEMORIAL HIGHWAY.** The department shall designate and mark USH 41 commencing at Milwaukee and proceeding northerly to Marinette as the "World War II Veterans Memorial Highway" as a living memorial to and in honor of all Wisconsin veterans, living and dead, of World War II.

(2) **KOREAN WAR VETERANS MEMORIAL HIGHWAY.** The department shall designate and mark the route of USH 51, extending from the Wisconsin-Illinois border to the Wisconsin-Michigan border, as the "Korean War Veterans Memorial Highway" as a living memorial to and in honor of all Wisconsin veterans, living and dead, of the Korean war.

(3) **VIETNAM WAR VETERANS MEMORIAL HIGHWAY.** The department shall designate and mark the route of USH 10, commencing at Manitowoc and proceeding westerly to the Wisconsin-Minnesota border, as the "Vietnam War Veterans

Memorial Highway" as a living memorial to and in honor of all Wisconsin veterans, living and dead, of the Vietnam war.

(4) **MARKERS.** The department shall erect at regular intervals along the routes of the highways under this section markers, including at appropriate areas historical markers, to clearly identify to motorists the respective designations of the highways as memorials to Wisconsin veterans.

History: 1977 c. 29 ss. 938, 1654 (8) (a); 1987 a. 117, 399; 1989 a. 31, 343.

84.1035 Peace memorial highway. The department shall designate and mark USH 53 commencing at La Crosse and proceeding northerly to Superior as the "Peace Memorial Highway" to commemorate the contributions and devotion of the citizens of this state to international peace and greater understanding among nations. The department shall erect markers at regular intervals along the route, including at appropriate areas historical markers, to clearly identify to motorists the designation of the highway as a memorial to international peace.

History: 1989 a. 343.

84.104 32nd Division memorial highway. In order to commemorate the 32nd Infantry Division, also known as The Red Arrow Division, which, while composed mainly of men from Wisconsin, Illinois and Michigan, brought fame and glory to these states during World Wars I and II by their sacrifice, devotion and bravery and which is now established as a Wisconsin national guard division, the department is directed to establish a highway memorial designated route 32 by renumbering certain existing highways linking Illinois and Michigan through Wisconsin. Beginning at the Illinois-Wisconsin state line renumber state trunk highway 42 to a point where it joins the present Wisconsin state trunk highway 32 at Sheboygan; continuing over the present Wisconsin state trunk highway 32 north to the junction with U.S. highway 8 at Laona; continuing over the present Wisconsin state trunk highway 32 north to junction with U.S. highway 45 at Three Lakes; thence north on U.S. highway 45 to Michigan-Wisconsin state line at Land O'Lakes. The department is further directed that in addition to the numeral 32, the highway markers on this highway carry a red arrow, and that historical markers be erected and maintained along the highway in honor of the 32nd Division and its members.

History: 1977 c. 29 s. 1654 (8) (a).

84.105 National parkways. (1) DEPARTMENT OF TRANSPORTATION TO COOPERATE WITH FEDERAL AGENCIES. The legislature of the state of Wisconsin hereby declares that the intent of this section is to assent to any act of the United States congress authorizing the development of any national parkway located wholly or partly within the state of Wisconsin, to the full extent that is necessary to secure any benefits under such act, provided that the hunting of migratory waterfowl and other game and fishing shall not be prohibited or otherwise restricted by the United States government or any of its designated agencies in control of said project, and to authorize the appropriate state boards, commissions, departments and the governing bodies of counties, cities, towns and villages and especially the department of transportation to cooperate in the planning and development of all national parkways that may be proposed for development in Wisconsin, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop such national parkways. Whenever authority shall exist for the planning and development of any national parkway, of which any portion shall be located in this state, it shall be the duty of the department of transportation to make such investigations and studies in cooperation with the appropriate federal agency, and such

state boards, commissions and departments as shall have an interest in such parkway development, to the extent that shall be desirable and necessary in order to provide that the state shall secure all advantages that may accrue through such parkway development and that the interests of the counties, cities, villages and towns along the route shall be conserved.

(2) **DEFINITIONS.** For the purposes of this section, all terms applying to any parkway, such as "secretary", "parkway", "scenic landscape", "slightly or safety easement", "access", "parkway road", "parkway development", "national parkway", "frontage", and other or similar terms, which are defined in any act of the United States Congress applicable to such national parkway, shall have the meanings set forth in such act. The term "national parkway" as used in this section shall mean and include the Great River Road and appurtenances thereto, as provided in section 14 of P.L. 83-350, or any other parkway or road in Wisconsin projected in general accordance with the recommended plan set forth in the joint report submitted to the congress November 28, 1951, by the secretaries of commerce and interior pursuant to the act of August 24, 1949 (P.L. 81-262) to the end that the department shall have authority to act with reference to them as provided by this section.

(3) **DEPARTMENT SHALL MAKE INVESTIGATIONS.** The department shall have full authority to make such investigations, surveys, studies and plans in connection with any proposed national parkway or parkway development as it shall deem necessary or desirable in order to determine if the proposed development, under the terms of the act of the United States Congress applicable to such parkway or any regulations under such act, are advantageous to the state. Such parkway development may be any portion of the proposed parkway, which it may be proposed to construct as a project under such act. The department may hold such hearings in connection with such investigations as it deems necessary or desirable, and shall give notice of such hearings by publication of a class 2 notice, under ch. 985, in the area affected.

(4) **FINDING AND DETERMINATION.** When the department has completed its investigations with respect to any proposed national parkway development, it shall make its findings and determination with respect to such proposed development. Such finding and determination shall state whether or not such proposed national parkway development is deemed advantageous to the state, shall include such information with respect to the development as shall be necessary to state its character and extent, and shall estimate the cost thereof and separately, the amount and character of lands necessary to be acquired in fee simple and in easements, with their cost, and needed to carry out the development.

(5) **PARKWAY TO BE STATE TRUNK HIGHWAY.** If the department, after such investigations and studies, shall find that the proposed parkway development is advantageous to the state, it shall have full authority to perform, on behalf of the state, each and every duty required of the state by the act of the U.S. congress applicable to such parkway development, in order to secure the proposed development project for the state. For the purposes of such development project, the parkway shall be a portion of the state trunk highway system.

(6) **RIGHT OF WAY AND EASEMENTS.** All lands for right of way to be acquired in fee simple and all easements necessary to be acquired for the purposes of the proposed national parkway development shall be acquired by the department in the name of the state, as may be required by the act of the U.S. congress applicable thereto. Any lands owned by the state or by any county, city, village or town, may be conveyed to the United States for the purposes of the parkway in the manner provided by law. The department may acquire such

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lands by gift, purchase agreement, or by exercising the right of eminent domain in any manner that may be provided by law for the acquirement of lands for public purposes. The department may convey such lands to the U.S. government or any of its agencies, as may be required by the act of the U.S. congress applicable to such national parkway.

(7) **LIBERAL CONSTRUCTION.** All powers granted in this section shall be liberally construed in favor of the department and any proposed national parkway development projects.

History: 1973 c. 333 s. 201w; 1977 c. 29 ss. 939, 1654 (8) (a), (c), 1656 (43); 1979 c. 32; 1989 a. 359.

84.11 Local bridge construction and reconstruction. (1)

DEFINITIONS. In this section:

(a) "Construction" includes reconstruction.

(b) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways.

(1g) **ADMINISTRATION.** The department shall administer the local bridge construction program and shall have all powers necessary and convenient to implement this section.

(1m) **ELIGIBILITY AND PROJECT EXTENT.** Local bridges are eligible for construction under this section. Projects under this section include all approaches and embankments, acquisition of lands necessary for right-of-way or other purposes, and all other necessary appurtenances.

(1r) **RULES.** The department shall promulgate rules to implement this section. The rules shall include criteria for selecting and evaluating projects which are eligible for construction under this section.

(2) **INITIATION OF PROCEEDINGS.** Proceedings for the construction of a bridge project under sub. (1m) may be initiated by a petition filed with the department. The petition shall state that the petitioner desires such construction, and the approximate location thereof, and that, in the opinion of petitioner, the construction is necessary and is a bridge project eligible for construction under this section. The petition may be filed by any county, city, village or town. The petition shall be duly adopted by the governing body of the county, city, village or town, and a certified copy of the adopted petition shall be filed with the department.

(3) **HEARING.** Within 60 days of the receipt of a petition under sub. (2), the department shall fix a time and place for a hearing and give notice of the hearing by publication of a class 2 notice, under ch. 985, in the vicinity of the proposed bridge project. Notice shall also be given by registered letter addressed to the clerks of the counties, cities, villages and towns in which any part of the bridge project will be located. The notice shall also be given to the secretary of natural resources either by registered mail or personally. The hearing may be held in any county, city, village or town in which any part of the bridge project will be located.

(4) **FINDING, DETERMINATION AND ORDER.** After such hearing the department shall make such investigation as it considers necessary in order to make a decision in the matter. If the department finds that the construction is necessary it shall determine the location of the project and whether the project is eligible for construction under this section. The department shall also determine the character and kind of bridge most suitable for such location and estimate separately the cost of the bridge portion and the entire project. The department shall make its finding, determination and order, in writing, and file a certified copy thereof with the clerk of each county, city, village and town in which any portion of the bridge project will be located and also with the secretary of state and the state treasurer. The determination of the location of the project made by the department and set forth in its finding, determination and order, shall be conclusive as

to such location and shall constitute full authority for laying out new streets or highways or for any relocations of highways made necessary for the construction of the project and for acquirement of any lands necessary for such streets or highways, relocation or construction. The estimate of cost made by the department shall be conclusive insofar as cost may determine eligibility of construction under this section.

(5) **APPORTIONMENT OF COST TO JUNE 30, 1993.** The state shall pay 75% of the cost of projects constructed under sub. (1m), the county or counties in which the bridge project is located shall pay 12.5%, and the one or more cities, villages and towns in which any part of the bridge project is located shall pay 12.5%, except that to the extent discretionary federal aid for highways allocated to Wisconsin is used to finance any portion of the cost of the project, the portion of the cost to be borne by the state and any county, city, village or town, respectively, shall be proportionately reduced. The portion to be paid by the counties shall be borne equally by the counties in which the bridge project is located, except that no bridge project shall be considered as located within a county unless an entrance to the bridge proper is wholly or partly within the limits of that county. If a bridge project wholly within one county is located in more than one city, village or town, their respective portions of the cost shall be in proportion to their respective assessed valuations as last equalized by the county board prior to the date of the department's finding, determination and order. If such cities, villages or towns are located in more than one county, the portion of the cost paid by all cities, villages and towns shall first be apportioned equally according to the number of counties, and then to the cities, villages and towns in each county in proportion to their respective assessed valuations as provided in this subsection. This subsection does not apply after June 30, 1993.

(5m) **APPORTIONMENT OF COST AFTER JUNE 30, 1993.** The state shall pay one-third of the cost of projects constructed under sub. (1m), the county or counties in which the bridge project is located shall pay one-third, and the one or more cities, villages and towns in which any part of the bridge project is located shall pay one-third, except that to the extent discretionary federal aid for highways allocated to Wisconsin is used to finance any portion of the cost of the project, the portion of the cost to be borne by the state and any county, city, village or town, respectively, shall be proportionately reduced. The portion to be paid by the counties shall be borne equally by the counties in which the bridge project is located, except that no bridge project shall be considered as located within a county unless an entrance to the bridge proper is wholly or partly within the limits of that county. If a bridge project wholly within one county is located in more than one city, village or town, their respective portions of the cost shall be in proportion to their respective assessed valuations as last equalized by the county board prior to the date of the department's finding, determination and order. If such cities, villages or towns are located in more than one county, the portion of the cost paid by all cities, villages and towns shall first be apportioned equally according to the number of counties, and then to the cities, villages and towns in each county in proportion to their respective assessed valuations as provided in this subsection. This subsection applies after June 30, 1993.

