

(23) **CONSTRUCTION.** This section shall be construed liberally to effectuate the purposes hereof, and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

(24) **SEVERABILITY.** Notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

(25) **THIS SECTION CONTROLLING.** In so far as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall be controlling.

(26) **SUPPLEMENTAL NATURE OF SECTION.** The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

Approved June 16, 1943.

No. 289, S.]

[Published June 19, 1943.

CHAPTER 334.

AN ACT to revise Chapter 80, LAYING OUT; OPENING, ALTERING AND DISCONTINUING HIGHWAYS, Chapter 81, CONSTRUCTION AND REPAIR OF TOWN HIGHWAYS, Chapter 82, HIGHWAY COMMISSION AND COMMISSIONERS, Chapter 83, STATE HIGHWAYS, Chapter 84, FEDERAL AID; TRUNK HIGHWAYS, Chapter 86, MISCELLANEOUS HIGHWAY PROVISIONS, and Chapter 87, BRIDGES, and provisions elsewhere in the statutes, relating to highways.

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

SECTION 1. 15.79 is amended to read:

15.79 **APPROVAL OF CONTRACTS BY ENGINEER AND GOVERNOR; AUDIT.** Every contract for engineering or architectural service or for construction work to be done for, or furnished to the state,

or any department, board, commission or officer thereof, shall, before it becomes valid or effectual for any purpose, have indorsed thereon in writing the approval thereof of the state chief engineer or his designated assistant, and in the case of contracts involving an expenditure of \$1,000 or more the approval of the governor; and no payment or compensation for work done under any contract, *except highway contracts*, shall be made unless the written claim therefor * * * is audited and approved by * * * the state chief engineer.

SECTION 2. The introductory paragraph of 20.49 is amended by substituting "dates" for "date" in line 2 and by substituting "subsections (3) and (4)" for "subsection (4)" in line 5; 20.49 (1m) (a) is renumbered 20.49 (1m); 20.49 (1m) (b) is renumbered 20.49 (1n); 20.49 (5) is amended by substituting "84.11 and 84.12" for "87.02 and 87.03"; and 20.49 (4), (6), (9) the first 5 lines of (8) and the first sentence of (10) are amended to read:

20.49 (4) On July 1, * * * 1943, and annually thereafter, the sum required to meet the provisions of * * * sections * * * 83.10 and 84.03 (3) as follows:

(a) To meet the provisions of section 83.10, \$3,500,000 plus a sum equal to \$65 per mile of county trunk highways.

(b) To meet the provisions of section 84.03 (3), \$8,000,000 plus the additional sum required to meet the minimum allotments as provided in paragraph (c) thereof.

(6) * * * Annually * * * on July 1, \$200,000 for the construction and maintenance of roads, including fire roads, in the state parks and state forests and other public lands as defined in chapter 24, and for highways or fire roads leading from the most convenient state * * * trunk highways to such lands. All work done under this subsection shall be determined * * * with the state conservation commission for state park and forest lands, and * * * with the land commission for other classes of public lands and the county board of the county wherein the lands affected are situated. All work shall be done by or under the authority or with the approval of the state highway commission. Outside the limits of the said park, state forest and public land areas, not more than 2 direct connections to the most convenient state trunk highway may be built or maintained under the provisions of this subsection. *The expenditure*

of funds under this subsection shall not affect the eligibility of any highway for aids or the expenditure of other funds thereon.

(8) (first 5 lines) *Annually*, on March 10, * * * to the towns, villages and cities of the state, for the improvement of public roads and streets within their respective limits which are open and used for travel, and which are not * * * state or county trunk highways * * * or connecting streets, * * * the following sums:

(9) STATE FUND FOR CONSTRUCTION AND MAINTENANCE. *Annually*, on July 1, * * * to carry out the purposes of sections 80.03 (9) and 84.10, the amount remaining unallotted at the close of the fiscal year after the amounts appropriated under subsections (1) to (8) have been set aside. * * *

(10) (first sentence) Payments from the appropriations made by subsections (1), (1n), (2), (3), (4), (5), (5a), (6), (6a), (7), (7a), (7b), (7m), (8), * * * (9) and (13) hereof, and section 20.495, shall be made only on the order of the state highway commission from which order the secretary of state shall draw his warrant * * * in favor of the payee and charge the same to the proper appropriation.

SECTION 3. 82.02 (2a) is renumbered to be 27.20 (1a) and the first line is amended to read: * * * *The state planning board shall employ a director of regional planning whose duties shall be to cooperate.*

SECTION 4. In renumbering 82.02 (2a) to be 27.20 (1a) and in amending such section as renumbered, it is the intent that the director of regional planning employed by the highway commission be transferred and succeed to said office under the state planning board.

SECTION 5. 59.03 (2) (f) is amended by substituting "section 83.015 (1) (a)" for "subsection (1) of section 82.05" wherever that reference occurs.

SECTION 6. 80.64 (2) is renumbered 59.08 (44) and is amended to read:

59.08 (44) MILWAUKEE COUNTY; POWER OVER STATE AND COUNTY TRUNK HIGHWAYS. The county board of * * * *every county having a population of at least 150,000 may exercise any and all corresponding powers conferred upon cities in the widening or improving and maintaining of state trunk or county trunk highways, however acquired, and the constructing or*

laying of water pipes, sewers and all other public service facilities therein, and in the levying of special assessments and issuing of assessment certificates and special improvement bonds.

SECTION 6a. 59.93 is repealed.

SECTION 7. 86.12 is renumbered 61.66.

SECTION 8. 61.68 is amended to read:

61.68 HIGHWAYS; LAYING, ALTERING, VACATING. * * * Chapter 80 of the statutes * * * *which provides for* laying out, altering and discontinuing * * * *town* highways * * * is applicable to villages. The application for * * * laying out * * *, *altering or discontinuing* highways *in villages* shall be made to the village board * * *, and * * * where the words “town board” or the word “supervisors” are used in said chapter * * *, such words shall be construed to mean “village board” * * *.

SECTION 9. 67.04 (1) (d) and (2) (m), and (5) (e) are amended by substituting “section 84.11 (1) (a) or (b)” for “paragraphs (a) or (b) of subsection (1) of section 87.02” and by substituting “84.12 (1) (a) or (b)” for “paragraphs (a) or (b) of subsection (1) of section 87.03”; 67.04 (5) (1) is amended by substituting “84.11” for “87.02”; 67.04 (4) (a), (c), (e), (f), (g) and (q) are repealed; and the introductory paragraph of 67.04 (4) is amended to read:

67.04 (4) (introductory paragraph) Villages shall not borrow money or issue bonds for any purpose except only, subject to the general limitation of amounts prescribed by section 67.03, for the purposes for which a city is authorized to issue bonds by paragraphs (a), (b), (c), (e), (f), (g), (j), (l), (m), (n), (o), (p), (q), (r), * * * (s), (t) and (v) of subsection (2) * * * under the circumstances and subject to the limitations therein expressed; and also for the following further purposes:

SECTION 10. 67.05 (1) is amended by substituting “84.11” for “87.02” in line 12.

SECTION 11. 67.13 (1) and (3) are amended to read:

67.13 (1) Any county, if its board shall so determine, may raise money for the improvement of any portions of the system of * * * *county aid* highways or of the state trunk highway system, including, without limitation because of designation, separate bridge projects eligible to construction under sections * * * 84.11 or * * * 84.12, by issuing nontaxable semi-

annual interest payment coupon bonds bearing interest at a rate not exceeding 5 per cent per annum running not more than 20 years, and not exceeding, with all other county indebtedness, the constitutional limit, the money to be expended, on certain specified improvements in proportions determined by a resolution adopted by the county board before it * * * determines to issue such bonds. Such bonds are not to be sold at less than par. Bonds are to be in the form approved by the state highway commission, and * * * *3 certified copies of such approved form shall be furnished by the commission to a county having voted to issue bonds pursuant to this section. The cost of printing the bonds, unless borne by the purchaser as part of the purchase price, shall be paid by the county as a county highway administrative cost.*

(3) The proceeds of county bonds * * * issued under the provisions of this section shall be used only for road and bridge construction performed under the provisions of * * * *chapter 83 or deposited with the state highway commission to be used for road or bridge construction performed under the provisions of chapter 84. The amount to be received from the state in any year pursuant to section 84.03 (3) shall, as required by subsection (4) of that section, be used by the county board to reduce the county levy necessary to be made for paying the principal of the bonds maturing in such year in accordance with the bonding resolution, and such action by any county board shall in no way invalidate the bond issue.*

SECTION 12. 67.14 (1) is amended to read:

67.14 (1) * * * The total amount of bonds outstanding at any one time, issued by sole action of the county board * * * under * * * section 67.13, shall * * * *not exceed one per cent * * * of the total assessed valuation of the county, but such bonds may be issued by sole action of the county board within such limitation of amount, subject to the provisions of subsection (3).*

SECTION 13. 67.15 is repealed.

SECTION 14. 67.16 is repealed.

SECTION 15. The title to chapter 80 shall read:

CHAPTER 80

LAYING HIGHWAYS

SECTION 16. 80.01 is amended to read:

80.01 CREATION, ALTERATION AND VALIDATION OF HIGHWAYS.

(1) VALIDATION OF HIGHWAYS, RECORDING. All highways * * * laid out by the *town* supervisors * * * the *county* board * * * or by a committee * * * of the board, or by commissioners appointed by the legislature, or by any other * * * authority, and recorded, any portion of which * * * has been opened and worked for * * * 3 years * * * are * * * legal highways so far as they have been so opened and worked * * *. The * * * *filing* of an order laying out any highway * * * or a certified copy thereof in the office of the * * * clerk of the town or the county in which * * * the highway is situated * * * is a recording of such highway within the meaning of this section.

(2) UNRECORDED HIGHWAYS VALIDATED, EXCEPTION; GRANTS FOR HIGHWAY PURPOSES, PRESUMPTIVE WIDTH. All * * * *highways* not recorded which * * * have been * * * worked as public highways 10 years or more * * * are public highways, except that roads and bridges built upon the bottoms and sloughs of the Mississippi river * * * by citizens or municipalities of any other state shall not become legal highways or a charge upon the town in which they are situated unless upon petition they are legally laid out by the *town* supervisors * * *; nor shall any grant of lands for highway purposes, which has not become a legal highway prior to the first day of July, 1913, become effective for such purposes, unless * * * the grant * * * is accepted by the town board or by the town meeting of the town wherein * * * the lands and proposed highway are situated, and until a resolution of such acceptance * * * is recorded in the office of the town clerk * * *; and in case any such laid out highways * * * have *not* been fully and sufficiently described or recorded or if * * * the records have been lost or destroyed the * * * *presumption* shall be that * * * they were * * * laid * * * 4 rods wide.

(3) LANDS HELD FOR HIGHWAY PURPOSES, INJURING TREES, SHRUBS OR VEGETATION. No lands abutting on any * * * highway, * * * and acquired or held

for highway purposes, shall be deemed discontinued for such purpose so long as * * * *they* abut on any * * * highway. All lands * * * acquired for highway purposes *after June 23, 1931* may be used for any purpose that the public authorities in control of such highway shall deem to conduce to the * * * public use and enjoyment thereof. Such authorities may improve such * * * *lands* by suitable planting to prevent the erosion of the soil or to beautify the highway. The right to protect * * * and to plant vegetation in any highway * * * laid out *prior to said date* may be acquired * * * in any manner that lands may be acquired for highway purposes. It shall be unlawful for any person to injure any tree or shrub, or cut or trim any vegetation, or make any excavation in any highway * * * laid out *after said date* or where the right to protect vegetation has been acquired, without the consent of the highway authorities * * * and under their direction.

SECTION 17. 80.63 is renumbered 80.01 (4) and amended to read:

80.01 (4) HIGHWAYS, STREETS AND ALLEYS, PIERS, PLATS, CURATIVE PROVISIONS. * * * Every street, highway and alley, pier and slip, * * * dedicated or attempted and intended to be dedicated in any plat * * * or laid out, altered, * * * vacated or discontinued, or attempted or intended to be laid out, altered, * * * vacated or discontinued by the authorities of any county, town, city or village * * * shall be * * * held to have been lawfully so dedicated, laid out, altered, * * * vacated or discontinued * * * from and after the expiration of 5 years from the date of the deed, instrument, plat, order, resolution or other final proceeding had or taken to effectuate such purpose. * * * No defect, * * * omission or informality in the execution of any plat or deed of dedication or in any proceedings, order or resolution on the part of * * * *such* authorities * * * for the purposes aforesaid * * * shall affect or invalidate such plat, deed, order or resolution or proceeding, after the expiration of 5 years from the date of * * * *the* plat, deed, proceeding, order or resolution; provided, * * * the street or alley laid out, *or* altered * * * by such defective, * * * or informal plat, deed, proceeding, order or resolution, shall be

limited in length to the portion actually worked and used thereunder.

* * *

SECTION 18. The last sentence of 80.02 is amended to read and, as so amended, 80.02 is reenacted:

80.02 (last sentence) No town board shall discontinue any part of a state * * * *trunk or county trunk highway*, nor * * * discontinue any highway * * * when such discontinuance would deprive the owner of lands of access therefrom to * * * a highway.

