

No. 505, A.]

[Published July 15, 1927.]

CHAPTER 361.

AN ACT to amend subsection (4) of section 29.18 of the statutes, relating to a close season for muskrats.

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

SECTION 1. Subsection (4) of section 29.18 of the statutes is amended to read: (29.18) (4) For mink and muskrat there shall be an open season from January first to April tenth, in all counties excepting the counties of Calumet, Fond du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, Marathon, Lincoln, Forest, Florence, Oneida, Langlade, Marinette and Winnebago where the open season shall be from October twenty-fifth to April first. There shall be no open season in Vernon * * * and Richland counties. *There shall be no open season for muskrat in Pike lake in the towns of Reid and Elderon, and in May Flower lake and Lake Gotoit, in the town of Norrie, Marathon county.*

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

Approved July 14, 1927.

No. 239, S.]

[Published July 16, 1927.]

CHAPTER 362.

AN ACT to amend section 32.04, subsection (1) of section 32.07, section 32.09, subsections (1), (4) and (4a) of section 32.10 and section 32.11; and to create subsections (3a) and (4b) of section 32.10 of the statutes, relating to the acquisition of property by cities, villages and towns through condemnation and the assessment of benefits and damages.

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

SECTION 1. Section 32.04, subsection (1) of section 32.07, section 32.09, subsections (1), (4) and (4a) of section 32.10 and section 32.11 of the statutes are amended to read: 32.04 Any person desiring to acquire any property by condemnation shall present a verified petition therefor to the county or circuit judge

of the county where such property is situated. Such petition shall contain a description of the property desired to be condemned, *which in the case of a city, village or town may include lands for one or more streets or alleys*; the purpose for which it is intended to be used; the names of the parties who own or occupy it or have any interest therein, as near as may be, and if any such persons are infants, their ages as near as may be, and if any are persons of unsound mind or unknown, these facts shall be stated. In case such petition is made by a corporation it shall also state that the petitioner is duly incorporated; that the property described is required for the purposes of such corporation and that it is the intention of the corporation in good faith to use it therefor. If such petition is made for the right of way of a railroad or street railway or interurban railway corporation, it shall also state that the right of way sought to be acquired has been located as required by law and that it has been duly surveyed and staked out, and if a width of more than one hundred feet is desired to be taken across any track it shall specify the width desired across said track and the reasons therefor; and a map showing the route of the line and the lands desired to be taken shall be attached to the petition. If the certificate of the railroad commission is required before the property may be acquired the petition shall state that such certificate has been obtained. If any owner of property desires to institute condemnation proceedings, he shall present his verified petition therefore to the county or circuit judge of the county where the land is situated. Such petition shall describe the land, state the board, commission or corporation against which the condemnation proceedings are instituted, and use to which it has been put or is designed to have been put by the board, commission or corporation against which the proceedings are instituted.

(32.07) (1) If the application be by a municipal corporation, the filing of the petition under section 32.04 shall be deemed the commencement of an action for the determination of the necessity of the taking. Within twenty days after the service of notice, as provided in section 32.05, any person owning or interested in any property proposed to be condemned, may serve and file an answer. After the expiration of the time for answering the action may be brought on for hearing on a three days' notice to all parties who have answered and shall have precedence over all other matters not on trial. The court shall thereupon impanel

a jury under section 255.10, and the question of the necessity of the taking shall thereupon be tried as a question of fact. If no answer to the petition is interposed the trial by jury shall proceed *ex parte*. Costs in such proceedings shall be paid by the municipality. The court may, in its discretion, submit to a single jury the determination of such necessity as to one or more than one or all of the parcels of land sought to be taken for the same purpose, *or for one or more streets or alleys*. If the jury find that the taking of such lands is not necessary the owner thereof shall recover from the municipality his necessary disbursements and taxable costs not to exceed twenty-five dollars.