(6) **PROVISION OF PORTIONS OF COSTS BY LOCAL UNITS.** If the department makes a finding and determination favorable to the construction of any bridge project under this section, it shall issue an order to proceed with the project according to the priorities for projects established under sub. (1r). The governing body of each county, city, village and town re-

quired by the order to pay a portion of the cost of the project shall at its next regular or special meeting determine the method and initiate proceedings to provide such portion. Within 5 days after the adjournment of such meeting the governing body of any such city, village or town shall cause its clerk to certify the action of such governing body to the county clerk and the department. Within 5 days after the adjournment of such meeting of the county board the county clerk shall certify the action of the county board to the department. The governing body of any such county, city, village or town, in addition to the portion which it is by such order required to pay, and the governing body of any other county, city, village or town which will be especially benefited by the construction of such bridge may provide all or part of the portion which any county, city, village or town is by such order required to pay or which the state is required to pay.

(6a) COUNTY BOARD ACTION. If any city, village or town which is required by the order of the department to pay a portion of the cost of a bridge project under sub. (1m) fails to comply with sub. (6) and provide the portion of the cost which it is required to pay, or if the city, village or town does not hold a regular or special meeting within 30 days after the date of the department's finding, determination and order, the county board of the county in which the city, village or town is located may take action to provide such portion, and to assess all or part thereof against the city, village or town as a special tax, in one or more instalments as the county board determines. The county clerk shall certify the tax or each instalment of the tax to the clerk of the city, village or town, who shall place it in the next tax roll; and it shall be levied, collected and paid into the county treasury as are other county taxes.

(7) EXECUTION AND CONTROL OF WORK TO JUNE 30, 1993. Subject to the control and supervision over the navigable waters of the state conferred by law upon the department of natural resources, and the control exercised by the United States, the construction under this section of any bridge project shall be wholly under the supervision and control of the department. The secretary shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town fails to pay the amount required of it as to any project under sub. (1m), or in the event the secretary determines that sufficient funds to pay the state's part of the cost of the bridge project are not available. All moneys provided by counties, cities, villages and towns shall be deposited in the state treasury, when required by the secretary, and paid out on order of the secretary. Any of such moneys deposited for a project eligible for construction under sub. (1m) which remain in the state treasury after the completion of the project shall be repaid to the respective counties, cities, villages and towns in such amounts as to result in the distribution provided in sub. (5). This subsection does not apply after June 30, 1993.

(7m) EXECUTION AND CONTROL OF WORK AFTER JUNE 30, 1993. Subject to the control and supervision over the navigable waters of the state conferred by law upon the department of natural resources, and the control exercised by the United States, the construction under this section of any bridge project shall be wholly under the supervision and control of the department. The secretary shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city,

village or town fails to pay the amount required of it as to any project under sub. (1m), or in the event the secretary determines that sufficient funds to pay the state's part of the cost of the bridge project are not available. All moneys provided by counties, cities, villages and towns shall be deposited in the state treasury, when required by the secretary, and paid out on order of the secretary. Any of such moneys deposited for a project eligible for construction under sub. (1m) which remain in the state treasury after the completion of the project shall be repaid to the respective counties, cities, villages and towns in such amounts as to result in the distribution provided in sub. (5m). This subsection applies after June 30, 1993.

(8) MAINTENANCE AND OPERATION. The county, city, village or town in which a bridge project is located is responsible for the maintenance and operation of a bridge constructed under this section. Except as provided in a jurisdictional transfer agreement under s. 84.16, this subsection does not apply to a bridge constructed under this section before August 9, 1989.

(9) EXCEPTIONS. Nothing in this section prevents construction of a local bridge under other applicable programs.

History: 1971 c. 323 s. 27; 1973 c. 336 s. 78; 1975 c. 49; 1977 c. 29 ss. 940, 1654 (8) (a); 1981 c. 346; 1983 a. 27; 1989 a. 31.

84.12 Interstate bridges. (1) ELIGIBILITY. All bridge projects which include bridges located over any state boundary waters shall be eligible to construction and reconstruction under this section, but such eligibility shall not require that any such project be constructed under this section exclusively or bar any eligible project from construction under any other provision of law that may be applicable. Projects shall include all approaches and embankments, all lands necessary for right of way or other purposes, and all other necessary appurtenances. Such bridge projects shall be classified as follows:

(a) Any bridge project not included in par. (b).

(b) Any bridge project so located as to form an interstate connection between the state trunk highway system of this state and the corresponding system of the adjoining state, and where such bridge and approach in the adjoining state is under the jurisdiction of the state highway department of the said state.

(2) INITIATION OF PROCEEDINGS. (a) *By county, city, village or town.* Proceedings under this section may be initiated by a petition filed with the department by any county, city, village or town in which a portion of the bridge project will be located. The petition shall state that the petitioner desires such construction and the approximate location thereof; and shall further state that, in the opinion of petitioner, such construction is necessary and is a bridge project eligible under this section. The petition shall be duly adopted by the governing body of the county, city, village or town and a certified copy of the petition, as adopted, shall be filed with the department.

(b) *By the department.* Proceedings under this section may also be initiated by the department on its own motion stating the approximate location of the construction and that it appears to be necessary and to be a bridge project eligible under this section.

(3) HEARING, INVESTIGATION AND NEGOTIATIONS. Within 60 days of the receipt of such a petition or on its own motion, the department shall fix a time and place for a hearing. The department shall give notice and hold the hearing in the manner provided by s. 84.11 (3). The department shall also give notice by registered letter addressed to the transportation department of the adjoining state and to the governing body of the county, and of the city, village or town of the adjoining state in which any portion of the bridge project will

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89-90 Wis. Stats. 1896

be located. The department may make such investigation as it deems necessary and conduct such negotiations with the transportation department and other authorities in the adjoining state as it deems advisable.

(4) FINDING, DETERMINATION AND ORDER. If the department finds that the construction is necessary, and that provision has been made or will be made by the adjoining state or its subdivisions to bear its or their portions of the cost of the project, the department, in cooperation with the state highway department of the adjoining state, shall determine the location thereof, the character and kind of bridge and other construction most suitable at such location, estimate the cost of the project, and determine the respective portions of the estimated cost to be paid by each state and its subdivisions. In the case of projects eligible to construction under sub. (1) (a) the department shall further determine the respective portions of the cost to be paid by this state and by its subdivisions which are required to pay portions of the cost. The department, after such hearing, investigation and negotiations, shall make its finding, determination and order in writing and file a certified copy thereof with the clerk of each county, city, village or town in this state in which any part of the bridge project will be located, with the secretary of state and the state treasurer and with the state highway department of the adjoining state. The determination of the location set forth in the finding, determination and order of the department shall be conclusive as to such location and shall constitute full authority for laying out new streets or highways or for any relocations of the highways made necessary for the construction of the project and for acquiring lands necessary for such streets or highways, relocation or construction.

(5) APPORTIONMENT OF COST. The portion of the cost of such project to be paid by this state and its subdivisions shall be borne as follows:

(a) The cost of projects eligible to construction under sub. (1) (a) to be borne by this state and its subdivisions shall be borne by the state and the counties, cities, villages and towns in which any part of the project in this state will be located in the manner and proportion provided by s. 84.11 (5) (a) and (am), 1987 stats.

(b) The cost of projects eligible to construction under sub. (1) (b), to be borne by this state and its subdivisions shall be borne by the state; provided that such cost may be shared in the manner and proportion provided in s. 84.11 (5) (b), 1987 stats., by the one or more counties, cities, villages and towns in which any part of the bridge project in this state will be located and by the application and matching of federal aid in the manner and proportion provided in s. 84.11 (5) (b), 1987 stats.

(6) PROVISION OF COSTS BY LOCAL UNITS. When the department has made and filed its finding, determination and order favorable to the construction of any bridge project under this section, the governing body of each county, city, village and town of this state required by the order to pay a portion of the cost, in the case of bridge projects eligible to construction under sub. (1) (a), shall take action at its next regular or special meeting to arrange to provide such portion. Within 5 days after the adjournment of such meeting the clerk of the governing body of the city, village or town shall certify the action of the governing body to the county clerk and the department. Within 5 days after the adjournment of such meeting of the county board the clerk shall certify the action of the county board to the department. In the case of projects eligible to construction under sub. (1) (b), when the department shall have made and filed its finding, determination and order favorable to such construction, the governing body of each county, city, village and town in which any part of the

bridge project in this state will be located shall take action at its next meeting to determine what amount, if any, shall be offered and paid toward such construction and to arrange to provide any amount so determined upon. Such action shall be certified to the department within 5 days after any such meeting.

(7) EXECUTION AND CONTROL OF WORK. Subject to the control and supervision over the navigable waters of the state conferred upon the department of natural resources, and the control exercised by the United States, the construction under this section of any bridge project shall be under the joint supervision and control of the department and of the transportation department of the other state concerned. If the transportation department of the 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 their proper officers. Control shall be exercised in the manner deemed most expedient by the secretary and such department or by the secretary and the officers of the subdivisions of the other state concerned in the construction. Contracts for the construction of said bridge projects may be made and executed by the secretary and the transportation department of the other state jointly, or jointly by the secretary and such subdivisions of the other state as may participate in the construction, or by appropriate agreement between the parties with respect to financing and control of the work, the authority of either state may contract for all or part of the construction. The secretary may suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town fails to pay the amount required of it as to any project eligible to construction under sub. (1) (a) or offered by it as to any project eligible to construction under sub. (1) (b), or in the event the secretary determines that sufficient funds to pay the state's part of the cost of the bridge project are not available. All moneys available from this state, or its subdivisions, shall be deposited in the state treasury when required by the secretary and shall be paid out only upon the order of the secretary. Moneys deposited by such subdivisions which remain in the state treasury after the completion of such project shall be repaid to the respective subdivisions in the proportion paid in.

(8) CONNECTION WITH STATE TRUNK HIGHWAY SYSTEM. To carry out this section the department may add to the state trunk highway system any bridge constructed or purchased under 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 limitations on the total mileage included in the state trunk highway system shall not apply.

(9) CONSTRUCTION OF INTERSTATE TOLL FACILITIES. Adjoining states may construct toll facilities, including bridges and land crossings over any state boundary waters, under the following terms and conditions:

(a) The bridge construction authority or the state highway authority of the adjoining state shall petition the secretary that such toll bridge construction is necessary because the petitioning state lacks funds sufficient to join with this state in equally sharing the costs of a free bridge. The secretary shall thereupon cause a thorough investigation of the matter to be made including without limitation by enumeration: the suitability and advisability of any proposed location, the financial limitations of the adjoining state and the economic effect of the proposed bridge upon the economy and welfare of this state. The department shall hold a public hearing and give

notice thereof by registered letter addressed to the transportation department of the adjoining state and to the governing body of the county, city, village or town of this state and the adjoining state in which any part of the bridge project is proposed to be located. The department shall also publish a class 3 notice, under ch. 985, in the official state newspaper of this state.