SECTION 19. 80.03 is revised to read:

80.03 RESTRICTIONS ON CONDEMNING FOR TOWN HIGHWAYS.

(1) In counties having a population of less than 500,000 no town highway shall be laid out through or upon any cemetery without the consent of those having the control of the cemetery; or through or upon any structure, yard or enclosure used for educational or charitable purposes.

(2) Without the consent of the owner no town highway in such counties shall be laid out through or upon any garden or orchard or any building or fixture used for trade or manufacture or any other building or fixture or the yard or enclosure necessary to the use thereof, when the damage thereby caused thereto, exclusive of the damage to the land, exceeds \$300.

(3) In counties having a population of 500,000 or more, no town highway shall be laid out through or upon any building, fixture, yard or enclosure used for educational or charitable purposes without the consent of the owner, or through any cemetery without the consent of the officers having the control thereof.

(4) The limitations in this section upon the power to condemn for highway purposes applies solely to highways laid out by town authority pursuant to this chapter.

SECTION 20. 80.04 is reenacted.

SECTION 21. 80.05 is reenacted.

SECTION 22. 80.06 is reenacted.

SECTION 23. 80.07 is amended to read:

80.07 ORDER; SURVEY; AWARD; RECORDING; PRESUMPTIONS.

When * * * the supervisors * * * lay out, alter, widen or discontinue any highway they shall make and sign an order therefor, incorporating therein a description of the highway * * * and * * * cause * * * survey thereof to be made

when necessary * * *. *The order shall be filed and recorded in the office of the town clerk, who shall note in the record the time of recording. * * * The order, together with the award of damages * * * shall be so filed within 10 days after the date fixed by their notice or adjournment for deciding upon * * * the application * * *. In case * * * the supervisors * * * fail to file * * * the order and award within the 10 days aforesaid they shall be deemed to have decided against * * * the application. When an order has been filed for more than 30 years and no award of damages or agreement or release has been filed and when the * * * highway, or a part thereof, has been used by the public and public money has been expended * * * thereon, for at least 5 years, it shall be presumed that a release was given by the owners of the lands over which the * * * highway was laid out and the * * * public shall be entitled to use the full width of the * * * highway, as laid out * * *, without further compensation * * *.*

SECTION 24. 80.08 is reenacted.

SECTION 25. 80.09 is reenacted.

SECTION 26. 80.10 is amended to read:

80.10 CONSIDERATIONS AFFECTING DAMAGES. If any part of a highway * * * is discontinued * * * at the time a new or altered highway * * * is laid out, the * * * benefits which any landowner derives from the discontinuance may be considered in fixing the damages sustained by * * * him in laying out * * * the new or altered highway; and in * * * fixing the damages sustained by any person in laying out, altering, widening or discontinuing any highway the benefits which * * * he receives thereby shall be taken into consideration.

SECTION 27. 80.11 (7) is amended by substituting "80.01 (2)" for "80.32" and, as so amended, 80.11 is reenacted.

SECTION 28. 80.12 is amended by substituting "81.43" for "80.025" and by substituting "or" for the second "of" in the next to the last line.

SECTION 29. 80.13 is reenacted.

SECTION 30. 80.14 is amended to read:

80.14 HIGHWAY FROM SHUT-OFF LAND THROUGH ADJOINING TOWN. When * * * the owner of land that is shut out from all highways by being surrounded * * * by * * * lands

belonging to other persons, and * * * it is impracticable to lay out a road from * * * *his* land to a public highway in the town where * * * *the* land is situated, and it is practicable to lay out a highway from said land to a highway in an adjoining town, * * * *he may* execute an affidavit in duplicate and present one copy to * * * *a* supervisor * * * of the town where the * * * land is situated and one copy to * * * *a* supervisor * * * of the town where the * * * proposed highway is to be laid out. * * * *The* affidavit * * * *shall set* forth the facts above stated, together with the facts required in the affidavit provided under section 80.13. * * * The supervisors of the 2 * * * towns shall proceed as provided under said section 80.13, except that all orders and notices shall be signed by the supervisors of both * * * and all papers required to be filed shall be made in duplicate and filed with * * * *each* town clerk * * *. The amount * * * assessed as advantages to the applicant shall be paid *by him* to the town treasurer of the town where * * * *his* land * * * is situated before the order laying out * * * *the* highway * * * *is* filed, and all damages assessed shall be paid by the town where the land of the applicant is situated.

SECTION 31. 80.15 is reenacted.

SECTION 32. 80.16 is reenacted.

SECTION 33. 80.17 is amended to read:

80.17 APPEAL FROM HIGHWAY ORDER. Any person aggrieved by any order of *the town supervisors* laying out, altering, widening, or discontinuing any highway, or refusing so to do * * * may, within 30 days after such determination, appeal therefrom to the county judge for the appointment of commissioners to review * * * *the* order or determination. Failure of the supervisors to file their decision upon any application * * * to lay out, alter, widen or discontinue any highway within 60 days after the application is made shall be deemed a refusal of the application. * * * *The* appeal shall be in writing and shall briefly state the grounds upon which it is made, and whether it be made to reverse entirely * * * *the* order or determination or only a part, and in the latter case it shall state what part * * *. In case of highways upon a line between 2 * * * counties * * * *the* appeal may be made to the county judge of either county.

SECTION 34. 80.18 is reenacted.

SECTION 35. 80.19 is reenacted.

SECTION 36. 80.20 is reenacted.

SECTION 37. 80.21 is reenacted.

SECTION 38. 80.22 is reenacted.

SECTION 39. 80.23 is amended to read:

80.23 REMOVAL OF FENCES FROM HIGHWAY; NOTICE. (1) Whenever * * * pursuant to this chapter, any highway is laid out, widened or altered * * * through * * * inclosed, cultivated or improved lands and * * * the determination * * * has not * * * been appealed from, * * * the highway authorities shall give the owner or occupant of such lands notice in writing to remove his fences within such time as they shall deem reasonable, not less than 30 days after giving such notice; and if * * * the owner or occupant * * * does not remove his fences within the time required in such notice the * * * highway authorities shall cause * * * the fences to be removed and shall direct * * * the highway to be opened; but if the determination * * * has been appealed from, * * * the notice shall be given after the final decision of * * * the appeal.

(2) This section does not authorize the opening of a highway through such lands or the removal of fences between * * * May 15 and * * * September 15, except in cases of emergency to be determined by the highway authorities * * *.

SECTION 40. 80.24 is amended to read:

80.24 APPEAL FROM AWARD OF DAMAGES BY OWNER. * * * If * * * the owner of lands through which a highway * * * is laid out, widened, altered or discontinued * * * is not * * * satisfied with * * * his award * * * of damages, * * * within 40 days after the filing of the award * * *, (and if within said 40 days an appeal * * * has been taken from the order laying out, widening, altering or discontinuing * * * the highway, then within 40 days after the final order on such appeal affirming the same) he may appeal to the county judge * * * for a jury to assess * * * his damages * * *. His appeal shall be * * * in writing, describing the premises, and any number of persons claiming damages on account of such highway may join in * * * the appeal. The * * * appellant shall serve on 2 of the supervisors of the town

in which * * * *the highway* * * * *is situated*, or upon 2 or more of the supervisors or commissioners of the town, city or village to which shall have been assigned the duty of paying the damages for such land, at least 6 days before * * * *he makes his appeal*, a notice in writing, specifying therein the name of the judge to whom and the time and place * * * *the appeal* will be made. * * * If more than one appeal be taken from the award of damages on account of any highway, * * * *the appeals* shall be consolidated by the county judge, and only one jury shall be * * * impaneled to reassess * * * *the damages*.

SECTION 41. 80.25 is amended to read:

80.25 TAXPAYER MAY APPEAL; SERVICE OF NOTICE. Any taxpayer of a town or other municipality in which a highway * * * *is laid out, altered or discontinued or any part thereof is situated*, and which is required to pay * * * damages resulting therefrom, may appeal within 40 days after the award or agreement determining such damages * * * *has been filed with the town, city or village clerk, to the county judge for a jury to assess the damages sustained by* * * * *the persons to whom damages were awarded or are to be paid* * * *. Such appeal shall be in writing, describing the premises and naming the persons to whom damages * * * are to be paid, and the amount awarded to each, and shall specify the particular award from which he appeals in case he does not appeal from all. The appellant shall serve * * * upon 2 of the supervisors of the town *or upon 2 of the commissioners of the city or village* to which * * * *has been assigned the duty of paying* * * * *the damages* and upon the persons whose awards are appealed from, at least 6 days before * * * making application, a notice in writing specifying therein the name of the judge to whom and the time and place * * * *the appellant will apply for the selection of such jury*.

SECTION 42. 80.26 is reenacted.

SECTION 43. 80.27 is reenacted.

SECTION 44. 80.28 is reenacted.

SECTION 45. 80.29 is reenacted.

SECTION 46. 80.30 is amended to read:

80.30 HIGHWAY DAMAGES; WHEN PAYABLE, REFERENDUM TO TOWN MEETING. (1) All damages * * * awarded * * *

against a town, city or village upon laying out, widening or altering any highway shall * * * not be paid until the highway * * * is opened by lawful order * * *. No liability for such damages shall exist for any highway discontinued before being opened.

(2) * * * When the total amount of damages chargeable to one town, consequent upon * * * one order * * * laying out, widening or altering a highway, * * * is more than one-tenth of one per cent on the taxable property of the town, as shown by the last assessment, and * * * exceeds * * * \$2,000, * * * the highway shall not be opened, widened or altered nor liability for damages exist, unless * * * the order and the award of damages * * * are approved, and * * * the highway * * * is accepted by a majority of the * * * electors of the town * * * voting thereon at the next annual town meeting or some special town meeting sooner called therefor.

(3) All costs and fees and damages for which any town, city or village is liable under this chapter shall be audited and paid and may be sued for and collected as other debts against * * * the town, city or village.

(4) When any order * * * is given pursuant to this section and there * * * is no available money in the treasury to pay the * * * order, the clerk of the municipality shall place the same on the next tax roll with interest thereon from the date of * * * the order in the same manner as a tax to pay a judgment, and the same shall be in like manner collected and paid to the party entitled thereto.

(5) When any * * * damages * * * are awarded, pursuant to an order * * * laying out, widening or altering * * * a highway, lying wholly within a town whose population * * * is 8,000 * * *, or over, or * * * wholly within a county having a population of 300,000 * * *, or over, * * * the order or award need not be approved or the highway accepted by * * * the electors * * *.

SECTION 47. 80.31 is reenacted.

SECTION 48. 80.32 is reenacted and 80.32 (5) of the statutes is created to read:

80.32 (5) Subsection (2) does not apply to state or county trunk highways.

SECTION 49. 80.33 is reenacted.

SECTION 50. The last sentence of 80.34 of the statutes is amended to read and, as so amended, 80.34 is reenacted:

80.34 (last sentence) This subsection shall not apply to orders made prior to * * * *July 22, 1923.*

SECTION 51. 80.35 is reenacted.

SECTION 52. 80.36 is repealed.

SECTION 53. 80.37 is reenacted.

SECTION 54. 80.38 is reenacted.

SECTION 55. 80.39 to 80.45 and 80.64 (1) are consolidated, renumbered 80.39 and revised to read:

80.39 COUNTY BOARD POWER TO LAY, ALTER AND DISCONTINUE TOWN HIGHWAYS. (1) COUNTY BOARDS' POWERS. (a) The county board may lay out highways in the county, and may widen, alter or discontinue any highway or part thereof laid out by it (but may not discontinue any part of a state trunk highway) upon the petition of not less than 10 resident freeholders of each town in which the highway or any part thereof is proposed to be laid out, widened, altered or discontinued. All the powers herein granted may be exercised by a committee of not less than 3 members of the board. Whenever the supervisors of adjoining towns in different counties cannot agree in laying out a highway extending from one town into the other and the supervisors of one town lay out a highway up to the line of the adjoining town, the county board of the county in which such latter town lies may, upon like petition, lay out such highway in continuation as the public interests may require.

(b) In every county having a population of at least 150,000 the county board, upon a vote of two-thirds of its members, may exercise the powers conferred by this section, without any petition therefor, and shall proceed thereafter in that behalf as in cases of petition duly made.

(2) NOTICE. Upon such petition the county board or the commissioners appointed by the board shall give notice of the time and place they will meet to decide thereon, which notice shall be published in some newspaper published in the county at least 3 weeks previous to the time so fixed, and in case there be no newspaper so published, by posting the notice in at least 3 public places in each town at least 3 weeks before the time so fixed; and if the board appoints a committee to act the notice shall state the fact and the notices shall be signed by the commissioners, otherwise by the chairman of the board.