32.09 Such commissioners shall, before entering on their duties, take and subscribe an oath that they will faithfully and to the best of their ability examine the property and impartially estimate and appraise the value of the same. Whenever requested in writing by the petitioner or any party interested they shall proceed to appraise the property mentioned in the request. They shall give notice of the time and place of meeting to each person interested, which notice shall be served personally or upon the attorney of the party at least ten days before the hearing, or if a party cannot be found and has not appeared in the proceedings then by publication once a week for three weeks in such newspaper as the judge appointing the commissioners shall direct. *In case the proceeding is one to acquire streets or highways, a notice of the time and place of such hearing addressed "To Whom It May Concern" shall be published once a week for three successive weeks prior to such hearing in such newspapers.*

(32.10) (1) The commissioners shall view the property described in the request and all such other premises as will in their judgment be injured or benefited by said proposed improvement, and hear the evidence produced by the parties and shall determine the value of each parcel, with the improvements thereon, and of each separate estate therein and the damages sustained by the taking, and fix the compensation to be made, or the benefits to be assessed, to each such owner thereof. In fixing the compensation, except in the case of streets or highways, they shall not make any deduction because of any benefit which the parties may derive from the construction of the improvement for which the property is taken, but special benefits to lands adjoining the lands so taken may be allowed * * * *in deduction of any damages sustained by the owner to such adjoining land.*

(32.10) (4) *In the case of streets and highways, it shall be the duty of the commissioners, after such assessment shall be made and before the same shall be reported by the commissioners to the clerk of the circuit court of the county, to give public notice * * * , at least once in each week for two successive weeks, by publication of such notice * * * in such paper as shall have been designated by the judge appointing the commissioners, or in such paper as such judge may designate, that such assessment has been made and that the same will be open for review and * * * inspection at a place to be named * * * in said notice, for not less than ten days after the last publication * * * thereof, during certain hours, and not less than two hours of each day, and that * * * the commissioners will meet at a time and place mentioned therein not later than two days thereafter to hear such persons as are interested and to consider all objections to such proposed assessment, and generally, in the matter of * * * review and correction. It shall be sufficient to state in such notice * * * for what said assessments have been made * * * and * * * a general description of the locality of the lands included in said assessments.*

(4a) * * * *At the time specified in * * * such notice mentioned in the last preceding subsection for such hearing, it shall be the duty of said commissioners to hear all persons interested in the property assessed, or otherwise personally interested in such assessment, in making objection to any part of such assessment, and to hear all evidence which may be produced in support of such objections, and the commissioners shall thereupon have power to review, modify and correct such assessment in such manner as they shall deem just at any time during such review and for three days thereafter, and thereupon it shall be the duty of said commissioners to file in the office of the clerk of the circuit court of the county a report of such assessment in writing, signed by them * * * .*

32.11 Any party to a condemnation proceeding, *and any persons against whose lands assessments for benefits or damages shall have been made, may appeal from the award of the commissioners to the circuit court of the county by filing a notice of appeal in the office of the clerk of such court. Such notice must be filed within thirty days from the filing of the report of the commissioners. The clerk shall thereupon enter the appeal as an action pending*

in said court with the owner or owners of the property for which the award was made and who are parties to the appeal as plaintiffs and the party by whom the property is taken as defendant. It shall thereupon proceed as an action in said court subject to all the provisions of law relating to actions originally brought therein. It shall be tried by jury unless waived. Costs shall be allowed to the successful party on the appeal. If in favor of the plaintiff they shall be added to the verdict. If in favor of the defendant, they shall be deducted therefrom.

SECTION 2. Two new subsections are added to section 32.10 of the statutes to read: (32.10) (3a) The commissioners shall, within twenty days after last viewing any of the property so taken, unless the time be extended by the judge, file in the office of the clerk of the circuit court of the county, a report showing the award made for each parcel or separate estate therein. They shall file with the report proof of the service of notice of hearing or appearance of each party. Any report and proof of service made as herein provided since June 29, 1923, shall be as legal and valid as if this subsection had been in force during such time.

(32.10) (4b) The commissioners shall also file a copy of such assessment in the office of the clerk of the city or village where the lands against which assessments for benefits or damages have been made, are located.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 14, 1927.

No. 592, S.]

[Published July 16, 1927.

CHAPTER 363.

AN ACT to amend subsection (4) of section 20.33 of the statutes, relating to an appropriation to the state board of vocational education for rehabilitation of persons disabled in industry or otherwise.

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

SECTION 1. Subsection (4) of section 20.33 of the statutes is amended to read: (20.33) (4) Annually, beginning July 1, * * * 1927 not to exceed * * * *thirty-eight thousand*