(b) The department shall within 60 days after the conclusion of such hearing submit a full report of findings and conclusions to the secretary of transportation and the governor. Such findings and conclusions may be based on evidence secured by the department in any form and is not limited to facts determined from evidence at the public hearing mentioned above. If it is determined that it is in the best interest of the economy and welfare of the state that such bridge be constructed at a location agreeable to the department and the highway department of the adjoining state, and such determination is approved by the secretary of transportation and the governor, the following is authorized:

1. The department is authorized to acquire all necessary lands within this state and build, construct and maintain necessary approaches to the bridge within this state;

2. The department is authorized to make contributions or commitments out of funds available for highway construction in Wisconsin. Contributions shall not exceed 50% of the total costs of the toll facility, but shall only be made if the findings of the department, as approved by the secretary of transportation and the governor that such contributions are for the best interests of the economy and welfare of this state.

3. The toll bridge shall be exempt from all taxes assessed by this state.

4. All findings and conclusions approved by the secretary of transportation and governor shall be published by a class 1 notice, under ch. 985, in the official state newspaper. The findings and conclusions shall not be subject to administrative review under ch. 227 and shall only be set aside if it is determined by a court of competent jurisdiction that there is not substantial evidence to sustain the decision of the department as approved by the secretary of transportation and the governor. Action to contest the decision shall be commenced no later than 30 days after the date of publication thereof.

History: 1973 c. 336 s. 78; 1977 c. 29 ss. 941, 1654 (8) (a), 1656 (43); 1989 a. 31.

84.13 Purchase of toll bridges. Any toll bridge eligible to be reconstructed as a free bridge under s. 84.11 or 84.12, 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 department 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:

(1) The department may petition the office of the commissioner of transportation to fix a time and place for public hearing in the matter of just compensation to be paid for the taking of the toll bridge, as provided by s. 197.05, and the subsequent procedure, so far as applicable, shall be as provided by ss. 197.05 to 197.09. "Municipality" as used in such sections means the department in all proceedings brought under this section, and "commission" means the office of the commissioner of transportation. Any toll bridge so purchased or acquired may be later reconstructed under this chapter in the same manner as other free bridges may be reconstructed.

(2) The department may enter into and consummate agreements with the United States for the acquisition by the United States and subsequent transfer to this state of such toll

bridge as provided by 5 Stat. 4071, 23 USC 129, as subsequently amended or supplemented from time to time. Any toll bridge so acquired may be later reconstructed under this chapter in the same manner as other free bridges may be reconstructed.

History: 1977 c. 29 ss. 942, 1654 (8) (b); 1981 c. 347 s. 80 (2).

84.135 Purchase of interstate toll bridges. (1) The legislature intends by the enactment of this section to provide a means for the ultimate conversion of interstate toll bridges located in part in this state to free bridges. Where any portion of an interstate toll bridge on a route of a state trunk highway is located outside this state, it may be acquired pursuant to the provisions of this section in lieu of the methods of acquisition provided in s. 84.13.

(2) The department, on its own initiative or upon petition adopted by a majority vote of the governing body of a county, town, city or village, may acquire such bridge by purchase or by exercising the right of eminent domain in such court as may have jurisdiction thereof and in accordance with the laws applicable thereto; or, with the consent and approval of the department, and on such terms and conditions as it may prescribe, such right of eminent domain may be exercised by the county, city or other political subdivision in which any part of such interstate toll bridge is located and revenue bonds for the acquisition of such bridge out of tolls may be issued in accordance with the statutes relating to municipal borrowing insofar as the same may be applicable. In acquiring such bridge the department, county, town, city or village may proceed as provided by ch. 32.

(3) Such bridge may be acquired by the department subject to an agreement whereby all or part of the acquisition cost will be advanced to or later paid to the state by a county, town, city or village in which any part of such bridge is located, from the proceeds of revenue bonds or other source, and the department will convey the bridge to such political subdivision. Pursuant to such agreement, such bridge shall be maintained and operated by such political subdivision from the date it is acquired by the state.

(4) If, under the provisions of this section, any bridge is acquired by, or conveyed by the department to a county, town, city or village, such political subdivision shall maintain and operate the same under the direction of the department, charging such tolls as may be fixed by the department. Such tolls shall be used for the maintenance, repair and operation of such bridge and to repay, or provide a sinking fund sufficient to amortize, within a period of not to exceed 20 years from the date of acquisition thereof, the acquisition cost of such bridge, including reasonable interest and financing costs, paid by such political subdivision. After such cost has been repaid, or a sinking fund sufficient for such amortization has been so provided, title to such bridge shall revert to the state and the bridge shall thereafter be maintained and operated by the department free of tolls, as part of the state trunk highway system.

(5) Any acquisition costs incurred by the state pursuant to this section shall be paid from any funds available for the improvement of state trunk highways and connecting highways.

(6) Any such bridge may be acquired, operated, maintained and reconstructed in cooperation with an adjoining state or municipality thereof.

History: 1977 c. 29 s. 1654 (3), (8) (a).

84.14 Bridge construction. (1) ORDER OF CONSTRUCTION. The department shall hold hearings on proposed bridge projects under ss. 84.11 and 84.12 in the order in which they are initiated. The secretary shall allot aid for the construc-

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tion, reconstruction or purchase of bridges and the department may undertake such projects in the order the secretary deems advisable.

(3) **PARTICIPATION IN TOWN BRIDGE CONSTRUCTION.** Whenever any municipality has participated in the cost of the construction, reconstruction, or purchase of a bridge under s. 84.11 or 84.12, the property in such municipality shall thereafter be subject to taxation by the county for the construction and repair of bridges within the county under s. 81.38.

(4) **LEGALITY OF PROCEEDINGS HERETOFORE HAD.** All bridges constructed, reconstructed or purchased pursuant to proceedings initiated by petitions filed with the highway commission prior to September 25, 1929, or by the highway commission on its own motion, under s. 87.02, 1927 stats., s. 87.03, 1927 stats., s. 87.04, 1927 stats., s. 87.05, 1927 stats., or s. 87.055, 1927 stats., as those sections existed prior to September 25, 1929, shall be construed to have been constructed, reconstructed or purchased under s. 84.11 or 84.12, and shall be operated and maintained as provided by s. 84.15.

History: 1977 c. 29; 1983 a. 36; 1987 a. 403 s. 256.

84.15 Bridges. (1) MAINTENANCE AND OPERATION OF INTRASTATE BRIDGES. Except as provided in a jurisdictional transfer agreement under s. 84.16, all matters relating to the maintenance and operation of bridges constructed, reconstructed or purchased under s. 84.11 before August 9, 1989, shall be under the jurisdiction and complete control of the department and the cost of such maintenance and operation thereof shall be the direct obligation of the state. Such portion of the approaches as may be determined by the department shall be considered a part of such bridge for maintenance and operation purposes. The portion of the approaches or highway not considered a part of such bridge for maintenance and operation purposes as determined by the department shall be maintained by the town, city or village in which it lies but this provision shall not diminish or otherwise affect the duty of the county with respect to the county trunk highways or the state with respect to the state trunk highways. Authority is given the department 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 and operation costs.

(2) **ACROSS BAY OF GREAT LAKES.** In the case of any intrastate bridge built across a bay of any of the Great Lakes, the maintenance under sub. (1) shall be deemed to include repair or reconstruction necessitated by any accidental damage done to such bridge by vessels using such bay, or some other catastrophe, in which event the department may use for such repair or reconstruction moneys available for the construction of such bridges.

(3) **INTERSTATE BRIDGES, WISCONSIN'S SHARE.** The provisions of this section shall also apply to all interstate bridges constructed, reconstructed or purchased under s. 84.12; and the term "bridge" as used in sub. (1) means Wisconsin's portion of such interstate bridges.

History: 1977 c. 29 s. 1654 (8) (a); 1989 a. 31.

84.16 Jurisdictional transfers of bridges. (1) The department may transfer its jurisdiction over bridges constructed, reconstructed or purchased under s. 84.11 before August 9, 1989, or under s. 84.12 to any local unit of government by entering into a jurisdictional transfer agreement with the local unit of government. Deletion of any part of the state trunk highway system under this section may be made without regard to any mileage limitation or procedural requirement imposed under s. 84.02 or chapter 518, laws of 1947.

(2) The jurisdictional transfer agreement must be approved by the department and the governing body of any municipality or county board involved before the transfer of any bridge becomes effective.

(3) A jurisdictional transfer agreement may contain any terms and conditions that the department and the local unit of government may deem necessary regarding maintenance or rehabilitation of any bridge transferred.

History: 1989 a. 31.

84.17 Bridge inspection and inventory. (1) In this section:

(a) "Highway" means all public ways and thoroughfares specified in s. 340.01 (22).

(b) "Highway bridge" means a bridge on a highway in this state which crosses waterways, other topographical barriers, other highways or railroads.

(c) "Rehabilitating" means making major repairs necessary to restore the structural integrity of a highway bridge or making repairs necessary to correct a major safety defect.

(2) The department shall conduct an inspection and inventory of all highway bridges on the highways in this state. The inspection and inventory of local highway bridges shall be done in consultation with local authorities. The department shall complete the inspection and inventory required under this subsection prior to July 1, 1979, if it is practicable to do so, and in any case prior to December 31, 1980, and shall submit the inspection and inventory report to the federal government in accordance with the provisions of 23 USC 144. The inspection and inventory shall include all highway bridges on any highway in the state. The department shall classify each highway bridge according to its safety, serviceability and necessity for public use and shall determine the cost of rehabilitating the highway bridge or of replacing the highway bridge with a comparable facility. The department shall adopt standards for the highway bridge inspection and inventory program under this subsection.

(3) After the initial inspection and inventory under sub. (2) is completed, all highway bridges in the state shall be inspected on a continuing basis as determined by the department. The department shall establish standards for the continuing inspection program. The responsibility for the continuing inspection program shall be as follows:

(a) The department shall be responsible for inspecting the highway bridges on the state trunk highway system.

(b) Local authorities and other authorities shall be responsible for inspecting highway bridges on highways under their jurisdictions.

History: 1979 c. 7.

84.18 Local bridge program. (1) PURPOSE. The local bridge program is created to accelerate the reconstruction or rehabilitation of seriously deteriorating local bridges.

(2) **DEFINITIONS.** In this section:

(a) "Coordinating agency" means the county which coordinates the submission of applications from eligible applicants within the county to the department.

(b) "Eligible applicant" means county, city, village, town or combination thereof.

(c) "Entitlement" means the amount of aids a coordinating agency will be eligible to receive under this section as determined under sub. (5).

(d) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways.

(e) "Local bridge project" means a project for the design and construction or rehabilitation of a seriously deteriorating local bridge and minimum approaches.

(f) "Seriously deteriorating local bridge" means a local bridge exhibiting deficiencies that meet the criteria established by the department.

(3) **ADMINISTRATION.** The department shall administer a local bridge program which provides an entitlement of funds to the coordinating agency for the reconstruction or rehabilitation of seriously deteriorating local bridges. The department shall provide the same percentage of the cost of a local bridge project as the percent established under 23 USC 144 (f).

(4) **APPLICATIONS.** Any eligible applicant may apply to the coordinating agency for funds under this section. A separate application is required for each local bridge project. The application shall describe the specific local bridge project for which funds are to be used. The department shall prescribe the form, nature and extent of information to be contained in the application.

(5) **DETERMINATION OF ENTITLEMENT.** The department shall determine the entitlement to the coordinating agency based upon the ratio between the estimated cost of reconstructing or rehabilitating seriously deteriorating local bridges in that county and the estimated cost of reconstructing or rehabilitating the seriously deteriorating local bridges in the state which are eligible under this section, exclusive of any bridge that is programmed for construction under an order by the department under s. 84.11 (4). The estimated cost of reconstructing or rehabilitating the seriously deteriorating local bridges in the state and individual counties shall be based upon those bridges identified in the inventory of bridges made under s. 84.17.