(3) PROCEEDINGS; HEARINGS; ORDERS, FILING; APPEALS. At the time and place mentioned in the notice and upon proof by affidavit of the publication or posting thereof the board or its committee shall examine the highway and hear any reasons that may be offered by parties interested therein, and for that purpose may adjourn, as town supervisors are authorized to do in similar cases. If a committee acts, it shall report its determination and award of damages. Upon the receipt of the report or, when the board shall act without a committee, upon its determination, it shall make an order laying out, altering, widening or discontinuing such highway or refusing so to do, which order shall be signed by the chairman and county clerk and filed and recorded in the county clerk's office. The order shall describe any highway which is laid out, altered, widened or discontinued, and when necessary the board may cause a survey to be made for that purpose, and shall also cause a copy of the order to be filed in the office of the town clerk of each town in which any part of the highway laid out, altered, widened or discontinued lies within 10 days after the making of the order. Any person who considers himself aggrieved by the determination refusing to lay out, alter, widen or discontinue the highway may appeal in the same manner and subsequent proceedings shall be had thereon the same as provided by this chapter in cases where the town board of supervisors refuse to lay out, alter, widen or discontinue any highway.

(4) DAMAGES, HOW FIXED AND PAID; FILING AWARD. The damages sustained by any person through whose land any such highway is laid out, altered, discontinued or widened may be ascertained by agreement between the county board or its committee and the owner. Every such agreement shall be in writing signed by him and the chairman of the board or by its committee and filed in the office of the county clerk, and shall bar the owner and all persons claiming under him from further claim for damages. In case of failure to agree, the damages shall be assessed by the county board or by its committee, and the award shall be filed in like manner. The damages so assessed shall be paid by the town in which the land is situated or by such town and other towns in such proportion as the county board shall direct at the time of making the order laying out, altering, discontinuing or widening the highway if the board shall deem other towns benefited thereby. The county clerk shall

make and file a copy of every agreement for damages and of the assessment therefor with the town clerk of each town liable for the payment of the same or any portion thereof within 10 days after the order laying out, altering, discontinuing or widening the highway is made.

(5) APPEAL; VOTE BEFORE LIABILITY ATTACHES; COLLECTION OF DAMAGES. Appeals from the award of damages may be taken, heard and conducted in all respects as appeals taken from similar awards by town supervisors; but whenever the total amount of damages chargeable to any town in consequence of any such order shall be \$1,500 or more the highway shall not be opened, widened, discontinued or altered unless the order be approved and the highway or the discontinuance thereof be accepted by a majority of the electors of the town liable for such damages voting thereon at the next annual or some special town meeting called therefor. Every town chargeable with such damages or any part thereof shall be liable for payment thereof, and the same shall be collected and paid as provided in section 80.30.

(6) COMPENSATION TO COUNTY BOARD MEMBERS. For services performed in laying out, widening, altering or discontinuing any highway every member of the county board or of its committee shall receive the per diem and mileage allowed them by sections 59.03 and 59.06.

(7) HIGHWAY OPENED. Highways so laid out by county boards shall be opened and repaired in the respective towns in the same manner as other highways; but if the town board neglects or refuses to open the highway the county board may open the same.

SECTION 56. 80.46 is renumbered 80.40 and revised to read:

80.40 CONTROL OF HIGHWAYS LAID BY COUNTY. When the county board lays out, opens, alters or widens a highway, it reverts to the sole control of the town, village or city in which it lies, except county trunk highways, where control shall rest with the county. The town, city or village shall keep the highway in good repair, and, if deemed necessary, the town board, village board or common council may annually levy a special tax sufficient for that purpose, and the town, village or city may alter or discontinue such highway the same as though it had originally laid it out.

SECTION 57. 80.47 is revised to read:

80.47 RIGHTS OF ABUTTING OWNERS. The owners of land abutting on any highway, street or alley shall have a common right in the free and unobstructed use thereof to its full width, and no town, village, city, county, company or corporation shall close up, use or obstruct any part of the highway, street or alley so as to materially interfere with its usefulness as a highway or so as to damage property abutting thereon, or permit the same to be done, without due compensation being made for any damage resulting therefrom to the owners of land upon either side of such highway, street or alley. This section does not impose liability for damages to property on both sides of any street, highway or alley arising from the use, maintenance and operation of tracks or other public improvement legally laid down, built or established in any street, highway or alley prior to April 7, 1889. All rights of property which would entitle the owners to damages for injury thereto under the foregoing provisions may be condemned and permanently appropriated by any corporation authorized to use or obstruct any highway, street or alley in the same manner that other property may be condemned and appropriated by such corporation.

SECTION 58. 80.48 (1) to (6) are reenacted.

SECTION 59. 80.49 to 80.62 are repealed.

SECTION 60. 80.64 (3) is renumbered 80.64 and revised to read:

80.64 WIDENING OF HIGHWAYS; ESTABLISHMENT OF EXCESS WIDTHS. With the approval of the governing body of the municipality in which a street or highway or part thereof, is located, the county board may, to promote the general welfare, establish street and highway widths in excess of the widths in use; and likewise may adopt plans showing the location and width proposed for any future street or highway, which shall not be subject to section 80.32 (2). Such streets or highways or plans therefor shall be shown on a map filed in the office of the register of deeds, and notice of such filing shall be published in a newspaper of general circulation in the territory in which such streets or highways are located once each week for 3 successive weeks, and shall be posted in at least 3 public and conspicuous places along each such street or highway. The notice shall briefly set forth the action of the county board. The county board, upon

like approval, publication and notice, may from time to time supplement or change the same, and such supplements or changes shall be similarly filed in the office of the register of deeds. The excess width for streets or highways in use, or the right of way required for those planned, may be acquired at any time either in whole or in part by the state or county or municipality in which located; but no part shall be acquired in less than the full extent, in width, of the excess width to be made up of land on the same side of the street or highway, nor for less than the full length of such excess width lying within contiguous land owned by the same owner. Any land so acquired, whether the excess width is acquired for the full length of the street or highway or not, shall at once become available for highway purposes. The power to acquire such right of way or additional width in portions as provided herein may be exercised to acquire the land on advantageous terms.

SECTION 61. The title to chapter 81 shall read:

CHAPTER 81

TOWN HIGHWAYS

SECTION 62. 81.01 is amended by striking the word "To" from the beginning of each subsection, and by amending the introductory paragraph to read:

81.01 (introductory paragraph) The town board * * * shall have the care and supervision of all highways * * * in * * * *the town* * * *, except as otherwise provided. * * * *The town board* * * * *shall:*

SECTION 63. 81.02 is reenacted.

SECTION 64. 81.03 and 86.01 (1) are consolidated, renumbered 81.03 and revised to read:

81.03 SUPERINTENDENT OF HIGHWAYS; DUTIES. The superintendent of highways shall supervise the construction and maintenance of all highways in his district required to be maintained by the town, and keep them passable at all times, and perform such other services in connection with said highways as the town board requires, and keep a full account of all his receipts and disbursements. He may make such arrangement for the prosecution of his work as he deems necessary and appoint such foremen as the highway work requires. When any highway under his charge becomes impassable he shall put the same in passable

condition as soon as practicable. He shall make a complete and full report of all funds received and disbursed by him whenever requested so to do by the town board, and shall also make a complete and full report to each annual town meeting. The superintendent, and in his absence the town board, shall immediately upon notice of its existence fill or remove any depression, ditch, hump or embankment which impedes the use of any highway in his district.

SECTION 65. 81.04 is reenacted.

SECTION 66. 81.05 is reenacted.

SECTION 67. 81.06 is amended to read:

81.06 ENTRY ON LANDS; PURPOSES; ROAD MATERIALS IN HIGHWAYS. The * * * *town board* may enter upon any lands near any highway in * * * *the town* and there construct * * * *necessary drains or ditches or embankments* * * * for the improvement or protection of * * * *the highway*; and may enter upon any unimproved lands near any highway in * * * *the town* and take stone, gravel, sand, clay, earth or trees for the purposes of improving any highway, but * * * shall carefully avoid doing any unnecessary injury to the premises; and * * * may take * * * stone, gravel or other suitable materials within the highway of * * * *the town* to improve any highway therein. No such material shall be removed from any town without the consent of the town board unless the highway on which the same * * * *is found* is maintained by the county, in which case the county may use the same for any highway purpose. * * *

SECTION 68. 81.07 is amended to read:

81.07 ENTRY ON LANDS; APPRAISAL OF DAMAGES; APPEALS THEREFROM. The owner or occupant of lands entered upon or used for any of the purposes mentioned in * * * sections 81.01 * * * *and* 81.06 * * * may apply to the town board * * * to appraise the resulting damages, and such damages may be determined by agreement. If they are unable to agree upon the * * * *damages* the board shall make and file an award of damages * * *, and the owner or occupant may appeal from said award within the time and in the manner provided by section 80.24, and the proceedings on such appeal shall be governed * * * *by* section 80.24 and following sections.

SECTION 69. 81.08 it reenacted.

SECTION 70. 81.09 is repealed.

SECTION 71. 81.11 (3) is amended by substituting "83.14" for "83.15" wherever that reference occurs, and, as so amended, 81.11 is reenacted.

SECTION 72. 81.12 is reenacted.

SECTION 73. 81.14 is revised to read:

81.14 HIGHWAYS; REFUSAL OF TOWN TO OPEN; APPEAL TO COUNTY BOARD; COST OF OPENING. (1) If any town, or towns in case of a town line highway, either by the proper officers, or by a majority vote of the electors voting on such question, refuse, fail or neglect to open and put in reasonable condition for travel a highway, within one year from the date when it was laid out, or refuse, fail or neglect to repair any highway or build or repair any bridge thereon, in such town or towns, any 15 freeholders thereof may appeal to the county board of the county in which the highway or bridge is situated, by notice in writing served on the chairman or chairmen of the town or towns. For the purpose of this section all highways on town lines, which shall have been apportioned between towns, shall be considered as wholly within the town to which such part of said highway or bridge is apportioned. In case of town highways which are upon county lines and which have not been apportioned for the purpose of maintenance, the appeal may be made to the county board of either county. When it is appealed to, the county board shall, at the next regular meeting, either by a majority of its members or by a committee of not less than 3, examine such highway or bridge, and if they determine that it ought to be put in reasonable condition for travel or ought to be repaired, the county board shall thereupon appropriate therefor sufficient funds to defray the estimated cost of opening or repairing the highway or building or repairing the bridge, and the chairman of the county board shall cause the highway to be opened and put in reasonable condition for travel or cause the bridge to be repaired or built, and shall keep an accurate account of the expense thereof, and such expense when audited and allowed by the county board shall be charged to the town and added to the next county tax apportioned thereto and collected therewith.

(2) If any county fails to aid in putting in reasonable condition for travel any county line highway, the adjoining county

may, after not less than 20 days' notice in writing given to the county clerk of such county, put such highway in reasonable condition for travel and keep an accurate account of the expense thereof. Such expense when audited and allowed by the county board, shall be prorated and charged to the county whose duty it is to keep the highway in condition for travel. Such county may then charge the expense to the town whose duty it is to keep the highway in repair and add it to the next county tax, apportion it thereto and collect it therewith.

(3) In case the highway was laid out by commissioners upon reversing the decision of supervisors and an appeal is taken as provided in this section, the county board shall at the next regular meeting appropriate sufficient funds to defray the estimated costs and expense, of opening and putting such highway in reasonable condition for travel, and the chairman of the county board shall immediately after said meeting cause the highway to be put in reasonable condition for travel, keep an accurate account of the expense thereof; and such expense when audited and allowed by the county board, shall be charged to the towns, in such amounts and in such proportion as the county board shall determine and added to the next county tax apportioned thereto and collected therewith. No highway laid out by commissioners, or for which appeal for the opening thereof has been taken to the county board, as provided in this section, shall be discontinued prior to the time said highway is actually opened for public travel.

(4) In case of a county line highway which has not been apportioned between towns for the purpose of maintenance, and where an appeal may be taken to the county board of any county bounded by said highway, the expense incurred in opening and putting in reasonable condition for travel such highway, or in repairing it, or in building or repairing any bridge thereon, shall be paid primarily by the county to which the appeal is taken, and by said county apportioned among all of the counties which are bounded in whole or in part by such highway, and the proportionate share of such costs and expense shall be paid by the other counties to the county to which the appeal is taken, upon presentation of a proper claim therefor, and when such expense has been paid by the counties liable therefor it shall be charged by the respective counties to their proper towns and added to the

next county tax apportioned to such towns and collected therewith.

SECTION 74. 81.15 is amended to read:

81.15 DAMAGES CAUSED BY HIGHWAY DEFECTS; LIABILITY OF TOWN AND COUNTY. If * * * damages * * * happen to any person * * * or * * * *his* property by reason of the insufficiency or want of repairs of any * * * *highway which* any town, city or village *is bound to keep in repair*, the person sustaining such damages shall have a right to * * * recover the same * * * *from* such town, city or village, * * * *but* no action shall be maintained by a husband on account of injuries received by the wife, or by a parent on account of injuries received by a minor child. * * * If such damages * * * happen by reason of the insufficiency or want of repairs of a * * * *highway* which any county * * * by law or by agreement with any town, city or village *is bound to keep in repair*, or which occupies any land owned and controlled by the county, * * * *the* county shall be liable therefor and the claim for damages shall be against the county. If * * * *the* damages * * * happen by reason of the insufficiency or want of repairs of a bridge erected or maintained at the expense of two or more towns the action shall be brought against all the towns liable for the repairs of the * * * *bridge* and upon recovery of judgment the damages and costs shall be paid by such towns in the proportion in which they are liable for such repairs; and the court may * * * direct the judgment to be collected from * * * each town for its proportion only. No such action shall be maintained * * * unless within 30 days after the happening of the event causing such damages, notice in writing signed by the party, his agent or attorney shall be given to the county clerk of the county, a supervisor of the town, one of the trustees of the village or mayor or city clerk of the city against which damages are claimed, stating the place where such damages occurred, and describing generally the insufficiency or want of repair which occasioned it and that satisfaction therefor is claimed of such county, town, city or village. No notice given hereunder shall be deemed insufficient or invalid solely because of any inaccuracy or failure therein in stating the time, describing the place or the insufficiency or want of repairs which caused the damages for which satisfaction is claimed, pro-

vided it shall appear that there was no intention on the part of the person giving * * * *the* notice to mislead the other party and that such party was not in fact misled thereby * * *. The amount recoverable by any person for any damages * * * so sustained shall in no case exceed \$5,000. No action shall be maintained to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any bridge or highway, unless such accumulation * * * existed for 3 weeks.

SECTION 75. 81.16 is amended to read: :

81.16 OFFICERS, WHEN LIABLE FOR HIGHWAY DEFECTS. If any * * * *highway*, at the time of the occurrence of such damage, * * * *was* insufficient or out of repair in consequence of the neglect or default of the superintendent of highways or town officer of the town or district in which the * * * *highway* is situated or in consequence of the neglect or default of any commissioner appointed by the county board, then the town or county against which any judgment * * * *is* recovered by reason of such defect may recover the amount of * * * *the* judgment * * * *from* such * * * *superintendent* or commissioner or town officer.

SECTION 76. 81.17 is amended to read:

81.17 HIGHWAY DEFECTS; LIABILITY OF WRONGDOER; PROCEDURE. Whenever * * * damages * * * happen to any person or property * * * by reason of any defect in any highway * * * or other public ground, or from any other cause for which any * * * *town, city, village or county* would be liable, and such damages * * * *are* caused * * * by, or arise from, the wrong, default or negligence thereof and of any person, or private corporation, such person or private corporation * * * shall be primarily liable therefor; but * * * *the* town, city, village or county may be sued * * * with the person or private corporation so primarily liable * * *. If the town, city, village or county * * * *denies* its primary liability and * * * *proves* upon whom such liability rests the * * * judgment * * * *shall be* against all the defendants shown by the verdict or finding to be liable for * * * *the* damages; but judgment against the town, city, village or county shall not be enforceable until execution has been issued against the * * * *party* found to be primarily liable and returned unsatisfied in whole or in part; on such re-

turn being made the *defendant* town, city, village or county * * * shall be bound by the judgment * * *. The unpaid * * * balance shall be collected in the same way * * * as other judgments * * * . * * *

SECTION 77. 81.27 to 81.33 are repealed.

SECTION 78. 86.13 is renumbered 81.35 and amended to read:

81.35 TUNNEL UNDER HIGHWAY BY LANDOWNER. * * *
The owner of land * * * on both sides of * * * a town highway * * * may construct a tunnel under * * * the highway, * * * and the necessary fences for the passage of stock, and other purposes, * * * in such manner as will not interfere with or endanger travel on * * * the highway. * * * Such tunnel * * * shall not be less than 25 feet in length and shall be maintained by the * * * owner and he shall be liable for all damages which may be occasioned by * * * failure to keep the * * * tunnel in repair; * * * but the electors of * * * the town at an annual town meeting may * * * authorize the construction of any designated tunnel * * * not less than 16 feet in length. The chairman of * * * the town shall see that all tunnels in his town are made in accordance with * * * this section and that they are kept in good repair.

SECTION 79. 86.14 is renumbered 81.36, and the introductory paragraph of subsection (1) is amended to read:

81.36 (1) (introductory paragraph) The owner of any engine, or any person who propels or causes such an engine to be propelled or otherwise moved or used along or upon any town highway * * *, shall be liable for all damages that may be caused thereby to such highway, or any sluiceway, culvert or bridge thereon, or to any person or corporation by reason of the propelling or otherwise moving or using the same upon any such highway in the following cases:

SECTION 80. 87.01 is renumbered 81.38.

SECTION 81. 87.14 is renumbered 81.39 and is amended by substituting "81.38" for "87.01".

SECTION 82. 87.13 is renumbered 81.42.

SECTION 83. 80.025 is renumbered 81.43 and is amended by substituting the word "section" for "act" in subsection (2).

SECTION 84. The title to chapter 82 is repealed.

SECTION 85. The title to chapter 83 shall read:

CHAPTER 83

COUNTY HIGHWAYS

SECTION 86. 82.03 (2) to (5) are renumbered 83.01 (2) to (5); and 82.03 (6) is renumbered 83.01 (6) and amended by substituting "83.10 (1)" for "84.03"; and 82.03 (1) is renumbered 83.01 (1) and amended to read:

83.01 COUNTY HIGHWAY COMMISSIONER. (1) ELECTION.
* * * *The county board shall elect a county highway commissioner, but in lieu thereof may by resolution request the state highway commission to * * * appoint a county highway commissioner. If the county board shall fail to elect a county highway commissioner or to make such request to the state highway commission, the county shall not participate in state * * * allotments for highways.*

SECTION 87. 82.04 (1) to (5) are renumbered 83.01 (7) (a) to (e) and amended to read:

83.01 (7). DUTIES. (a) The county highway commissioner shall have charge under the direction of the county highway committee of the construction of highways built with * * * county aid * * * and of the maintenance of all highways maintained by the county.

(b) He shall perform all duties required of him by the county board and by the county highway committee and shall do or cause to be done all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways. He shall establish such grades and make such surveys and maps or cause the same to be made as he * * * deems proper, and examine the highways and report as to the condition of roads, bridges and culverts, and make estimates of the cost of the improvement thereof, and of the cost of any relocation when required to do so or when he * * * deems the same reasonably necessary.

(c) He shall have charge of all county road machinery and tools, and shall be responsible to the county board for their proper maintenance, repair and storage, and shall in his annual report make a complete inventory of the same, which inventory shall show the date of purchase, the location and condition of such machinery and tools, and the cost and present value thereof.

(d) He shall make an annual report to the state highway commission and to the county board at its annual meeting containing an itemized statement of all expenditures made from the county road and bridge fund during the year ending November 1. He shall include in * * * *his* report an itemized estimate of the amount needed to properly maintain the * * * *county trunk* highways * * * in his county for the succeeding year and shall make such recommendations as he deems advisable.

(e) He and his employes * * * *may* enter * * * private lands for the purpose of making surveys or inspections.

SECTION 88. 82.04 (7) is renumbered 83.01 (7) (f) and amended to read:

83.01 (7) (f) Whenever any fence encroaches upon any highway on the county *trunk* or state *trunk* system, the county highway commissioner * * * *may* issue * * * *an* order requiring the owner or occupant of the land to which such fence is appurtenant to remove the * * * *fence* from * * * *the* highway within 30 days. * * * *The* order shall be served personally or by registered mail. If the fence is not sooner removed the commissioner shall, after the expiration of * * * 30 days, * * * *remove the fence*. He shall keep an accurate account of the expense thereof which shall be paid by the county. The * * * *expense* shall be charged to the town in which such lands are situated and shall be added to * * * *its* tax roll * * * as a special tax against such lands, and shall be collected and accounted for as other county taxes are * * *. If the claim of encroachment is disputed, the dispute shall be decided in the manner prescribed by section * * * 86.04 (3).

SECTION 89. 82.05 (1), (2) and (3) are renumbered 83.015 (1) and amended to read:

83.015 COUNTY HIGHWAY COMMITTEE. (1) ELECTION; COMPENSATION; TERM. (a) *Except as otherwise provided in paragraph (b)* each county board at the annual meeting shall by ballot elect a committee of not less than 3 nor more than 5 persons, to serve for one year, beginning either as soon as elected or on January 1 following their election, as * * * designated by the county board, and until their successors are elected. Any vacancy * * * in the committee may be filled until *the* next meeting of the county board by appointment made by *the* chairman of * * * *the* board. * * * *The* committee

shall be known as the "County Highway Committee," and shall be the only committee representing the county in the expenditure of county funds in constructing or maintaining, or aiding in constructing or maintaining * * * *highways*. The members of such committee shall be reimbursed for their * * * necessary expenses incurred in the performance of their * * * duties, and shall be paid the same per diem for time * * * necessarily spent in the performance of their duties as is paid to members of other county board committees, not, however, exceeding \$500 * * * for both per diem and expenses to any * * * member in any * * * year * * *. A different amount may be fixed as a maximum by * * * *the* county board.

(b) The number of members on the county highway committee, the membership, manner of appointment, and the terms of * * * *the* members, in counties having a population of 200,000, or more, shall be as fixed from time to time by the county board * * *.

(c) The town chairman of each town in which * * * *county* aid construction is performed shall be ex officio a member of the county *highway* committee, or shall act with such committee, on all matters affecting such construction in his town, provided the town has voted a portion of the cost thereof.

SECTION 90. 82.06 is renumbered 83.015 (2) and revised to read:

83.015 (2) POWERS AND DUTIES. The county highway committee shall purchase and sell county road machinery as authorized by the county board, determine whether each piece of county aid construction shall be let by contract or shall be done by day labor, enter into contracts in the name of the county, and make necessary arrangements for the proper prosecution of the construction and maintenance of highways provided for by the county board, enter private lands with their employes to remove weeds and brush and erect or remove fences that are necessary to keep highways open for travel during the winter, direct the expenditure of highway maintenance funds received from the state or provided by county tax, meet from time to time at the county seat to audit all pay rolls and material claims and vouchers resulting from the construction of highways and perform other duties imposed by law or by the county board.

SECTION 91. 82.07 is renumbered 83.016 and amended to read:
83.016 TRAFFIC PATROLMEN; APPOINTMENT, DUTIES, BOND.

(1) The county highway committee * * * may appoint * * * *traffic* patrolmen for the enforcement of laws relating to the * * * highways or their use, or the maintenance of order upon or near the * * * highways. * * * *Traffic* patrolmen may arrest * * * without warrant, any person * * * who, in their presence, * * * violates any law relating to * * * highways * * * or the maintenance of order upon or near * * * highways. Any * * * *traffic patrolman*, sheriff, constable or other police officer may make such arrest without warrant on the request of any other * * * *traffic patrolman*, sheriff, constable or * * * police officer in whose presence any such offense * * * *has* been committed. The * * * *appointment* of any * * * *traffic patrolman* may be revoked at any time by the county highway committee. No * * * *traffic patrolman* shall receive or accept from or for any person he has arrested, any money or other thing of value, as or in lieu of bail or for the person's appearance before a court or magistrate, or to cover or be applied to the payment of fines or costs, or as a condition of such person's release.

(2) * * * *Traffic* patrolmen, before exercising their powers, shall be provided with a badge which shall be worn when on duty. Such badges shall be furnished to the county by the state * * * *motor vehicle department*.

(3) * * * *Traffic* patrolmen shall furnish * * * bonds in a sum fixed by the county board to indemnify the county for any and all claims arising out of the performance of their duties. The cost of said bonds shall be paid by the county.

SECTION 92. 83.02 is repealed.

SECTION 93. 83.01 (1), (2) and (4) are renumbered 83.02 and revised to read:

83.02 COUNTY AID HIGHWAY. (1) The systems of prospective state highways heretofore selected by the county boards and approved by the state highway commission are hereby validated but without prejudice to the exercise of the power to change such systems. Such systems are hereby designated as the county aid highway system.

(2) The state highway commission, on the petition of at least 100 freeholders, may, after investigation, make such alterations

in the system of county aid highways as it deems necessary to serve the public interest.

(3) The county board may alter such systems with the consent of the state highway commission.

SECTION 93a. 83.01 (5) is repealed, and all acts by which parts of the systems of prospective state highways were adopted or declared to be state highways and the obligations for maintenance by counties imposed thereby are repealed and annulled.

SECTION 94. 83.01 (6) is renumbered 83.025 and revised to read:

83.025 COUNTY TRUNK HIGHWAYS. (1) The systems of county trunk highways heretofore selected by county boards and approved by the state highway commission are hereby validated. Such systems may be altered or increased only with the consent of the commission. The county board, or the county highway committee, shall, by conference with the boards or highway committees of adjoining counties, or otherwise, cause their respective systems to join so as to make continuous lines of travel between the counties. Any highway which is a part of the county trunk system shall, by virtue thereof, be a portion of the system of county aid highways. Any city or village street or portion thereof selected as a portion of such system prior to May 1, 1939, shall be a portion of such system. All streets or highways in any city or village over which is routed a county trunk highway or forming connections through such city or village between portions of the county trunk highway system shall be a part of such system unless the governing body of the city or village, by resolution, removes such street or highway from the county trunk system.