(6) **EXECUTION AND CONTROL OF WORK.** Subject to s. 30.12 (4) and the control exercised by the United States, the construction under this section of any local bridge project shall be wholly under the supervision and control of the department. The secretary shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town fails to pay the amount required of it for any project eligible for construction under this section, or if the secretary determines that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys provided by counties, cities, villages and towns shall be deposited in the state treasury, when required by the secretary, and paid out on order of the secretary. Any of the moneys deposited for a project eligible for construction under this section which remain in the state treasury after the completion of the project shall be repaid to the respective county, city, village or town in proportion to the amount each deposited.

(7) **RULES.** The department shall adopt rules to implement this section.

(8) **EXCEPTIONS.** Nothing in this section prevents construction or rehabilitation projects under other bridge programs if applicable.

History: 1981 c. 20, 314; 1989 a. 31.

84.185 Transportation facilities economic assistance and development. (1) DEFINITIONS. In this section:

(a) "Business" has the meaning given in s. 560.60 (2).

(am) "Economic development project" means a business development that directly and significantly increases the number of jobs in this state.

(b) "Governing body" has the meaning specified in s. 560.60 (6).

(c) "Improvement" includes construction, reconstruction and the activities, operations and processes incidental to building, fabricating or bettering a transportation facility, but not maintaining or operating a transportation facility.

(ce) "Job" has the meaning specified in s. 560.60 (10).

(cm) "Political subdivision" has the meaning specified in s. 560.60 (13).

(d) "Transportation facility" means any of the following:

1. A highway as defined in s. 340.01 (22).
2. A runway, taxiway or apron of an airport as defined in s. 114.002 (7).

3. A harbor improvement as defined in s. 85.095 (1) (b).
4. Rail property consisting of an industrial lead, spur, team track property or trackside intermodal transfer facility.

(2) **APPROVAL OF IMPROVEMENTS.** (a) The secretary may approve the improvement of a transportation facility under this section if the improvement is a component of an economic development project.

(b) The secretary may approve an improvement under this section only after determining all of the following:

1. Whether the improvement is a justified transportation need. An improvement qualifies as a justified transportation need only when the secretary determines that the costs of the improvement are substantially balanced by significant transportation benefits resulting from the improvement.

2. The cost of the improvement.

3. The ratio of the cost of the improvement to the increase in the number of jobs in this state resulting directly from the improvement or economic development project.

4. The number of jobs which the improvement or economic development project will cause to be retained or increased in this state.

5. Whether the political subdivision will contribute, from funds not provided by this state, not less than 50% of the cost of the improvement.

6. The value of the expenditures required for local infrastructure relating to the improvement.

7. Whether the improvement is compatible and complementary to other transportation facilities and improvements in the political subdivision.

8. Whether the improvement serves a public purpose.

9. Whether the improvement is unlikely to be made without assistance under this section.

10. Whether the improvement will be located in an area of high unemployment or low average income.

11. Whether the improvement will contribute to the economic growth of this state and the well-being of the residents of this state.

12. Whether a business that would be helped by an improvement is financially sound.

14. Whether the improvement would have a significant negative impact on other businesses.

(4) **RULES.** The department shall promulgate rules establishing criteria for making determinations under this section. The rules shall include criteria to rank projects and make competitive grant selections.

(6m) **ADMINISTRATION.** From the appropriations under s. 20.395 (2) (iq), (iv) and (ix), upon the approval of the secretary under sub. (2), the department may make improvements to or provide other assistance for the improvement of a transportation facility under sub. (1) (d) 1 to 3 or provide other assistance for the improvement of a transportation facility under sub. (1) (d) 4. The state share of costs for the improvement of a transportation facility may not exceed 50% of the cost of the improvement.

(7m) **AGREEMENTS.** The department may enter into agreements with a governing body or private source, or both,

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respecting the financing of an improvement under this section.

(8m) EXCEPTION. Nothing in this section prevents the improvement of a transportation facility under other applicable provisions.

(9) EXCLUSION OF PRIVATE ROADS. No private road or driveway, as defined in s. 340.01 (46), may be improved under this section.

History: 1987 a. 27; 1989 a. 31.

84.20 State repair and maintenance of highways and streets. Damage to any county trunk or town highway or city or village street caused by reason of its use as a detour designated by the department or for hauling materials incident to the maintenance, repair or construction by the department of any state trunk highway or street over which a state trunk highway is routed, shall be repaired by the department. Such highway or street shall also be maintained by the department during such use. The cost of such repairs and maintenance shall be paid from funds appropriated and available to the department for the maintenance and improvement of state trunk highways and connecting highways under s. 20.395 (3).

History: 1973 c. 333 s. 201w; 1977 c. 29 ss. 1654 (3), (6) (b), (8) (a), 1656 (43).

84.25 Controlled-access highways. (1) AUTHORITY OF DEPARTMENT; PROCEDURE. The legislature declares that the effective control of traffic entering upon or leaving intensively traveled highways is necessary in the interest of public safety, convenience and the general welfare. The department is authorized to designate as controlled-access highways the rural portions of the state trunk system on which, after traffic engineering surveys, investigations and studies, it shall find, determine and declare that the average traffic potential is in excess of 2,000 vehicles per 24-hour day. Such designation of a portion of any state trunk highway in any county as a controlled-access highway shall not be effected until after a public hearing in the matter has been held in the county courthouse or other convenient public place within the county following notice by publication of a class 3 notice, under ch. 985, in a newspaper published in the county. If the department shall then find that the average traffic potential is as provided by this subsection, and that the designation of the highway as a controlled-access highway is necessary in the interest of public safety, convenience and the general welfare, it shall make its finding, determination and declaration to that effect, specifying the character of the controls to be exercised. Copies of the finding, determination and declaration shall be recorded with the register of deeds, and filed with the county clerk, and published as a class 1 notice, under ch. 985, in the newspaper in which the notice of hearing was published, and the order shall be effective on such publication. Not more than 1,500 miles of highway shall be designated as controlled-access highways under authority of this section.

(2) CONTROLLED-ACCESS HIGHWAY DEFINED. For the purposes of this section, a controlled-access highway is a highway on which the traffic is such that the department has found, determined and declared it to be necessary, in the interest of the public safety, convenience and the general welfare to prohibit entrance upon and departure from the highway or street except at places specially designated and provided for such purposes, and to exercise special controls over traffic on such highway or street.

(3) CONSTRUCTION; OTHER POWERS OF DEPARTMENT. In order to provide for the public safety, convenience and the general welfare, the department may use an existing highway

or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the department deems necessary or desirable. The department may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbs, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

(4) CONNECTIONS BY OTHER HIGHWAYS. After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

(5) USE OF HIGHWAY. No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the department.

(6) ABUTTING OWNERS. After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

(7) SPECIAL CROSSING PERMITS. Whenever property held under one ownership is severed by a controlled-access highway, the department may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

(8) RIGHT OF WAY. Any lands or other private or public property or interest in such property needed to carry out the purposes of this section may be acquired by the department in the manner provided in s. 84.09.

(9) COOPERATIVE AGREEMENTS. To facilitate the purposes of this section, the department and the governing bodies of a city, county, town or village are authorized to enter into agreements with each other or with the federal government respecting the financing, planning, establishment, improvement, maintenance, use, regulation or vacation of controlled-access highways or other public ways in their respective jurisdictions.

(10) LOCAL SERVICE ROADS. In connection with the development of any controlled-access highway, the department and county, city, town or village highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, or vacate local service roads and streets or to designate as local service roads and streets any existing roads or streets, and to exercise jurisdiction over local service roads in the same manner as is authorized over controlled-access highways under the provisions of this section, if, in their opinion, such local service roads or streets shall serve the necessary purposes.

(11) COMMERCIAL ENTERPRISES. No commercial enterprise, except a vending facility which is licensed by the department of health and social services and operated by blind or visually

impaired persons, shall be authorized or conducted within or on property acquired for or designated as a controlled-access highway.

(12) UNLAWFUL USE OF HIGHWAY; PENALTIES. It shall be unlawful for any person to drive any vehicle into or from a controlled-access highway except through an opening provided for that purpose. Any person who violates this provision shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(13) VACATING. A controlled-access highway shall remain such until vacated by order of the department. The discontinuance of all state trunk highway routings over a highway established as a controlled-access highway shall summarily vacate the controlled-access status of such section of highway only after a traffic engineer survey investigation and study finds, determines and declares that the vacating of the controlled-access status is in the public interest. Such vacating shall not be effected until after a public hearing is held in the county courthouse or other convenient place within the county, following notice by publication under sub. (1). The department shall record formal notice of any vacation of a controlled-access highway with the register of deeds of the county wherein such highway lies. When the county board, or county boards in the case of boundary line roads, by resolution enacted and filed with the department prior to the vacating of a controlled-access by the department, requests that the controlled-access highway be continued pursuant to s. 83.027, then and thereafter all authority established by s. 83.027 shall be in effect with respect to such controlled-access highway, except that the county need not comply with s. 83.027 (1), and the department shall be relieved of any further authority for such controlled-access highway.

History: 1977 c. 29 s. 1654 (8) (a); 1987 a. 258.

This section does not mean that once access is granted it may not be taken away. Estoppel is seldom applied against a government and would not be justified under the facts: *Surety Savings & Loan Assn. v. State*, 54 W (2d) 438, 195 NW (2d) 464.

84.27 Institution roads. The department may administer a program to improve highways forming convenient connections between the university of Wisconsin system and state charitable or penal institutions, and the state trunk highway system, or to construct roadways under or over state trunk highways that pass through the grounds thereof, or to construct and maintain all drives and roadways on such grounds or the grounds of the state capitol. Within the limitations and for the purposes of this section, work may be performed by or under the supervision or authority of the department, upon the request for such work filed by the board of regents of the university of Wisconsin system or the state boards, commissions, departments or officers, respectively, as to such work in connection with the institution controlled by them. The cost of any work under this section shall be the responsibility of the board of regents of the university of Wisconsin system or the state boards, commissions, departments or officers involved.

History: 1971 c. 100 s. 23; 1973 c. 243 s. 82; 1977 c. 29 ss. 1654 (8) (b), 1656 (43); 1979 c. 34 s. 2102 (52) (a); 1981 c. 20.

84.28 State park, forest and riverway roads. (1) Moneys from the appropriation under s. 20.370 (1) (mr) may be expended for the renovation, marking and maintenance of a town or county highway located within the boundaries of any state park, state forest or other property under the jurisdiction of the department of natural resources. Moneys from the appropriation under s. 20.370 (1) (mr) may be expended for the renovation, marking and maintenance of a town or county highway located in the lower Wisconsin state riverway as defined in s. 30.40 (15). Outside the lower Wisconsin state

riverway as defined in s. 30.40 (15), or outside the boundaries of these parks, forests or property, moneys from the appropriation under s. 20.370 (1) (mr) may be expended for the renovation, marking and maintenance of roads which the department of natural resources certifies are utilized by a substantial number of visitors to state parks, state forests or other property under the jurisdiction of the department of natural resources. The department of natural resources shall authorize expenditures under this subsection. The department of natural resources shall rank projects eligible for assistance under a priority system and funding may be restricted to those projects with highest priority.

(2) The department may administer a program for the construction, maintenance and marking of roads, including fire roads, service areas, trailer or vehicle parking stalls or parking areas and other facilities consistent with highway construction and for the marking of scenic routes in the state parks, state forests, the lower Wisconsin state riverway as defined under s. 30.40 (15), state fish hatcheries, other public used areas under the jurisdiction of the department of natural resources and other public lands as defined in ch. 24, for highways or fire roads leading from the most convenient state trunk highways to such lands, and for the relocation and construction of state trunk highways in or near state parks when required in the interests of public safety. Within the limitations and for the purposes of this section, work may be performed by or under the supervision or authority or with the approval of the department, upon the request for such work filed by the department of natural resources as to the lower Wisconsin state riverway, as defined in s. 30.40 (15), or as to state park or forest lands, or by the board of commissioners of the public lands as to other classes of public lands. Outside the lower Wisconsin state riverway, as defined in s. 30.40 (15), and outside the limits of the park, state forest and public land areas, direct connections to the most convenient state trunk highway may be built or maintained under this section. Roads in unincorporated areas within 5 miles of the boundaries of the Horicon national wildlife refuge or the Horicon marsh wildlife area may be built or maintained under this section upon request of the town board, if the department of transportation certifies that such roads are or will be used by a substantial number of visitors to such area. Costs incurred under this section shall be the responsibility of the department of natural resources, commissioners of public lands or town board, as appropriate.

History: 1971 c. 164; 1973 c. 243 s. 82; 1975 c. 181; 1977 c. 29 ss. 1654 (8) (a), 1656 (43); 1979 c. 34 s. 2102 (52) (a); 1981 c. 20; 1983 a. 27; 1989 a. 31.

84.29 National system of interstate highways. (1) DEPARTMENT OF TRANSPORTATION TO COOPERATE WITH FEDERAL AGENCIES. The legislature of the state of Wisconsin hereby declares that the intent of this section is to assent to acts of the United States Congress heretofore and hereafter enacted, authorizing development of the national system of interstate highways located wholly or partly within the state of Wisconsin to the full extent that it is necessary or desirable to secure any benefits under such acts and to authorize the appropriate state boards, commissions, departments, and the governing bodies of counties, cities, towns and villages, and especially the department of transportation, to cooperate in the planning, development and construction of the national system of interstate highways that may be proposed for development in Wisconsin, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop or aid in the development of such system. Whenever authority shall exist for the planning and development of a national system of interstate highways of which any portion shall be located in this state, it

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shall be the duty of the department of transportation to make such investigations and studies in cooperation with the appropriate federal agency, and such state boards, commissions, departments and municipalities as shall have interest in such system development, to the extent that shall be desirable and necessary to provide that the state shall secure all advantages that may accrue through such interstate system development and that the interest of municipalities along such system shall be conserved.

(2) ROUTES OF INTERSTATE SYSTEM, STATE TRUNK HIGHWAYS. Upon finding by the department that the development of any proposed highway as a route of the national system of interstate highways, hereinafter designated the interstate system or interstate highways, or any portion thereof, including the laying out, construction, maintenance and operation of any part thereof as a freeway or expressway, is in the promotion of the public and social welfare of the state and for the benefit of public travel, the department is empowered and it shall have full authority to lay out, construct, operate and maintain such highway as a part of the state trunk highway system. Except as otherwise provided by this section, all provisions of law relative to the acquisition of land for highway purposes and for surveys, plans, establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving, maintaining and financing of other state trunk highways shall apply to the interstate highways undertaken in this state.

(3) CHANGES IN EXISTING HIGHWAYS AND UTILITIES. It is recognized that in the construction of interstate highways in this state to modern standard and design, mutually agreed upon by the department and the federal agency, to promote the public and social welfare, and benefit public travel of the state, and meet the needs of national defense, it will become necessary for the department to make or cause to be made changes in the location, lines and grades of existing public highways, railroads and public utility transmission lines and facilities.

(4) LAYING NEW HIGHWAYS FOR INTERSTATE SYSTEM. Upon finding and determination by the department that it is not in the public interest and that it is impractical to establish the route of the interstate system on or along an existing state trunk highway, the department is authorized and empowered to lay out and establish a new and additional state trunk highway for the interstate highway. As an interstate highway may be established, laid out and constructed on a new location as an expressway or freeway which is not on and along an existing public highway, no right of access to the highway shall accrue to or vest in any abutting property owner. As an interstate highway may be established, laid out and constructed as an expressway or freeway on and along an existing public highway, reasonable provision for public highway traffic service or access to abutting property shall be provided by means of frontage roads as a part of the interstate highway development, or the right of access to or crossing of the public highway shall be acquired on behalf of the state as a part of the interstate highway improvement project. The occupation or use of any part of an existing public highway is authorized for the construction of the interstate system. The action of the department relative to establishment, layout, location or relocation of any part of the interstate system shall be conclusive.

(5) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the furtherance of the public interest and general welfare of the state and the traveling public in the development of the interstate system, the department is authorized and empowered to construct grade separations at intersections of any interstate highway with other public highways

and railroads and to change and adjust the lines of public highways and if necessary combine or relocate the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations and alterations of local roads as so determined by the department shall be a part of the construction of and financed as a part of the cost of the interstate highway. The department may by agreement with a county or municipality or by order summarily vacate or relocate any town, county, city or village highway as part of the construction of an interstate highway but shall pay any damage legally payable under existing law to any property owner directly injured by the vacation or relocation of such street or highway. The department is empowered to enter into agreement with the unit of government having jurisdiction over the local highway relocated or altered as a part of the interstate highway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocated or altered highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated or altered, except any parts thereof which the department determines to be useful in the operation of or for access to the interstate highway, which parts shall be maintained by the state as a part of the interstate highway. The action by the department relative to vacation and relocation or combining a public highway under jurisdiction of any county, town, city or village shall be conclusive.

(6) POWER TO RELOCATE AND CLOSE HIGHWAYS. (a) Without limiting the authority extended by other provisions of this section, the department is authorized on behalf of the state, to enter into an agreement with the governing body of any county or municipality having jurisdiction over any highway and, as provided in such agreement, to relocate any such highway or to close the same at or near the point of intersection with any interstate highway, or to make provision for carrying such highway over or under the interstate highway, and may do any and all things on such highway as may be necessary to lay out, acquire rights of way for, and build the same.

(b) No highway of any kind shall be opened into or connected with the interstate highway by a municipality unless the department approves the same and fixes the terms and conditions on which such connection shall be made. The department may give or withhold its approval or fix such terms and conditions as it deems will best serve the public interest.

(7) POWERS GRANTED LIBERALLY CONSTRUED. All powers granted in this section shall be liberally construed in favor of the state in the furtherance of the expeditious and orderly construction of any interstate highway project.

(8) ESTABLISHING FREEWAY STATUS. After adoption of an order by the department laying out and establishing any portion of the interstate system as an expressway or freeway, the highway described in the order shall have the status of a freeway or expressway for all purposes of this section. Such order shall not affect private property rights of access to preexisting public highways, and any property rights taken shall be acquired in the manner provided by law. No previously existing public highway shall be converted into a freeway or expressway without acquiring by donation, purchase, or condemnation the right of access thereto of the owners of abutting lands.

History: 1977 c. 29 ss. 944, 1654 (8) (a), (c); 1977 c. 43, 203.

84.295 Freeways and expressways. (1) LEGISLATIVE INTENT. In the interest of promoting public safety and convenience and the general welfare, the legislature of the state of Wisconsin declares that the intent of this section is to provide

for the development of a well balanced and integrated state trunk highway system further modernized and improved to adequate standards to provide needed increased traffic capacity, relieve the congestion on overtaxed existing highways, and otherwise more adequately serve the present and anticipated future needs of highway travel, and toward that end to prevent conflicting costly economic development on areas of lands to be available as right of way when needed for future highway construction.

(2) INVESTIGATIONS, SURVEYS AND STUDIES. As a function in the improvement of state trunk highways and connecting highways the department is authorized to make investigations, surveys and studies of the present and anticipated needs for the improvement of desirable, probable additions to the state trunk highway system, and to otherwise carry out the expressed intent of this section.

(3) DESIGNATING FREEWAYS AND EXPRESSWAYS. Where the department finds that the volume and character of the traffic to be served thereby warrant the construction or the acquisition of right-of-way for the ultimate construction of a highway to accommodate 4 or more lanes for moving traffic and that such development is in the public interest, it may by order designate as freeways or expressways segments of state trunk highways having currently assignable traffic volumes in excess of 4,000 vehicles per day. The findings, determinations and orders of the department under this subsection shall be recorded. Except as otherwise provided by this section, all provisions of law relative to the acquisition or dedication by subdivision plat or otherwise, of land and interests in land for highway purposes, and relative to surveys, plans, establishing, laying out, widening, enlarging, extending, constructing, improving, maintaining and financing of state trunk highways shall apply to the segments designated freeways or expressways pursuant to this section. The "Hampton avenue corridor" in Milwaukee county shall not be designated as a freeway or expressway under this subsection.

(4) CHANGES IN EXISTING HIGHWAYS AND UTILITIES. It is recognized that in the construction of freeways or expressways to modern standard and design, to promote the public and social welfare and benefit public travel of the state, it will become necessary for the department to make or cause to be made changes in the location, lines and grades of existing public highways, railroads and public utility transmission lines and facilities.

(4m) MUNICIPAL UTILITY RELOCATION; FREEWAY CONSTRUCTION. (a) The state shall pay 90% of the eligible costs of the relocation or replacement of any municipal utility facilities required by the construction of any freeway undertaken by the department. The affected municipal utility shall pay the balance of such costs.

(b) This subsection applies only to relocations or replacements that:

1. Involve municipal utility facilities located on publicly held lands prior to such relocation or replacement;
2. Are not eligible for state reimbursement under any other provision of law; and
3. Take place after July 1, 1976.

(c) In administering this subsection the department shall use the same procedures and accounting principles as are applicable to utility relocations and replacements for which full reimbursement is required by law.

(d) In order to be eligible for reimbursement under this subsection, any entry upon or occupation of state freeway right-of-way after relocation or replacement by a metropolitan sewerage district acting under s. 66.24 (5) (b) shall be done in a manner acceptable to the department.

(e) In this subsection:

1. "Eligible costs" mean the actual costs of relocating or replacing utility facilities less the:

- a. Salvage value of the old facilities;
- b. Used life credit on the old facilities; and
- c. Cost of any upgrading of the facilities being replaced or relocated made solely for the benefit and at the election of the utility and not attributable to the freeway construction.

2. "Municipal utility facilities" mean any utility facilities owned by any town, village or city or any town sanitary district established under subch. IX of ch. 60, or under the jurisdiction of any metropolitan sewerage district established under ss. 66.20 to 66.26.

3. "Publicly held lands" include any right or interest in real estate held by the state or by any county, city, village, town or other body politic and corporate.

(5) DESIGNATING HIGHWAYS AS FREEWAYS OR EXPRESSWAYS. Where a state trunk highway is established on a new location which is not on or along an existing public highway, and the state trunk highway is designated as a freeway or expressway no right of access to the highway shall accrue to or vest in any abutting property owner. Where a state trunk highway is on or along any highway which is open and used for travel and is designated as a freeway or expressway, reasonable provision for public highway traffic service or access to abutting property shall be provided by means of frontage roads as a part of the freeway or expressway development, or the right of access to or crossing of the public highway shall be acquired on behalf of the state as a part of the freeway or expressway improvement project. The occupation or use of any part of an existing public highway is authorized for the construction of a freeway or expressway. The action of the department relative to designation, layout, location or relocation of any part of a freeway or expressway shall be conclusive.