(2) The county trunk system shall be marked and maintained by the county. No county shall be responsible for the construction and maintenance of a city or village street on the county trunk highway system to a greater width than are those portions of such system outside the village or city and connecting with such street. When a portion of a county trunk highway extending from one county to another has less mileage than is practical for a patrol section, such portion shall be patrolled by the county in which the major portion of the highway lies, and each county shall bear its proportionate share of the expense of maintenance, payable monthly. The marking and signing of the county trunk highway systems shall be uniform throughout the state, as prescribed by the state highway commission.

SECTION 95. 83.03 is amended to read:

83.03 COUNTY AID; LOCAL LEVY; DONATIONS. * * * (1) The county board may construct or improve or repair or aid in constructing or improving or repairing any * * * *highway* or bridge in the county.

(2) If any county board * * * determines to improve any portion of * * * a county trunk highway * * * with county funds, it may assess not more than 40 per cent of the cost of * * * the improvement *but not over \$1,000 in any year* against the town, village or city in which the improvement is located as a special tax * * * *but no such assessment* * * * shall be made against any town in which the combined appropriation of the town and county for the improvement of county *trunk* highways in such year * * * exceeds 2 mills *per dollar* on the assessed valuation of * * * the town. The county clerk shall certify * * * the tax to the town, village or city clerk who shall put the same in the next tax roll, and * * * *it* shall be collected and paid into the county treasury as other county taxes are levied, collected and paid. A portion or all of such special assessment may be paid by * * * donation.

* * * (3) The county board * * * may accept * * * donations to the county of money or lands * * * for highway or bridge purposes, and * * * apply * * * the donations in accordance with the wishes of the donor as nearly as is practicable. * * *

SECTION 96. 83.04, except subsection (10), is amended to read:

83.04 HIGHWAY CONSTRUCTION BY COUNTY; NONCONTRACT WORK; PAYMENTS. (1) All highway improvements made * * * by the county highway committee shall be by contract, unless the * * * committee * * * determines that some other method would better serve the public interest. The manner of advertising for bids and the forms of bids, contracts and bonds shall be * * * *substantially those used* by the state highway commission * * *. In letting a contract the county highway committee * * * act for the county * * *.

(2) If it * * * is deemed inadvisable to let a contract for highway construction, the county highway committee may * * * direct the county highway commissioner to proceed

with the construction as noncontract work, and he * * * *may*, under the supervision of the committee, * * * employ and purchase the necessary labor and materials.

(3) During construction the work and materials shall be inspected by the county highway commissioner or by inspectors employed by him with the approval of the county highway committee. * * * Upon the completion of any highway job *by or for the county on the county aid system or for which * * * county aid has been granted * * * the work shall be inspected by the * * * county highway commissioner*, and if found in conformity with * * * plans and specifications, * * * *he shall so find and notify the county highway * * * committee and the county clerk thereof and that the * * * improvement has been accepted * * **.

(4) Upon contract construction * * * final payment shall not be made until the work has been accepted as complete by the * * * *county highway commissioner*. In case of noncontract work payment shall be made monthly upon verified, detailed, statements and pay rolls prepared by the county highway commissioner and approved and allowed by the county highway committee, and all payments shall be made by orders on the county treasurer in the ordinary form signed by the chairman of the county board and the county clerk, unless the county has adopted some different method of making disbursements, in which event it shall be according to such method and all orders shall be drawn upon and paid out of the fund provided for such construction. Said statements and pay rolls shall be filed with the county clerk.

* * * (5) When final payment has been made upon any highway improvement, any funds remaining in the county treasurer's hands which were provided by * * * any subdivision of the county for that particular improvement, shall be placed together with the county's balance available for that job to the credit of such subdivision of the county, and shall be used to increase the funds available for the next construction job in said subdivision, and any such balance in the bridge fund may be transferred to the road fund or vice versa by the town or village board with the approval of the * * * *county highway * * * committee*.

* * * (6) No order shall be drawn on the county road or bridge fund * * * in excess of the funds available for the particular * * * *improvement for which drawn*, without

the authority of the county board or the county highway committee.

SECTION 97. 83.05 is amended to read:

83.05 IMPROVING CITY OR VILLAGE STREETS OVER 18 FEET WIDE. (1) When * * * a portion of the * * * system of * * * *county aid* highways in any city *is to be improved*, and the funds from the city and county * * * are available therefor, the city may determine that the roadway shall be * * * *paved* to a greater width than 18 feet. If it * * * so decides, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee * * *. And said committee * * * shall fix the amount per linear foot of * * * *the* improvement to be paid * * * *by* the county * * *. The city shall then * * * improve * * * *the* street in the manner provided generally for making street improvements. The work shall be done under the supervision of the city, but subject to the inspection of the county highway commissioner * * *.

(2) Upon the completion of the work the county's share of the cost shall be paid to the contractor * * * as though the county had been an immediate party to the contract. In no case shall * * * *the* payment * * * *by* the county * * * exceed the cost of 18 feet of the width of the pavement, plus a share of the grading, draining, and appertaining structures, which share shall be determined by dividing the whole cost of these items by the width of the pavement * * * in feet and multiplying the quotient by 18. The balance of the expense of the improvement shall be borne by the city, and shall be provided in the manner in which expense of street improvement is ordinarily met. Assessments of benefits may be made by the city against abutting property in the manner provided where the improvement is done solely * * * at the expense of the city, but such assessments of benefits shall not exceed the difference between the cost of the improvement and the amount contributed thereto by the county * * *.

(3) When * * * a part of the system of * * * *county aid* highways * * * in a village *is to be improved*, the village board may determine to * * * *pave* the same to a greater width * * * *than 18 feet*, and may pay the addi-

tional cost out of the general funds of the village, or assess a part or all of such costs to the abutting property as provided by sections 61.40 and 61.41. A joint contract covering the whole work may be entered into between the * * * county and village officials and the contractor, and the general procedure in regard to * * * *the* improvement shall be the same as if the improvement had been made in the usual way and the village was not a party to the contract, except that the amount due to the contractor for the additional width of pavement shall be paid by the village. The village board shall determine * * * *whether* special assessments shall be paid * * * in 1, 3 or 5 years, and the rate of interest on deferred payments.

SECTION 98. 83.06 (2) and (3) are repealed and 83.06 (1) is renumbered 83.06 and amended to read:

83.06 All * * * streets and highways improved with * * * county aid under * * * this chapter shall be maintained by the *towns*, cities and villages in which they lie but this provision shall not diminish or otherwise affect the duty of the county with respect to any street *or highway* which is a portion of the county trunk *highway* system, *nor the powers of the county conferred by section 83.03 (1) and (2) or 59.08 (35).*
* * *

SECTION 99. 83.06 (4) is renumbered 83.065 and amended to read:

83.065 COUNTY ROAD AND BRIDGE FUND; TAX LEVY. The county board shall annually levy a tax of not more than 2 mills on the dollar, * * * in addition to all other taxes, and *the proceeds* shall be * * * known as the "County Road and Bridge Fund" * * *. Expenditures from said fund shall be made only for the purposes of constructing and maintaining highways and bridges under * * * this chapter and for * * * purchasing, operating, renting and repairing machinery, quarries and gravel pits used in such construction and maintenance.

SECTION 100. 83.07 is revised to read:

83.07 ACQUISITION OF LANDS, QUARRIES, GRAVEL PITS; RELOCATION; EMINENT DOMAIN. (1) The county highway committee or town board may acquire any lands or interest therein needed to carry out the provisions of this chapter. Whenever the county highway committee or town board is unable to acquire the same

by purchase at a reasonable price such property may be acquired by condemnation under chapter 32 or subsections (4), (5) and (6) of this section.

(2) In case the county highway committee or town board deems it desirable to acquire any lands or the right to take stone, gravel, clay or other material, from private lands for use in the execution of the committee's or board's duty, or to acquire the right of access to any lands, or the right of drainage across any lands, the committee or board may purchase or condemn such lands or right and take title thereto in the name of the county or town, and the cost thereof shall be paid out of the highway improvement funds.

(3) When lands are acquired under this section to relocate or straighten any highway or to provide easier curves at highway intersections, and tracts not more than 2 acres in area remain separated from the main body of land from which they are acquired, the county highway committee or town board may, if it deems the acquisition of such minor tracts advisable or necessary to beautify the highway or to protect public travel, acquire such minor tracts in the name of the county or the town. Tracts in excess of 2 acres of like character may be acquired by agreement.

(4) In case the committee or board is unable to acquire needed lands or rights by contract the committee or board may acquire the same in the name of the county or town by eminent domain, as provided in chapter 32 or in the following manner: They may, upon not less than 5 days' notice in writing, exclusive of Sundays and holidays, to the owner, describing the property and stating the time and place of hearing the application, apply to the county judge of the county to appraise the value of the property sought to be taken. At the time set therefor the judge shall hear the parties, and inform himself in respect to the matter, and within 5 days, make his award in writing and file it in his office. The county committee or town board may then pay the sum awarded by delivering to the owner a county or town order, or tender the same, and the title to the property and rights sought to be acquired shall thereupon vest in the county or town for the uses and purposes of the acquirement, and the committee or board may cause a certificate under the hand and official seal of such judge, stating the facts, to be recorded in the office of the register of deeds.

(5) The landowner may, within 30 days after the award is made, file with the judge a notice of appeal to the circuit court, whereupon the judge shall certify all the papers in the proceedings to the court, and thereupon the matter shall be regarded as at issue, and the proceedings shall be as provided in section 32.11.

(6) The committee or board may appeal to the circuit court in the same manner and within the same time and the subsequent procedure shall be like that upon the owner's appeal. Payment or tender of the award shall not defeat the county's or town's right to appeal.

SECTION 101. 84.04 (3) is repealed.

SECTION 102. 83.08 is repealed and recreated to read:

83.08 COUNTY AID HIGHWAYS, RELOCATION; ACQUISITION OF RIGHT-OF-WAY. (1) Whenever the county highway committee deems it necessary to acquire any lands or interests therein for the proper improvement, maintenance, relocation or change of any county aid highway or any bridge thereon, the committee shall so order, (subject to the approval of the state highway commission) and shall prepare a map showing the old and new locations and rights to be acquired and shall file a copy of the order and map with the commission. Upon approval by the commission the committee shall file a copy of its order with the county clerk and endeavor to obtain easements, conveyances or deeds for the lands or rights required, at a price including damages deemed reasonable by the committee. The easements, conveyances or deeds shall name the county as grantee of the lands and rights acquired, and shall be filed with the county clerk and recorded in the office of the register of deeds.

(2) If any of the needed lands and rights cannot be purchased for a reasonable price, the committee may acquire the same either by condemnation proceedings under chapter 32 or section 83.07, or may make and sign an award of damages to the landowner and file the same with the county clerk; and thereupon the amount so awarded shall be payable the same as when the land is acquired by purchase; and the landowner may receive the award without prejudice to his right to claim and to contest for a greater sum. When the award has been filed, the highway authorities and their contractors and employes may take possession of the premises and proceed with the contemplated highway improvement. A copy of the award shall be delivered or mailed

to the owner if his address be known and if not known then to the occupant of the land. If the land is unoccupied and the address of the owner is unknown, the award shall be published for 3 successive weeks in a newspaper having general circulation in the county. The landowner may, within 2 years after the filing of the award, proceed as provided in chapter 32 to have his damages appraised, or may within said period apply to the county judge, on 5 days' written notice to any member of the highway committee, to appraise the damages and thereafter the proceedings shall be as provided in section 83.07.

(3) The cost of land and rights so acquired, including any damages allowed and other expenses connected therewith, shall be paid out of available improvement or maintenance funds.

SECTION 103. 83.09 (2) and (3) are repealed and 83.09 (1) is renumbered 83.09 and amended to read:

83.09 EMERGENCY REPAIRS OF COUNTY TRUNK HIGHWAYS.
 * * * Whenever * * * a flood or other casualty renders any * * * county trunk highway * * * dangerous for travel, the town chairman shall immediately close it and notify the county highway commissioner thereof, and the commissioner shall promptly make repairs necessary to render the highway safe for travel. If * * * sufficient funds are not available in the county maintenance fund, the commissioner may, with the consent of the chairman of the county board or of the county highway committee, make the necessary repairs, and the cost thereof shall be paid as soon as funds * * * are available.

SECTION 104. 84.03 (2) and (6) are renumbered 83.10 and revised to read:

83.10 STATE ALLOTMENT TO COUNTY TRUNK HIGHWAYS. (1) From the appropriation made by section 20.49 (4), there shall be allotted, by the state highway commission, to the several counties as state aid for the county trunk highway systems, the sum of \$3,500,000. Forty per cent of the allotment shall be in the ratio that the number of motor vehicles registered from each county bears to the total number registered in the state and 60 per cent in the ratio that the mileage of highways in each county exclusive of highways and streets in cities and villages bears to the total mileage of highways in the state. There shall be an additional allotment to each county of \$65 per mile for each mile of county trunk highway. Such allotments shall be used for

constructing, repairing and maintaining the county trunk highway system and the bridges thereon, including snow and ice removal and control, under the direction of the county highway committees. Any county may allocate all or part of its allotment, with the approval of the commission, to match or supplement federal aid funds for the construction, reconstruction and improvement of the county trunk highway system and in such event such amount may be retained by or paid to the commission or the state treasury as the commission may require and shall be expended in accordance with the provisions of section 84.06 and any applicable act of congress. All or part of such allotment not allocated to match or supplement federal aid as herein provided shall be expended in accordance with the applicable provisions of this chapter.