(6) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the furtherance of the public interest and general welfare of the state and the traveling public in the development of freeways or expressways, the department is authorized and empowered to construct grade separations at intersections of any freeway or expressway with other public highways and railroads and to change and adjust the lines of public highways and if necessary combine, relocate or extend the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations, alterations or extensions of local roads as so determined by the department shall be a part of the construction of and financed as a part of the cost of the freeway or expressway. The department may by agreement with a county or municipality or by order summarily vacate or relocate any town, county, city or village highway as part of the construction of a freeway or expressway but shall pay any damage legally payable under existing law to any property owner directly injured by the vacation or relocation of such street or highway. The department is empowered to enter into agreement with the units of government having jurisdiction over a local highway relocated, altered or extended as a part of the freeway or expressway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocated, altered or extended highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated, altered or extended, except any parts thereof which the department determines to be useful in operation of or for access to the freeway or expressway, including structures over the freeway or expressway, which parts shall be maintained by the state as a part of the freeway or expressway. The action by the department relative to vacation, relocation, extension or combining of a

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public highway under jurisdiction of any county, town, city or village shall be conclusive.

(7) **AUTHORITY TO RELOCATE AND CLOSE HIGHWAYS.** (a) Without limiting the authority extended by other provisions of this section the department may, on behalf of the state, enter into an agreement with the governing body of any county or municipality having jurisdiction over any highway and, as provided in such agreement, relocate or extend any such highway or close the same at or near the point of intersection with any freeway or expressway, or make provision for carrying such highway over or under the freeway or expressway, and may do any and all things on such highway as may be necessary to lay out, acquire rights of way for, and build the same.

(b) No highway of any kind shall be opened into or connected with a freeway or expressway by a municipality unless the department approves the same and fixes the terms and conditions on which such connections shall be made. The department may give or withhold its approval or fix such terms and conditions as it deems will best serve the public interest.

(8) **POWERS GRANTED LIBERALLY CONSTRUED.** The provisions of this section are not restricted by other provisions of the statutes, and all powers granted in this section shall be liberally construed in favor of the state in the furtherance of the expeditious and orderly construction of any freeway or expressway project and in the furtherance of the orderly operation of a freeway or expressway designated pursuant to this section.

(9) **ESTABLISHING FREEWAY STATUS.** After the adoption of an order by the department laying out and designating any portion of a state trunk highway as a freeway or expressway, the highway described in the order shall have the status of a freeway or expressway for all purposes of this section. Such orders shall not affect private property rights of access to preexisting public highways, and any property rights to be taken shall be acquired in the manner provided by law. No previously existing public highway shall be developed as a freeway or expressway without acquiring by donation, purchase or condemnation the right of access thereto of the owners of abutting land.

(10) **ESTABLISHING LOCATIONS AND RIGHT OF WAY WIDTHS FOR FUTURE FREEWAYS OR EXPRESSWAYS.** (a) Where, as the result of its investigations and studies, the department finds that there will be a need in the future for the development and construction of segments of a state trunk highway as a freeway or expressway, and where the department determines that in order to prevent conflicting costly economic development on areas of lands to be available as rights-of-way when needed for such future development, there is need to establish, and to inform the public of, the approximate location and widths of rights-of-way needed, it may proceed to establish such location and the approximate widths of rights-of-way in the following manner. It shall hold a public hearing in the matter in a courthouse or other convenient public place in or near the region to be affected by the proposed change, which public hearing shall be advertised and held as are state trunk highway change hearings. The department shall consider and evaluate the testimony presented at the public hearing. It may make a survey and prepare a map showing the location of the freeway or expressway and the approximate widths of the rights-of-way needed for the freeway or expressway, including the right-of-way needed for traffic interchanges with other highways, grade separations, frontage roads and other incidental facilities and for the alteration or relocation of existing public highways to adjust traffic service to grade separation structures and interchange ramps.

The map shall also show the existing highways and the property lines and record owners of lands needed. Upon approval of the map by the department, a notice of such action and a copy of the map showing the lands or interests therein needed in any county shall be filed in the office of the register of deeds of such county. Notice of the action and of the filing shall be published as a class 1 notice, under ch. 985, in such county, and within 60 days after filing, notice of such filing shall be served by registered mail on the owners of record on the date of filing. With like approval, notice and publications, and notice to the affected record owners, the department may from time to time supplement or change the map.

(b) After such location is thus established, within the area of the rights of way as shown on the map or in such proximity thereto as to result in consequential damages when the right of way is acquired, no one shall erect or move in any additional structure, nor rebuild, alter or add to any existing structure, without first giving to the department by registered mail 60 days' notice of such contemplated construction, alteration or addition describing the same, provided that this prohibition and requirement shall not apply to any normal or emergency repairs or replacements which are necessary to maintain an existing structure or facility in approximately its previously existing functioning condition. When the right of way is acquired, no damages shall be allowed for any construction, alterations or additions in violation of this paragraph.

(c) Without limiting any authority otherwise existing, any of the rights of way needed may be acquired at any time by the state or by the county or municipality in which such freeway or expressway is located. If one owner's contiguous land is acquired to an extent which is less than the total thereof shown on the map as needed, consequential damages to the portion not acquired shall be allowed if found to exist.

History: 1971 c. 252; 1975 c. 425; 1977 c. 29 ss. 945, 1654 (3); (8) (a); 1983 a. 532 s. 36.

84.30 Regulation of outdoor advertising. (1) **LEGISLATIVE FINDINGS AND PURPOSE.** To promote the safety, convenience and enjoyment of public travel, to preserve the natural beauty of Wisconsin, to aid in the free flow of interstate commerce, to protect the public investment in highways, and to conform to the expressed intent of congress to control the erection and maintenance of outdoor advertising signs, displays and devices adjacent to the national system of interstate and defense highways, it is hereby declared to be necessary in the public interest to control the erection and maintenance of billboards and other outdoor advertising devices adjacent to said system of interstate and federal-aid primary highways and the Great River Road.

(2) **DEFINITIONS.** In this section, unless the context otherwise requires:

(a) "Adjacent area" means an area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of any interstate or primary highway or the Great River Road, which 660 feet distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway.

(b) "Business area" means any part of an adjacent area which is zoned for business, industrial or commercial activities under the authority of the laws of this state; or not zoned, but which constitutes an unzoned commercial or industrial area as defined in par. (k). In adjacent areas along the interstate system business areas shall be limited to commercial or industrial zones within the boundaries of incorporated municipalities, as those boundaries existed on September 1, 1959, and all other areas where the land-use as of September

1, 1959, was clearly established by state law as industrial or commercial.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the center line of the main-traveled way of a nondivided highway.

(d) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by local zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming and similar activities, including, but not limited to wayside fresh produce stands.
3. Activities normally or regularly in operation less than 3 months of the year.
4. Transient or temporary activities.
5. Activities not visible from the main-traveled way.
6. Activities more than 660 feet from the nearest edge of the right-of-way.
7. Railroad tracks and minor sidings.
8. Areas which are predominantly used for residential purposes.

(e) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of the sign structures.

(em) "Great River Road" means any highway officially designated as part of the Great River Road system by the department and approved by the appropriate authority of the federal government. Signs along the Great River Road shall be regulated as are signs along primary highways.

(f) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

(fn) "Landmark sign" means a sign of historic or artistic significance, the preservation of which is consistent with the purposes of this section, as determined by the department, including signs on farm structures or natural surfaces.

(g) "Maintain" means to allow to exist.

(h) "Main-traveled way" means the through traffic lanes exclusive of frontage roads, auxiliary lanes and ramps.

(i) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the department and approved by the appropriate authority of the federal government.

(j) "Sign" means any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing, which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of any portion of an interstate highway or primary highway.

(k) "Unzoned commercial or industrial areas" mean those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted whether or not a permanent structure is located thereon, and the area along the highway extending

outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

(km) "Urban area" means any area which is an urbanized area or urban place, as determined by the department under 23 USC 101 (a) and regulations adopted thereunder and approved by the appropriate federal authority. Maps of urban area boundaries shall be available for inspection at offices of the department and copies of such maps shall be provided at cost to anyone requesting the same.

(L) "Zoned commercial or industrial areas" mean those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation.

(3) SIGNS PROHIBITED. No sign visible from the main-traveled way of any interstate or federal-aid highway may be erected or maintained, except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules which shall be promulgated by the department relative to their lighting, size, number, spacing and such other requirements as are appropriate to implement this section, but such rules shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of transportation of the United States under 23 USC 131 (c).

(b) Signs advertising the sale or lease of property upon which they are located if such signs comply with rules of the department.

(c) Signs advertising activities conducted on the property on which they are located if such signs comply with applicable federal law and the June 1961 agreement between the department and the federal highway administrator relative to control of advertising adjacent to interstate highways. Additionally, any such sign located outside the incorporated area of a city or village shall comply with the following criteria:

1. An activity may be permitted one sign exposure visible and designed to be read from each direction of travel on the interstate or primary highway.

2. In addition to any sign permitted under subd. 1, an activity may be permitted one sign exposure located on or within 50 feet of the building in which the advertised activity is primarily conducted or managed. For purposes of this subdivision, all signs located on and within the profile of the building in which the advertised activity is primarily conducted or managed shall be considered as one sign exposure.

2m. In addition to any sign permitted under subds. 1 and 2, an activity may be permitted any number of signs not designed to be read from the interstate or primary highway and not exceeding 75 square feet in aggregate area, whose purpose is to direct or control traffic which has already entered the property on which the advertised activity is conducted.

3. No sign exposure permitted under subd. 1 may exceed 500 square feet in area. No sign exposure permitted under subd. 2 may exceed 200 square feet in area.

5. The area of a sign shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which encompasses the entire sign, including border and trim but excluding supports. The profile of a building is bounded

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by the outer edges of its structure as they appear to an observer positioned in the area to which the sign is directed.

(d) Signs located in business areas on March 18, 1972.

(e) Signs to be erected in business areas subsequent to March 18, 1972 which when erected will comply with sub. (4).

(f) Signs located in urban areas outside the adjacent area.

(g) Landmark signs lawfully in existence on October 22, 1965.

(h) Signs outside the adjacent area which are not erected with the purpose of their message being read from the main-traveled way of an interstate or primary highway.

(i) Signs on farm buildings which are utilized by owners of the building for agricultural purposes if the signs promote a Wisconsin agricultural product unless prohibited by federal law.

(4) SIGN CRITERIA. The department shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays and devices that are erected subsequent to March 18, 1972 in all business areas. Whenever a bona fide county or local zoning authority has made a determination of customary use, as to size, lighting and spacing such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. In all other business areas, the criteria set forth below shall apply:

(a) Size of signs shall be as follows:

1. The maximum areas for any one sign shall be 1,200 square feet with a maximum height of 30 feet and maximum length of 60 feet, inclusive of any border and trim but excluding the base or apron, supports and other structural members.

2. The areas shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.

3. The maximum size limitations shall apply to each side of a sign structure and signs may be placed back-to-back, side-by-side, or in V-type construction with not more than 2 displays to each facing, and such sign structure shall be considered as one sign.

(b) Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(c) Spacing of signs shall be as follows:

1. On interstate and federal-aid primary highways signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

2. On interstate highways and freeways on the federal-aid primary system no 2 structures shall be spaced less than 500 feet apart. Outside of incorporated villages and cities, no structure may be located adjacent to or within 500 feet of an

interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured along the interstate or freeway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

3. On nonfreeway federal-aid primary highways outside incorporated villages and cities, no 2 structures shall be spaced less than 300 feet apart. Within incorporated villages and cities, no 2 structures shall be spaced less than 100 feet apart.

4. The spacing between structures provisions in subs. 1, 2 and 3 do not apply to structures separated by buildings or other obstructions in such a manner that only one sign-facing located within the spacing distances in subs. 1, 2 and 3 is visible from the highway at any one time.

5. a. Official and on-premises signs, as defined in 23 USC 131 (c), and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

b. The minimum distances between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

(d) 1. Signs shall not be erected or maintained which imitate or resemble any official traffic sign, signal or device.

2. Signs shall not be erected or maintained upon trees, or painted or drawn upon rocks or other natural features, except landmark signs.

3. Signs shall not be erected or maintained which are structurally unsafe or in substantial disrepair.

(5) NONCONFORMING SIGNS. (a) Signs outside of business areas which are lawfully in existence on March 18, 1972 but which do not conform to the requirements herein are declared nonconforming and shall be removed by the end of the 5th year from said date.

(b) A sign lawfully erected after March 18, 1972 and which subsequently does not conform to this section shall be removed by the end of the 5th year after it becomes nonconforming.

(bm) Signs lawfully erected, but which do not conform to the requirements of sub. (3) (c), are declared nonconforming but are not subject to removal, except as otherwise provided in this paragraph. To allow such signs to exist, to perform customary maintenance thereon or to change the advertising message thereof, does not constitute a violation of sub. (3), but to enlarge, replace or relocate such signs, or to erect additional signs, shall constitute a violation subjecting the sign to removal without compensation, unless upon completion of such work all signs upon the property conform to the requirements of sub. (3).

(c) Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate, the unzoned area shall be redefined or redelineated based on the remaining activities. Any signs located within the former unzoned area but located outside the unzoned area, based on its new dimensions, shall become nonconforming.

(d) The department shall give highest priority to the removal or relocation of signs advertising products of general availability in commercial channels when such signs fail to conform under this subsection.

(6) JUST COMPENSATION. The department shall pay just compensation upon the removal or relocation on or after March 18, 1972, of any of the following signs which are not then in conformity with this section, regardless of whether the sign was removed because of this section:

(a) Signs lawfully in existence on March 18, 1972.

(b) Signs lawfully in existence on land adjoining any highway made an interstate or primary highway after March 18, 1972.

(c) Signs lawfully erected on or after March 18, 1972.

(7) MEASURE. The just compensation required by sub. (6) shall be paid for the following:

(a) The taking from the owner of such sign, all right, title and interest in and to the sign and his leasehold relating thereto, including severance damages to the remaining signs which have a unity of use and ownership with the sign taken, shall be included in the amounts paid to the respective owner, excluding any damage to factories involved in manufacturing, erection, maintenance or servicing of any outdoor advertising signs or displays.

(b) The taking of the right to erect and maintain such signs thereon from the owner of the real property on which the sign is located.

(8) AGREED PRICE. Compensation required under subs. (6) and (7) shall be paid to the person entitled thereto. If the department and the owner reach agreement on the amount of compensation payable to such owner in respect to any removal or relocation, the department may pay such compensation to the owner and thereby require or terminate the owner's rights or interests by purchase. If the department and the owner do not reach agreement as to such amount of compensation, the department or owner may institute an action to have such compensation determined under s. 32.05.

(9) SIGN INFORMATION. On and after March 18, 1972 all signs, or structures on which there are displays, shall have stated thereon the names and addresses of the owner thereof, and the date of its erection; but if the address of the owner is on file with the department it need not be stated thereon.

(10) LICENSE REQUIREMENT. (a) On or after January 1, 1972, no person shall engage or continue to engage in the business of outdoor advertising in areas subject to this section without first obtaining a license therefor from the department. The fee for the issuance of a license or for the renewal thereof shall be \$250 payable in advance. Each license shall remain in force until the next succeeding December 31 and may be renewed annually.

(b) Application for license or a renewal thereof shall be made on forms to be furnished by the department, shall contain such information as the department requires and shall be verified under oath by the applicant or an authorized officer or agent. Renewal applications shall be filed on or before the December 1 preceding the expiration date. Upon receipt of an application containing all required information, in due form and properly executed, together with any bond required by par. (c) and upon payment of the required license fee, the department shall issue a license to the applicant or renew the existing license.

(c) No license to engage or continue to engage in the business of outdoor advertising shall be granted to any applicant who does not reside in this state or, in the case of a foreign corporation not authorized to do business in this state until such applicant files with the department a bond payable to the state and with a surety approved by the attorney general, in the sum of \$5,000 conditioned upon the licensee observing and fulfilling all applicable provisions of this section. Upon default thereof the department may enforce the collection of such bond in any court of competent jurisdiction. The bond shall remain in effect so long as any obligation of such licensee to the state remains unsatisfied.

(d) The department may, after a hearing with 30 days' prior written notice to the licensee, revoke the license if the department finds that the licensee has knowingly made false

statements in the application or is violating this section. Such revocation shall not become effective if within 30 days after written notice of the findings has been given to the licensee, he or she corrects such false statement or terminates any such violation.

(11) DEPARTMENT REMOVAL. Any sign erected in an adjacent area after March 18, 1972, in violation of this section or the rules promulgated under this section, may be removed by the department upon 60 days' prior notice by registered mail to the owner thereof and to the owner of the land on which said sign is located, unless such sign is brought into conformance within said 60 days. No notice shall be required to be given to the owner of a sign whose name is not stated on the sign or on the structure on which it is displayed, or whose address is not stated thereon or is not on file with the department.

(12) FEDERAL COMPLIANCE. The department on behalf of the state is authorized and directed to seek agreement with the secretary of transportation of the United States acting under the provisions of 23 USC 131, as amended, that the provisions of this section are in conformance with that federal law and provide effective control of outdoor advertising signs as set forth therein.

(13) FEDERAL FUNDS. The department may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the purposes of 23 USC 131, as amended, from time to time. The department shall take such steps as are necessary from time to time to obtain from the United States, or the appropriate agency thereof, funds allotted and appropriated, under 23 USC 131 for the purposes of paying the federal government's 75% of the just compensation to be paid to sign owners and owners of real property under 23 USC 131 (g) and this section.

(14) DEPARTMENT RULES. The department may promulgate rules deemed necessary to implement and enforce this section. The department shall promulgate rules to restrict the erection and maintenance of signs as to their lighting, size, number and spacing when such signs are visible from the highway but outside the adjacent area. The department shall by rule establish a priority system for the removal or relocation of all signs not specified in sub. (5) (d) which fail to conform to the requirements of sub. (5).

(15) FUNDS REQUIRED. Despite any contrary provision in this section no sign shall be required to be removed unless at the time of removal there are sufficient funds, from whatever source, appropriated and immediately made available to the department with which to pay the just compensation required and unless at such time the federal funds, required to be contributed to this state under 23 USC 131 have been appropriated and are immediately available to the state for the payment of compensation which is eligible for federal participation.

(16) SEVERABILITY. If any provision or clause of this section or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable. If any portion of this section is found not to comply with federal law and federal billboard removal compensation that portion shall be void without affecting the validity of other provisions of the section.

(17) TRANSPORTATION FUND. All fees collected for the issuance of permits provided for under this section shall be paid into the transportation fund.

(18) HEARINGS; TRANSCRIPTS. Hearings concerning sign removal notices under sub. (11) or the denial or revocation of

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a sign permit or license shall be conducted before the office of the commissioner of transportation as are hearings in contested cases under ch. 227. The decision of the office of the commissioner of transportation is subject to judicial review under ch. 227. Any person requesting a transcript of the proceedings from the office shall pay \$1 per page for the transcript.

History: 1971 c. 197; 1975 c. 340, 418; 1977 c. 29 ss. 946, 1654 (1), (8) (a); 1977 c. 43, 273; 1977 c. 418 s. 924 (48); 1979 c. 90 s. 24; 1979 c. 154, 253; 1981 c. 347; 1983 a. 92; 189, 463; 1989 a. 56.

Legislative Council Note, 1979: [As to sub. (5) (bm)] Chapter 196, laws of 1975, outlined standards for outdoor advertising signs. Section 2 of chapter 196, laws of 1975, pertaining to existing signs which did not conform to the standards, was not incorporated into the statutes. This act incorporates section 2 of chapter 196, laws of 1975, into the statutes. [Bill 458-A]

"Highway use district" as described in county zoning ordinance was "business area" under (2) (b). *Transp. Dept. v. Transp. Com'r*, 135 W (2d) 195, 400 NW (2d) 15 (Ct. App. 1986).

Persons in the business of erecting on-premise signs are subject to the licensing requirement of (10) (a). 66 Atty. Gen. 295.

Outdoor sign regulation in Eden and Wisconsin. *Larsen*, 1972 WLR 153.

84.31 Regulation of junkyards. (1) DECLARATION OF PURPOSE; PUBLIC NUISANCES. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands bordering public highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the state, it is declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to interstate and primary highways within this state. All junkyards in violation of this section are declared public nuisances.

(2) DEFINITIONS. In this section:

(a) "Automobile graveyard" means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles constitute an automobile graveyard.

(am) "Department" means the department of transportation.

(b) "Illegal junkyard" means a junkyard which is established, expanded or maintained in violation of any statute or rule promulgated thereunder or local ordinance.

(c) "Industrial activities" mean those activities generally recognized as industrial by local zoning authorities in this state, including scrap metal processors, except that none of the following activities shall be considered industrial:

1. Agricultural, forestry, ranching, grazing, farming and similar activities, including, but not limited to wayside fresh produce stands.

2. Activities normally or regularly in operation less than 3 months of the year.

3. Transient or temporary activities.

4. Activities not visible from the main-traveled way.

5. Activities more than 300 feet from the nearest edge of the right-of-way.

6. Railroad tracks and minor sidings.

7. Activities conducted in structures which are principally used for residential purposes.

8. Junkyards, excluding scrap metal processors.

(d) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

(e) "Junk" means any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof.

(f) "Junkyard" means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(g) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as part of the federal-aid primary system by the department and approved by the appropriate authority of the federal government.

(h) "Scrap metal processor" means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

(i) "Screened" means hidden from view in a manner compatible with the surrounding environment.

(j) "Unzoned industrial areas" mean those areas which are not zoned by state law or local ordinance, and on which there is located one or more permanent structures devoted to an industrial activity other than scrap metal processing or on which an industrial activity other than scrap metal processing, is actually conducted whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

(k) "Zoned" includes the establishment of districts without restrictions on use.

(L) "Zoned industrial area" means any area zoned industrial by a state law or local ordinance.

(3) JUNKYARDS; PROHIBITION; EXCEPTIONS. No person may own, establish, expand or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, except the following:

(a) Those which are not visible from the main-traveled way of an interstate or primary highway.

(b) Those which are screened so as not to be visible from the main-traveled way of an interstate or primary highway.

(c) Those which are located in a zoned or unzoned industrial area.

(4) NONCONFORMING JUNKYARDS; SCREENING; REMOVAL. (a) A nonconforming junkyard is any junkyard which:

1. Was lawfully established and maintained prior to June 11, 1976 but which does not comply with this section or rules adopted under this section. A junkyard shall be considered nonconforming under this section even if it was maintained in violation of rules related to screening adopted under s. 144.435 (1).

2. Is lawfully established on or after June 11, 1976, but which subsequently does not comply with this section or rules adopted under this section.