(2) The county board of any county having a population of 500,000 or more may appropriate any portion of the moneys received by such county under section 20.49 to the cities and villages and the county park commission within such county for the construction or reconstruction of streets, park or parkway roads or drives, or for the payment of the principal or interest on bonds issued by any town, city or village in such county for the construction of bridges carrying a traffic in excess of 2,500 vehicles per day, according to a determination made by the state highway commission.

SECTION 105. 83.11 is reenacted.

SECTION 106. 83.04 (10) is renumbered 83.12 and is revised to read:

83.12 CATTLE PASSES. As a part of any highway improvement or as a separate project under this chapter, cattle passes across highways may be constructed at places determined by the county highway committee to be necessary and practical.

SECTION 107. 83.13 is amended to read:

83.13 GUIDEBOARDS. The county board * * * may erect and maintain guideboards on * * * *county aid and county trunk* highways which * * * *are* not * * * part of the state trunk highway system, the cost to be paid out of such fund as the board shall direct.

*SECTION 108. 83.14 is amended to read:

83.14 COUNTY AID ON TOWN AND VILLAGE INITIATIVE. (1) Any town meeting or village board may vote a tax of not less

than \$500 to improve a designated portion of * * * a county aid highway * * * and may accept cash donations for such purposes, and when accepted subsequent proceedings shall be the same as if a tax of like amount had been voted. Highways in villages shall not be eligible to improvement under this section wherever the buildings fronting the highways average more than one to each 60 lineal feet of highway. The tax * * * shall not exceed * * * one mill on the dollar on the taxable property * * * but every town and village may vote \$500, and such tax shall be * * * paid to the county treasurer when the county taxes are paid.

(2) When * * * the tax has been voted * * * the town * * * or village board shall petition the county board at its next annual meeting to appropriate at least an equal amount as the county's share of the cost of the proposed improvement. The petition shall designate the highway to be improved and state the character of the improvement and the amount which has been voted therefor.

(3) The county board shall thereupon appropriate for the improvement a sum equal to or greater than the amount voted therefor by the town or village; and shall raise the same by tax on all the taxable property of the county.

(4) No county shall be required to appropriate in any year over \$2,000 for work in any town or village.

(5) The improvement shall be performed, supervised and paid for and accepted in the same manner as * * * other county aid work.

(6) Construction shall not begin until the funds to pay for the same are in the county treasury and the plans and specifications have been approved by the * * * county highway committee. After any town * * * has voted the tax * * * such town may borrow money for such improvement in anticipation of * * * the tax levy and the appropriation to be made by the county board, and pay the same into the county treasury as an advance, after which construction may proceed. The county shall reimburse the town for such advance when the necessary funds become available.

(7) Towns may * * * take the initiative in the improvement of * * * county aid highways by issuing bonds * * * and the funds produced by such bond issue shall be handled and expended as though raised by taxation.

(8) The county clerk shall, on or before January 1 of each year, file with the state highway commission a written statement setting forth the petitions granted by the county board and the improvements determined upon under section 83.03, the location, character and contemplated cost of each improvement, and the amount to be paid by the county *and* town * * * *or village* for making each * * * improvement * * *.

SECTION 109. 83.15 is repealed.

SECTION 110. 87.09 is renumbered 83.15.

SECTION 111. 87.10 is renumbered 83.16.

SECTION 112. 82.065 is renumbered 83.17.

SECTION 113. 83.18 is created to read:

83.18 ENTRY ON LANDS. (1) ENTRY; PURPOSES; ROAD MATERIALS IN HIGHWAYS. For constructing or maintaining any highway by the county, the county highway committee or commissioner shall possess all the powers conferred upon town boards by section 81.06.

(2) APPRAISAL OF DAMAGES; APPEALS THEREFROM. The owner or occupant of lands entered upon or used by the county for any of the purposes mentioned in section 81.06 or 83.015 (2) may apply to the county highway committee to appraise the resulting damages and such damages may be determined by agreement. If they are unable to agree upon the same, the committee shall make an award of damages and file it with the county clerk as provided for towns in section 80.09, and the owner or occupant may appeal from such award within the time and in the manner provided by section 80.24, and the proceedings on such appeal shall be governed and shall conform in all things to the provisions of section 80.24 except that service shall be made on 2 members of the county highway committee.

SECTION 114. 83.19 is created to read:

83.19 TEMPORARY HIGHWAYS AND DETOURS. When any highway which is maintained or to be maintained by the county shall be practically impassable or be dangerous to travel or when it shall be deemed necessary on account of construction or repair work thereon or for other reasons to suspend travel upon any part of such highway, the county highway commissioner may lay out and open temporary highways for the accommodation of public travel through any lands, and the county highway commis-

sioner shall possess the powers conferred by section 81.08 upon town boards. Said powers shall be exercised by him in like manner and the procedure shall be the same except that the contract and orders and claim for damages and other papers relating to the matter shall be filed with the county clerk, and claims for damages shall be acted upon by the county board in the manner provided by section 59.76.

SECTION 115. The title to chapter 84 of the statutes shall read:

CHAPTER 84

STATE TRUNK HIGHWAYS; FEDERAL AID

SECTION 116. 82.01 (1) (a) and (b) and (2) are renumbered 84.01 (1), (2) and (3).

SECTION 116a. 82.02 (except (1) (b), (2a) and (19), and 84.04 (1) and (2) are consolidated, renumbered 84.01 (4) to (19) and revised to read:

84.01 (4) **POWERS AND DUTIES; GENERAL PROVISION.** The commission 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.

(5) **EMPLOYES.** The commission shall employ such persons as may be needed to carry on its work, and assign to them such duties as it deems advisable. All such employes shall be under the exclusive control and direction of the commission, and except as provided herein and in chapter 16, the approval of no other officer shall be necessary to give validity to their appointment.

(6) **CHIEF ENGINEER.** The commission shall, subject to the approval of the governor, appoint a chief engineer, who shall be known as the state highway engineer, and who may be chosen from the members of the commission. The appointment of a member of the commission as state highway engineer shall not terminate his membership on the commission, but in case of such appointment he shall receive no compensation in addition to his salary as a member.

(7) **ADVISE LOCAL AUTHORITIES.** The commission 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 commission and charged at cost to such town, village, city or county. Any moneys paid into the state treasury in payment for such supervision or engineering work shall be credited to the appropriation under section 20.49 (13).

(8) **SURVEYS AND PLANS.** The commission 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.

(9) **EXPERIMENTS, MEETINGS, CONVENTIONS.** The commission 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.

(10) **DONATIONS.** The commission 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 commission are audited and paid, and shall apportion the allotments of the state highway funds among the counties and municipalities as provided by law.

(11) **COUNTY TRUNK SYSTEM.** The commission 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.

(12) **RIGHT OF ENTRY.** The commission may enter private lands to make surveys or inspections.

(13) **BIENNIAL REPORT.** The commission shall make a biennial report of its work to the governor for the use of the legislature and issue such bulletins, pamphlets and literature as it deems necessary.

(14) **ACTING COUNTY COMMISSIONER.** The commission 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.

(15) ACQUISITION OF LANDS. The commission may acquire any lands or rights in lands that it deems necessary to carry out any highway improvement * * * made by the state, in the manner provided in section 84.09. Lands permanently acquired shall be held in the name of the state.

(16) LABORATORIES. The commission 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.

(17) FEDERAL AID SYSTEMS OF HIGHWAYS. The commission 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 federal aid highway system, federal aid secondary highway system, federal aid grade crossing projects, federal forest highway systems and projects and other highway and related projects, all within the meaning of the Federal Aid Road Act approved July 11, 1916 (39 Stats. at L. 355), and all acts amendatory thereof and supplementary thereto, and the federal regulations issued under such acts; 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 the provisions of this subsection. The provisions of this subsection shall not limit the other powers of the commission relative to federal aid for highways.

(18) NOTICE OF COUNTY ALLOTMENTS. Annually, not later than November 1, the commission shall notify each county clerk of the allotments of state aid to the county.

(19) IMPROVEMENTS FOR NEXT YEAR. The commission shall annually determine, as far as possible, what improvements will be made during the succeeding year, and notify the county clerks prior to November 1, as to the improvements in their respective counties.

SECTION 117. 82.02 (1) (b) is renumbered 84.011.

SECTION 118. 84.01 is renumbered 84.015 and revised to read:
84.015 FEDERAL HIGHWAY AID ACCEPTED. (1) The state of Wisconsin assents to the provisions of the act of congress, approved July 11, 1916, entitled "An act to provide that the United

States shall aid the states in the construction of rural post roads, and for other purposes," (39 Stats. 355) and all acts of congress amendatory thereof and supplementary thereto. The state of Wisconsin hereby 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 heretofore have been or hereafter 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 the provisions of any such federal highway acts may be improved, constructed and maintained in accordance therewith. The good faith of the state is hereby pledged to make available funds sufficient as required to adequately carry out such construction and maintenance.

(2) The state highway commission is authorized to enter into all contracts and agreements with the United States relating to the construction and maintenance of streets and highways and related facilities under the provisions of the Federal Aid Road Act, approved July 11, 1916, and all acts amendatory thereof and supplementary thereto, to submit such scheme or program of construction and maintenance as may be required by said acts or rules and regulations of the United States promulgated thereunder and to do all other things necessary fully to carry out the cooperation contemplated and provided for by said acts.

SECTION 119. 84.02 is revised to read:

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 state highway commission and by special legislative state trunk highway committees and approved by said commission and as revised, altered and changed by and under authority vested by law in the state 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 from time to time by the commission, if it deems that the public good is best served by making such changes. The commission, in making such 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 proposed change affects more than one mile of the system, a hearing at or near the proposed change shall be held prior to making the change effective. Whenever the commission decides to change more than one mile of the system such change shall not be effective until the decision of the commission 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.

(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 highway commission approves the same in writing.

(4) GUIDEBOARDS; WARNINGS; ROUTE MARKING.

(a) The highway commission shall mark the highways of the state trunk highway system and also the connecting streets. The markers shall be uniform, except that the numbers thereon shall correspond with the numbers given to various routes by the commission and found on the official highway maps issued by the commission. 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 commission. 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 commission 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 commission 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 commission, and may be recovered in the name of the state from the person responsible for such unauthorized marking.

(c) The commission shall erect and maintain such standard guide and warning signs as it deems necessary along the state trunk system, and it shall be unlawful to erect or display any other guide or warning signs upon the state trunk system, except in cases of emergency or when approved by the commission. Any erection in violation hereof may be removed by the commission.

(d) The commission 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.

(5) MAPS. As often as it may deem necessary, the commission shall publish maps showing the state trunk highway system and such other main highways and other features as may seem desirable. Such maps shall be furnished to the director of purchases upon the requisition of the commission and shall be sold by him at a price to be fixed by the commission, which price shall be not less than cost. The commission may permit the use of the base plates for other maps and publications in consideration of a fair fee for such use.

(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 commission 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 commission finds that public travel will be benefited. Any such designation may be revoked on 30 days' notice to the city or village if the commission 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 commission without expense to the state, and the commission 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 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 commission. If after investigation the commission 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 commission. If after investigation the commission 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.

(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 commission 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 construed 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 state highway commission 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 commission, 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.

SECTION 120. 84.02 (11) is created to read:

84.02 (11) CONNECTING STREETS. The state trunk highway system shall not include the marked routes thereof over the streets or highways in cities and villages having population of 2,500 or more except those portions extending inward from or along the corporate limits determined by the highway commission as being comparatively rural or suburban in character. The portions of streets, or highways in such cities and villages so excluded as state trunk highways but marked as such are designated connecting streets. The state trunk highway system shall include the routes thereof in or through cities and villages having population less than 2,500.

SECTION 121. 84.02 (12) is created to read:

84.02 (12) STATE TRUNK SYSTEM MAPS. The state highway commission 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.

SECTION 122. 84.025 is repealed.

SECTION 123. 84.03, except subsections (2) and (6) is revised to read:

84.03 FEDERAL AID; STATE AND LOCAL FUNDS. (1) STATE AND FEDERAL AID. All moneys granted or allotted to the state of Wisconsin as federal aid for highways and all state appropriations available to match or supplement such federal

aid funds and so utilized by the state highway commission shall be expended by the commission in accordance with the act of congress relating to federal aid funds. Any county, city, village or town may, with the approval of the commission and by any lawful means provide funds to construct, reconstruct or improve the state trunk highway system within such municipality or to match or supplement federal aid for projects to be constructed, reconstructed or improved within such municipality pursuant to acts of congress relating to federal highway aid, and all funds so raised or provided shall be paid to the commission or to the state treasury as the commission may require and shall be expended in accordance with the provisions of section 84.06 and the congressional acts referred to in this subsection. 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 within any county, city, village or town shall not be construed to relieve the county, city, village or town of its obligation to maintain such highway, street or bridge.

(3) STATE TRUNK HIGHWAY ALLOTMENT; COUNTY MINIMUM. (a) The appropriation made by section 20.49 (4) (b) shall be allotted by the state highway commission for the construction, reconstruction and improvement of the state trunk highway system in the several counties and expended by the commission in accordance with the provisions of section 84.06 upon projects which have been approved by the counties, but such allotment shall be so expended subject to the provisions of section 84.03 (4) relative to the retirement of bonds issued under section 67.13 or 67.14. Not more than 2 per cent of such allotment shall be used to pay the cost of supervision by the commission. All or any part of any such allotment not required for the retirement of bonds as herein provided may, with the consent of the county involved, be allocated by the commission to match or supplement federal aid for projects on the state trunk highway system within the county to which the allotment is credited. Eight million dollars of such appropriation shall be allotted, 40 per cent in the ratio that the number of motor vehicles registered from each county bears to the total number registered in the state and 60 per cent in the ratio that the mileage of highways in each county, exclusive of highways and streets in cities and villages, bears to the total mileage of highways in the state.

(b) In counties where more than 60 per cent of the state trunk

highway system is constructed and surfaced with high type surfacing, satisfactory to the commission, and to the extent that there is no necessity to meet obligations on account of outstanding bonds, such portion of the allotment under this subsection as the commission approves may be added to the appropriation provided for such county by section 83.10 (1).

(c) Under the provisions of this section no county shall be allotted less than \$40,000 and no county which has constructed portions of its state trunk highway system with the proceeds of bonds issued under section 67.13 or 67.14, and expended with the approval of the state highway commission, shall be allotted for any year less than the amount necessary to pay the principal of such bonds maturing in such year.

(4) RETIREMENT OF BONDS. All allotments under subsection (3) to counties having bonds outstanding which were issued under section 67.13 or 67.14, and expended for construction on the state trunk highway system, shall be used exclusively to retire such bonds to the extent necessary each year.

(5) ALLOTMENTS NONLAPSIBLE. Allotments under subsection (3) shall not lapse, but shall stand to the county's credit until expended as provided by law. If the commission determines that the public welfare and the best interests of travel make it necessary to complete any portion of the system as a single project, the commission and the county board of the county in which the project is located may agree that more than one year's allotment to the county may be used for the project. The cost of construction shall be advanced by the state from any funds available and unexpended under section 20.49, and the amounts so advanced shall be deducted from subsequent allotments to the credit of the county as agreed upon by the commission and the county board.

(9) COMMISSION TO IMPROVE STATE TRUNKS. That part of the appropriation made by section 20.49 (9), not required for the other purposes therein provided, may be used by the commission for the improvement and traffic service of the state trunk highway system 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 to match or supplement federal aid they shall be expended in accordance with section 84.06 and any applicable act of congress. Any funds expended pursuant to this subsection shall be expended by the commission on such projects within the provisions of this subsection, and executed in such manner, as the commission 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 subsection, 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.

(9a) **LANDSCAPING AND ACQUISITION OF ROADSIDE PARKS.** The commission shall landscape rights-of-way along the state trunk highway system; and develop and maintain roadside park areas along, or in close proximity with the state trunk highways. Such areas may be developed within existing or acquired rights of way and upon lands publicly owned or controlled or in proximity therewith. No area not within rights of way shall exceed 5 acres. The commission may purchase lands needed for such purposes. Development and maintenance includes planting, landscaping, the furnishing of sanitary, parking, cooking and picnicking facilities and any other facility which the commission deems reasonably necessary to accommodate travelers and provide convenient and safe access thereto by pedestrians and vehicles. Funds appropriated by section 20.49 (6a) shall be expended for the purposes set forth in this section but nothing herein shall limit the commission's power to expend funds appropriated by section 20.49 (9) for similar purposes when said funds are used to match federal funds pursuant to Title 23, Paragraph 10B, U.S.C. nor limit the power of the commission to expend money appropriated for maintenance purposes as defined by sections 84.07 and 80.01 (3).

(10) **IMPROVEMENT OF CONNECTING STREETS.** All connecting streets may be constructed or reconstructed by the state in the same manner as portions of the state trunk highway system.

SECTION 124. 84.05 is revised to read:

84.05 **RAILROAD CROSSING IMPROVEMENTS.** On a highway which the commission has authority to construct and which

crosses a railroad or street railway, if the commission 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 commission 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 commission is unable to contract with the persons concerned as to the distribution and payment of the cost of the work, the commission shall lay the matter before the public service commission, and the public service commission shall review the proceedings and hold a hearing thereon in accordance with sections 195.28 and 195.29, and shall fix the portion of the cost 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 highway construction fund. The public service commission 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.

SECTION 125. 84.06 is amended to read:

84.06 HIGHWAY CONSTRUCTION. (1) DEFINITIONS, PLANS. The word "improvement" as used in this section * * * includes construction, * * * reconstruction *and the activities, operations and processes incidental to building, fabricating or bettering a highway or street*, but not maintenance. The state highway commission * * * 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 commission may proceed * * * as provided in this section, with due regard to any applicable federal requirement or regulation.

* * * (2) BIDS, CONTRACTS. All *such* highway improvements * * * shall be executed by contract based on bids

unless the commission * * * finds that another method as provided in subsection * * * (3), (4) or (5) would be more feasible and advantageous * * * Bids shall be advertised for in the manner determined by the commission, and * * * the contract shall be awarded * * * to the lowest competent and responsible bidder, unless his bid shall be found by the commission to be unreasonable, or if federal aid is to be utilized, shall be beyond the estimate approved by the proper federal authorities, in which event the contract shall be awarded to the next lowest competent and responsible bidder whose bid is not * * * unreasonable or beyond * * * such estimate; or *all bids may be rejected and further bids may be advertised for by the commission.* The commission shall, so far as reasonable, follow uniform methods of advertising for bids and may prescribe and require uniform forms of bids and contracts. The contract * * * shall be * * * entered into on behalf of the state by the commission, subject to the provisions of section 15.79. Every such contract is excepted from the provisions of sections 15.26 to 15.40 and section 15.81.

* * * (3) CONTRACTS WITH COUNTY; DIRECT LABOR; MATERIALS. * * * If the commission * * * 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 commission may, by arrangement with the county highway committee of * * * the county, * * * if possible, * * * enter into a contract satisfactory to the commission to have the work done by the county forces and equipment and in such contract 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 commission. * * * Such contract is excepted from all provisions of chapter 15 and section 289.16, but * * * in * * * case the total indebtedness to be incurred thereby as therein estimated exceeds \$5,000 the contract shall not be valid * * * until * * * the approval of the governor is indorsed thereon.

* * * (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If the plans of the commission for any part of * * * *the* improvement indicate that * * * *the* improvement will cross * * * or affect, directly or indirectly, the property of any railroad company or public utility, and * * * the commission * * * finds that it would be more feasible and advantageous * * * to have * * * *the* improvement performed directly and without bids by * * * *the* railroad company or public utility, the commission may * * * , if possible, * * * *make* a contract satisfactory to the commission to have * * * *the* improvement performed * * * by * * * *the* railroad company or public utility. * * * Such * * * contract shall be * * * between * * * *the* railroad company or public utility and the state and * * * *need* not be based on bids; * * * *and* may be entered into on behalf of the state by the commission. Every such contract is excepted from all provisions of chapter 15 and section 289.16 * * * . No such contract in which the total * * * *debt* to be incurred thereby as therein estimated exceeds \$5,000 shall be valid * * * until * * * the approval of the governor *is indorsed thereon*. *As used herein* the term "public utility" * * * *means the same* as in section 196.01 and the word "railroad" * * * *means the same* as in section 195.02. The word "property" as used * * * *herein* includes but is not limited to tracks, trestles, signals, grade crossings, rights of way, stations, pole lines, plants, substations and other facilities. Nothing * * * *herein* 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.

* * * (5) CONSTRUCTION WITH CONVICT OR OTHER LABOR. If the commission * * * finds that it would be more feasible and advantageous * * * to have the proposed improvement performed by convict labor or labor employed directly by the commission, it shall submit a written report of * * * *its* findings to the governor. If * * * *he* approves the same he shall indorse his approval * * * upon * * * *the* report and * * * *thereupon* the commission may * * * do the work by convict labor, in accordance with * * * section 56.04, or by labor employed directly by the commission, and may rent or purchase necessary small tools or equipment.

* * * (6) EXCESS COST. Any excess in construction cost over the funds made available for any piece of work, shall be paid * * * *from the unobligated balance of funds allotted by section 84.03 (3) or as the commission may determine*, and any balance shall be credited to * * * *the appropriation from which the work was financed* * * *.

* * * (7) INSPECTION AND PAYMENT. The commission 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 commission, 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.*

SECTION 126. 84.07 and 84.09 are consolidated, renumbered 84.07 and revised to read:

84.07 MAINTENANCE OF STATE TRUNK HIGHWAYS. (1) STATE EXPENSE; WHEN DONE BY COUNTY; DEFINITION. The state trunk highway system shall be maintained by the state at state expense. The commission shall prescribe regulations and specifications for such maintenance. The commission may arrange with any county highway committee to have the state trunk highways within its county maintained by the county. Maintenance of state trunk highways includes the operations, activities and continuing processes for their repair, preservation, restoration and reinforcement, the removal and control of snow and ice, and all measures deemed necessary to provide adequate

traffic service. It also includes the care and protection of trees and other roadside vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to section 80.01 (3).

(2) COUNTY REPAID FOR STATE WORK. When any county maintains the state trunk highways, in compliance with the arrangement with the state highway commission, the commission shall pay the actual cost of such maintenance, including the allowance for the use of county machinery and overhead expense agreed upon in advance. Such payments shall be made upon presentation by the county clerk of a properly itemized and verified account by the county highway committee.

(3) WEED CONTROL. The highway patrolman shall destroy or cut to the center of any highway which he patrols, all weeds named in Class I and Class II in section 94.20 (1) at such time and manner as shall effectually prevent them from bearing seed, or spreading to adjoining property.

(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 state highway commission for marking a detour.

SECTION 127. 84.08 is amended to read:

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 state highway commission * * *. The order of the commission 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.

SECTION 128. 84.09 is created to read:

84.09 RELOCATION, ACQUISITION OF RIGHT-OF-WAY. (1) Whenever the state highway commission deems it necessary to acquire any lands or interests therein for the proper improvement, maintenance, relocation or change of any state trunk highway or any bridge thereon the commission shall so order and shall prepare a map showing the old and new locations and rights to be acquired 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 rights are required. The commission shall endeavor to

obtain easements, conveyances or deeds for the lands or rights required at a price including any damages deemed reasonable by the commission. The easements, conveyances or deeds shall name the state as grantee of the lands and rights acquired and shall be recorded in the office of register of deeds.

(2) If any of the needed lands and rights cannot be purchased for a reasonable price the commission may acquire the same by condemnation proceedings under chapter 32 or in the manner provided for counties under section 83.07, or may make an award of damages to the landowner and file the award with the county clerk; and thereupon the amount so awarded shall be payable the same as when the land is acquired by purchase; and the landowner may receive the award without prejudice to his right to claim and to contest for a greater sum. When the award has been filed the highway authorities and their contractors and employes may take possession of the premises and proceed with the contemplated highway improvement. A copy of the award shall be delivered or mailed to the landowner if his address is known and if not known then to the occupant of the land. If the land is unoccupied and the address of the owner is unknown the award shall be published for 3 successive weeks in a newspaper having a general circulation in the county. The landowner may, within 2 years after the filing of the award, proceed as provided in chapter 32 to have his damages appraised, or he may within said period apply to the county judge on 5 days' written notice to the commission to appraise his damages and thereafter the proceedings shall be as provided in section 83.07.

(3) The commission may order that all or certain parts of the required lands or interests therein shall be acquired by the county highway committee. When so ordered, the county highway committee and the commission shall jointly appraise and agree on the price, including damages, considered reasonable for the lands or rights to be so acquired, and the county highway committee shall endeavor to obtain easements, conveyances or deeds for the lands or rights required and provide for the relocation or change within 90 days after the filing of said order. The easements, conveyances or deeds shall name the county as grantee, shall be subject to approval by the commission, and shall be filed with the county clerk and recorded in the office of the register of deeds. If the needed lands and rights cannot be purchased for a reasonable price the county highway committee may acquire

them by condemnation proceedings under chapter 32 or in the manner provided in section 83.07, or, subject to approval by the commission, in the manner provided in section 83.08 (2).

(4) The cost of the land and rights acquired pursuant to this section, including any damages allowed and other expenses connected therewith, shall be paid out of the available improvement or maintenance funds.

SECTION 129. 84.10 is revised to read:

84.10 STATE MAINTENANCE FUNDS; ALLOTMENT AND DISBURSEMENT. From the appropriation made by section 20.49 (9) the commission shall annually on July 1 make the allotments as provided in this section.