(b) A junkyard has a nonconforming status only to the extent that it is not in compliance with this section or rules adopted under this section or rules related to screening adopted under s. 144.435 (1) at the time this section or rules adopted under it or under s. 144.435 (1) become applicable to the junkyard. A junkyard retains its nonconforming status as long as it is not abandoned, destroyed or discontinued, or extended, enlarged or substantially changed, or otherwise altered so as to be in violation of any state statute or rule or local ordinance. A junkyard is presumed to be abandoned if inactive for more than one year.

(c) Every nonconforming junkyard shall be screened, relocated, removed or disposed of within 5 years after it becomes nonconforming. The department shall cause nonconforming junkyards to be screened, relocated, removed or disposed of in accordance with this section and rules adopted under this section.

(d) The department may contract for such services and acquire such property or interests therein as are necessary to accomplish the screening, relocation, removal or disposal of a nonconforming junkyard. Acquisition may be by gift, purchase, exchange or the power of eminent domain under ch. 32. Acquired property may be sold or otherwise disposed of by the department as it deems proper. Disposal of property acquired under this section is not subject to approval by the governor or other state agency.

(e) If a junkyard is screened by the department, the department shall retain title to the screening material where practicable, but the owner and operator of the junkyard shall maintain the screening. Any owner or operator who fails to maintain the screening is subject to the penalty under sub. (6) (c).

(5) AVAILABILITY OF FUNDS. Any other provision of this section to the contrary notwithstanding, no nonconforming junkyard is required to be screened, relocated, removed or disposed of by the department unless there are sufficient state funds appropriated and available to the department for such purposes and unless federal funds have been appropriated and are immediately available to the state for the purpose of federal participation required under 23 USC 136.

(6) ILLEGAL JUNKYARDS. (a) If a junkyard is an illegal junkyard but not a nonconforming junkyard, the department shall give the owner or operator thereof notice of the illegal status of the junkyard. The notice shall specify the respects in which the junkyard is illegal and shall state that unless the junkyard is brought into compliance with the law within 30 days at the expense of the owner or operator, the department shall take one or more of the courses of action authorized in par. (b). The notice shall inform the owner or operator that if he or she requests a hearing on the matter in writing within the 30-day period, a hearing shall be conducted by the office of the commissioner of transportation under s. 227.44. Requests for hearings shall be served on the department and the office of the commissioner of transportation.

(b) If the owner or operator of a junkyard is given notice under par. (a) and does not bring the junkyard into compliance within 30 days and a hearing is not requested, or does not bring the junkyard into compliance after a hearing on the matter and a determination that compliance is required, the department may, in addition to any other remedies available under law:

1. Petition a court of appropriate jurisdiction to, and such court shall, issue an order compelling compliance.

2. Enter upon the land where the junkyard is located and relocate, remove or dispose of the junkyard and collect the cost of relocation, removal or disposal from the owner or

operator of the junkyard, who shall be jointly and severally liable for such costs.

3. Request the district attorney to commence an action to collect the forfeiture under par. (c).

(c) Any person who owns, establishes or maintains a junkyard in violation of this section or any rule adopted under this section and which is not a nonconforming junkyard may be required to forfeit not less than \$25 nor more than \$1,000 for each offense. Each day in violation constitutes a separate offense.

(7) RULES. The department may adopt rules to accomplish the purposes of this section and to comply with the requirements of 23 USC 136, as amended, and rules and guidelines adopted thereunder. In interpreting this section, the department may be guided by federal law and interpretations approved by appropriate authorities of the federal government.

(8) AGREEMENTS. (a) The department may enter into agreements with the designated authority of the federal government relating to the control of junkyards and may take such action as is necessary to comply with the terms of such agreements.

(b) The department and another state agency may enter into agreements for the purpose of assigning to the other state agency the responsibility for the administration of this section and rules adopted under this section. To the extent responsibility for administration is assigned to the other agency under such agreements, the other state agency shall have the same powers and duties conferred on the department under this section. The department shall reimburse the other state agency from the appropriation under s. 20.395 (3) (cq) and (cx) for all expenses, including administrative expenses, incurred by the other state agency in connection with the screening, relocation, removal or disposal of junkyards under the authority assigned to the other state agency.

(9) OTHER LAWS. Nothing in this section shall be construed to abrogate or affect any law or ordinance which is more restrictive than this section. The provisions of this section are in addition to and do not supersede the requirements under ss. 59.07 (38), 144.435 to 144.44, 175.25 and 218.205 to 218.23, or rules or ordinances adopted thereunder which apply to junkyards. Provisions of this section apply to any junkyard licensed or permitted by a local unit of government or another state agency.

History: 1975 c. 340; 1977 c. 29 ss. 947, 1654 (8) (a), 1656 (43); 1977 c. 377 s. 30; 1979 c. 34 s. 2102 (39) (g), (52) (a); 1981 c. 347 s. 80 (2); 1983 a. 189; 1985 a. 182 s. 57; 1987 a. 351

84.40 Department; relation to nonprofit 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, administration, storage and other buildings, facilities or appurtenances which in the judgment of the department 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

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which in the judgment of the department 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 May 1, 1967 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 department:

(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 department for such consideration and upon such terms and conditions as the department 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 department upon such terms, conditions and rentals as the department 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 department 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 department's standard specifications for road and bridge construction and when arrangements are made that all construction be under the direct supervision of the department.

(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 department 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 department.

(4) All conveyances, leases and subleases made under this section shall be made, executed and delivered in the name of the department and signed by the secretary or the secretary's designees.

History: 1977 c. 29 ss. 948, 1654 (8) (a); 1981 c. 314.

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. 775, 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. However, the corporation or bondholders may not reenter or take possession of the highway land, easements or structures by reason of any default in the payment of rent or for any other reason.

(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. 779.15 pertaining to contractor's liens and related matters, and s. 779.14 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 department shall do all things necessary to secure federal aids in carrying out the purposes of this section and s. 84.40.

History: 1977 c. 29 s. 1654 (8) (a); 1979 c. 32 s. 92 (5), (9).

84.42 Limitations on bonding. The department'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.

History: 1977 c. 29 s. 1654 (8) (a).

84.51 Construction of state highways. (1) The secretary with approval of the governor and subject to the limits of s.

20.866 (2) (ur), (us) and (uu) may direct that state debt be contracted for the purposes set forth in subs. (2) and (3) subject to the limits set forth in subs. (2) and (3). Said debts shall be contracted in accordance with ch. 18.

(2) It is the intent of the legislature that state debt not to exceed \$185,000,000 for the construction of highways be appropriated over a 6-year period except that if funds allocated to any project hereunder are not used for such project or if additional highway construction funds are made available hereunder, they shall first be used for development of state trunk highway 45 from the intersection with highway 41 to and including the West Bend bypass, and except that no funds shall be used for the construction of the proposed Bay freeway and no funds shall be used for the "Augusta Bypass" project in Eau Claire county. Nothing in this section shall be construed so as to allow the redevelopment of state trunk highway 83 in Washington and Waukesha counties. U.S. numbered highway 16 from Tomah to the interchange with I-90 east of Sparta shall be retained as part of the state highway system in the same route as in use on November 1, 1969. The improvement project for state trunk highway 23 from Sheboygan to Fond du Lac shall be undertaken as swiftly as practicable.

(3) It is the intent of the legislature that state debt not to exceed \$15,000,000 shall be incurred for the acquisition, construction, reconstruction, resurfacing, development, enlargement or improvement of the connecting highway facility known as the 27th Street viaduct in Milwaukee county.

History: 1971 c. 40, 202, 264, 307; 1973 c. 90; 1977 c. 29; 1981 c. 20; 1983 a. 212; 1989 a. 56 s. 259.

84.52 Construction of intrastate and interstate bridges. (1)

The secretary, with the approval of the governor and subject to the limits of s. 20.866 (2) (ug), may direct that state debt be contracted for the construction of bridges as set forth in sub. (2) and subject to the limits set therein. Said debts shall be contracted in accordance with ch. 18.

(2) It is the intent of the legislature that state debt not to exceed \$46,849,800 may be incurred for the construction or reconstruction of local bridges as provided by s. 84.11 and interstate bridges as provided by s. 84.12. Construction under this subsection shall be in accordance with the bridge needs of the state as determined in the biennial budget bill.

History: 1973 c. 333; 1977 c. 29; 1981 c. 27; 1989 a. 31.

84.53 Matching of federal aid. (1) The secretary with the approval of the governor, subject to the limits of s. 20.866 (2) (ut), may direct that state debt be contracted for the matching of federal aid as set forth in sub. (2) and subject to the limits set therein. Said debt shall be contracted in accordance with ch. 18.

(2) It is the intent of the legislature that state debt not to exceed \$10,000,000 may be incurred for the purpose of matching federal aid for the construction of highway facilities.

History: 1973 c. 333; 1977 c. 29.

84.59 Funding of transportation facilities and highway projects. (1)

Transportation facilities under s. 84.01 (28) and major highway projects as defined under s. 84.013 (1) (a) for the purposes under ss. 84.06 and 84.09 may be funded with the proceeds of revenue obligations issued subject to and in accordance with subch. II of ch. 18.

(2) The department may, under s. 18.56 (5) and (9) (j), deposit in a separate and distinct fund outside the state treasury, in an account maintained by a trustee, revenues derived under s. 341.25. The revenues deposited are the trustee's revenues in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the revenues to the repayment of revenue obligations issued under this section.

(3) The secretary may pledge revenues received or to be received in the fund established in sub. (2) to secure revenue obligations issued under this section. The pledge shall provide for the transfer to this state of all pledged revenues, including any interest earned on the revenues, which are in excess of the amounts required to be paid under s. 20.395 (6) (as). The pledge shall provide that the transfers be made at least twice yearly, that the transferred amounts be deposited in the transportation fund and that the transferred amounts are free of any prior pledge.

(4) The department shall have all other powers necessary and convenient to distribute the pledged revenues and to distribute the proceeds of the revenue obligations in accordance with subch. II of ch. 18.

(5) The department may enter into agreements with the federal government or its agencies, political subdivisions of this state or private individuals or entities to insure or in any other manner provide additional security for the revenue obligations issued under this section.

(6) Revenue obligations may be contracted by the building commission when it reasonably appears to the building commission that all obligations incurred under this section can be fully paid from moneys received or anticipated and pledged to be received on a timely basis. Revenue obligations issued under this section shall not exceed \$477,034,000 in principal amount, excluding obligations issued to refund outstanding revenue obligations. Not more than \$414,034,000 of the \$477,034,000 may be used for transportation facilities under s. 84.01 (28) and major highway projects under ss. 84.06 and 84.09.

(7) Unless otherwise expressly provided in resolutions authorizing the issuance of revenue obligations or in other agreements with the holders of revenue obligations, each issue of revenue obligations under this section shall be on a parity with every other revenue obligation issued under this section and in accordance with subch. II of ch. 18.

History: 1983 a. 27, 212; 1985 a. 29; 1987 a. 27; 1989 a. 31.

84.60 Bikeways. (1) In this section:

(a) "Bikeway" means a public path, trail, lane or other way, including structures, traffic control devices and related support facilities and parking areas, designated for use by bicycles and other vehicles propelled by human power. The term also includes "bicycle lane" as defined in s. 340.01 (5e) and "bicycle way" as defined in s. 340.01 (5s).

(b) "Highway" means any state trunk highway, national parkway, expressway, interstate highway or freeway.

(2) The department may establish a bikeway separately or in conjunction with any existing highway.

(3) Bikeways established under this section shall be considered highways for the purposes of ss. 84.06, 84.07 and 84.09.

History: 1977 c. 29.