(1) The commission shall allot for the maintenance of the state trunk highway system as provided in section 84.07, such sum as the commission deems to be reasonably necessary to meet the requirements. Such allotment may be subsequently increased or decreased by the commission as conditions may require.

(2) The commission shall allot to each city and village a sum computed at \$500 per mile of connecting streets within its limits. The allotments may be used for maintenance, repair, construction, snow and ice removal and control and traffic regulation on such connecting streets, and may be cumulated for such purposes. The funds shall be held to the credit of such cities and villages, and paid to the treasurers thereof upon presentation to and approval by the commission of certified statements, itemized as required by the commission, setting forth the amounts expended on connecting streets; provided the maintenance thereof is satisfactory to the commission.

(3) The commission shall allot to cities of the first, second and third class, for the maintenance and operation of free, swing or lift bridges located on connecting streets in such cities, not to exceed \$130,000. Such allotment shall be distributed by the commission on February 15 of each year and shall be apportioned pro rata upon the basis of, but not exceeding, the necessary and actual expenditures by each city. Each city shall annually, on or before January 31, submit a written report to the commission showing the actual expenditures during the previous calendar year for the maintenance and operation of such bridges.

(4) The commission shall allot for the maintenance and operation of bridges constructed, reconstructed, or purchased under

sections 84.11 and 84.12 and free bridges located on state trunk highways or connecting streets in cities of the fourth class which have a length, not including approaches, of 300 feet or more, or a swing or lift span, \$75,000. All matters relating to the maintenance and operation of such bridges shall be under the control of the commission. 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 streets. The commission may arrange with the county highway committee or with the village or city for the operation or maintenance or both of any such bridge in the county, village or city.

(5) Of the allotments under this section, 2 per cent shall be deducted and used to pay the cost of supervision by the state highway commission.

(6) Any city or village may arrange to have any work on connecting streets or swing or lift bridges for which an allotment is made under this section, performed by the county.

SECTION 130. 84.105 is reenacted.

SECTION 131. 87.02 is renumbered 84.11 and the last sentence of subsection (2) (a) and subsection (4) are amended to read:

84.11 (2) (a) (Last sentence) Such 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 commission.*

(4) FINDING, DETERMINATION AND ORDER. After such hearing the commission shall make * * * *such investigation as it shall deem necessary in order to make a decision in the matter.* If the commission shall find that the construction is necessary it shall determine the location thereof, and if the project as so located is eligible to construction under this section the commission shall 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. In the case of projects eligible to construction under * * * subsection (1) (a) the commission shall also determine the respective portions of such estimated cost of the entire project to be paid by each county, city, village and town required to provide any portion thereof, and the portion to be paid by the state. *The commission 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 commission and set forth in its finding, determination and order, shall be conclusive as to such location and shall constitute full authority for any relocations of highways made necessary for the construction of the project and for acquirement of any lands necessary for such relocation or construction. The estimate of cost made by the commission shall be conclusive in so far as cost may determine eligibility of construction under this section.

SECTION 132. 87.03 is renumbered 84.12 and is amended to read:

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. * * * The word "commission" as used in this section means highway commission of Wisconsin. Such bridge projects shall be classified as follows:

(a) Any bridge project not included in paragraph (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 commission 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 commission.

(b) *By the highway commission.* Proceedings * * * under this section may also be initiated by the commission by the adoption of a resolution 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 the adoption of *such* a resolution * * * the commission shall fix a time and place for a hearing * * * thereon. * * * The commission shall give notice and hold the hearing in the manner provided by * * * section * * * 84.11 (3). The commission shall also give notice by registered letter addressed to the state highway 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 be located. The commission may make such investigation as it * * * deems necessary and conduct such negotiations with the state highway department and other authorities in the adjoining state as it * * * deems advisable.

(4) FINDING, DETERMINATION AND ORDER. If the commission * * * 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 commission, 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 * * * subsection (1) (a) the commission 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 commission, 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

ing state. The determination of the location * * * set forth in * * * *the finding*, determination and order of *the commission* shall be conclusive as to such location and shall constitute full authority for any relocations of the highways made necessary for the construction of the project and for * * * *acquiring* lands * * * necessary for such 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 * * * subsection (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 * * * section * * * 84.11 (5) (a).

(b) The cost of projects eligible to construction under * * * subsection (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 * * * section * * * 84.11 (5) (b) 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 * * * section * * * 84.11 (5) (b).

(6) PROVISION OF COSTS BY LOCAL UNITS. When the commission * * * *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 * * * subsection (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 commission. 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 commission. In the case of projects eligible to construction under * * * subsection (1) (b), when the

commission 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 commission 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 public service commission, 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 commission and of the state highway department of the other state concerned. If the highway 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 commission and such department or by the commission and the officers of the subdivisions of the other state concerned in the said construction. All contracts for the construction of said bridge projects shall be made and executed by the commission and the highway department of the other state jointly, or jointly by the commission and such subdivisions of the other state as may participate in the said construction. The commission * * * *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 * * * subsection (1) (a) or offered by it as to any project eligible to construction under * * * subsection (1) (b), or in the event the commission * * * 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 commission and shall be paid out only upon order of the commission. * * * Moneys so deposited by such subdivisions and remaining in the state treasury after the com-

pletion 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 the provisions of this section the commission * * * *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.

SECTION 133. 87.04 is renumbered 84.13 and is amended by substituting "84.11 or 84.12" for "87.02 or 87.03."

SECTION 134. 87.045 is repealed.

SECTION 135. 87.06 is renumbered 84.14 and is amended to read:

84.14 BRIDGE CONSTRUCTION. (1) ORDER OF CONSTRUCTION. The state highway commission shall * * * *hold hearings on proposed bridge projects under sections 84.11 and 84.12 in the order in which * * * they are initiated by a petition filed with the commission or by a resolution adopted by the commission. The commission shall allot aid for the construction, reconstruction or purchase of bridges and may undertake such projects in * * * the order * * * the commission * * * deems advisable. * * **

(2) ANTICIPATION OF FUNDS. If the * * * *funds* appropriated by the state in any * * * year shall not be sufficient to pay the state's share of all bridges certified under section * * * 84.11 or * * * 84.12, the appropriation for the ensuing year may be drawn upon to supply * * * *the necessary funds.*

(3) PARTICIPATION IN TOWN BRIDGE CONSTRUCTION. Whenever any municipality * * * *has* participated in the cost of the construction, reconstruction, or purchase of a bridge under * * * section * * * 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 section * * * 81.38.

(4) LEGALITY OF PROCEEDINGS HERETOFORE HAD.

All bridges * * * constructed, reconstructed or purchased pursuant to proceedings initiated by petitions heretofore filed with the state highway commission, or by the commission on its own motion, under the provisions of sections 87.02, 87.03, 87.04, 87.05 or 87.055 of pre-existing statutes, shall be construed to have been constructed, reconstructed or purchased under * * * section * * * 84.11 or * * * 84.12, and shall be operated and maintained as provided by section * * * 84.15, and all proceedings, findings and determinations and all contracts for bridge projects now being or to be constructed, reconstructed or purchased with funds now available, are declared to be valid * * *. All proceedings * * * relative to the construction of any bridge project, including, without limitation because of enumeration, all contracts, any authorization, issuance, sale, execution or delivery of bonds and all bonds issued in connection with any such project, constructed subsequent to January 1, 1928 which project was eligible to construction under * * * present or pre-existing statutes, are hereby validated * * * and confirmed notwithstanding any defects or irregularities therein or lack of power therefor other than constitutional and notwithstanding any such project was not constructed under sections 84.11, 84.12, 87.02, 87.03, 87.04, 87.05 or 87.055 of present or pre-existing statutes.

SECTION 136. 87.05 (2), (2m) and (3) are renumbered 84.15 (1), (2) and (3), and as renumbered 84.15 (1) is amended by substituting "84.11" for "87.02"; 84.15 (2) is amended by substituting "(1)" for "(2)"; and 84.15 (3) is amended to read as follows:

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

SECTION 137. 86.22 is renumbered 85.665 and revised to read: 85.665 TRUCKING LOGS ON HIGHWAYS. No automobile, truck, trailer or semitrailer shall carry logs on any public highway, unless the logs are securely fastened and wrapped by chains to the vehicle or the vehicle is equipped with stakes which are securely fastened by chains and the top of the load is lower than

the top of the stakes. Any person violating this section shall be fined not more than \$50.

SECTION 138. 86.01 (2) is renumbered 86.01 and amended to read:

86.01 MATERIALS LEFT IN HIGHWAY; PENALTY. It shall be unlawful for any highway superintendent or any other person to leave any materials in the traveled portion of any highway *not closed to public travel* in piles or rows after sunset without placing within one hour after sunset upon such piles or at the end of such rows a lighted lantern containing sufficient oil or fuel to keep the same burning until daylight. Any person violating any of the provisions of this section shall be liable to a fine of not less than \$10 nor more than \$100.

SECTION 139. 86.02 is reenacted.

SECTION 140. 86.03, 86.07, 86.08, 86.09 and 86.11 are consolidated, renumbered 86.03 and revised to read:

86.03 TREES ON AND ADJACENT TO HIGHWAY. (1) REMOVAL OF FALLEN TREES. If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. It shall be the duty of every highway patrolman, street commissioner, or other officer in charge of the maintenance of streets or highways, to remove from any highway any fallen tree or trees therein.

(2) OWNERSHIP. All trees on land over which any highway is laid out shall be for the use of the owner of the land or person otherwise entitled thereto, except trees that have been acquired by and for the public in the acquisition of the highway right-of-way, and except such trees within the highway as may be requisite to make or repair the highways on the land or within one mile of the same; but no trees reserved for shade or ornament, unless acquired by the public, shall be used for such purpose.

(3) PLANTING TREES AND SHRUBS IN HIGHWAY. Any person owning or occupying land adjoining any highway may, with the approval of the public authority maintaining the highway, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway contiguous to and within 10 feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.

(4) CUTTING OR INJURING TREES ON HIGHWAY. No

person shall cut down, break, girdle, bruise the bark or in any other manner injure, or allow any animal under his control to injure, any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility.

SECTION 141. 86.03 (5) is created to read:

86.03 (5) FINES. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$25 for each tree or shrub damaged, felled or destroyed.

SECTION 142. 86.04 is renumbered 86.04 (1) and amended to read:

86.04 HIGHWAY ENCROACHMENTS. (1) ORDER FOR REMOVAL. If any highway right of way shall be encroached upon, under or over by any fence, stand, building or any other structure or object * * *, and including encroachments caused by acquisition by the public of new or increased widths of highway right of way, the state highway commission (in case of a state trunk highway), the county highway committee (in case of a county trunk highway), or the city council, village or town board (in case of a street or highway maintained by or under the authority of any city, village or town) may * * * order * * * the occupant or owner of the land through or by which such highway runs, and to which * * * the encroachment shall be appurtenant, to remove the same beyond the limits of such highway within 30 days * * *. The order shall specify the extent and location of the encroachment with reasonable certainty, and shall be served upon such occupant or owner.

SECTION 143. 86.05 is renumbered 86.04 (2) and amended to read:

86.04 (2) NONREMOVAL. If the occupant or owner upon whom * * * the order * * * is served shall not deny such encroachment, as provided in * * * subsection (3), and the encroachment * * * is not removed within 30 days after the service of such order, * * * the occupant or owner shall forfeit \$1 for every day after the expiration of that time during which such encroachment shall continue. An action to recover

*such penalty may be brought in any court of record or justice court in the county. In all cases where a judgment * * * is rendered * * *, the * * * judgment shall order that * * * the occupant or owner remove * * * the encroachment within * * * the time * * * fixed by the judgment, and if he * * * fails to obey * * * the order, the state highway commission, county highway committee, or city council, village or town board, as the case may be, may remove the * * * encroachment and recover from * * * the occupant or owner the cost thereof.*

SECTION 144. 86.06 is renumbered 86.04 (3).

SECTION 145. 81.34 is renumbered 86.05 and amended to read:

86.05 ENTRANCES TO HIGHWAY RESTORED. *Except in counties having a population of 500,000 or more, whenever it is necessary, in making any highway improvement * * * to * * * cut or * * * fill or otherwise grade * * * the highway in front of any entrance to abutting premises, * * * a suitable entrance to the premises shall be constructed as a part of * * * the improvements * * *; and if * * * the premises are divided by * * * the highway, then one such * * * entrance shall be constructed on each side of * * * the highway. Thereafter each * * * entrance shall be maintained by the owner of * * * the premises. During the time * * * the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of * * * an entrance to any such premises.*

SECTION 146. 81.10 and 82.04 (6) are consolidated, renumbered 86.06 and revised to read:

86.06 HIGHWAYS CLOSED TO TRAVEL; PENALTIES. (1) Whenever any highway is impassable or unsafe for travel or during the construction or repair of any such highway and until it is ready for traffic the authorities in charge of the maintenance or construction thereof may keep it closed by maintaining barriers at each end of the closed portion. The barriers shall be of such material and construction and so placed as to indicate that the highway is closed and shall be lighted at night.

(2) Any person who, without lawful authority, removes, takes down, alters the position of, destroys, passes over or beyond any

barrier so erected, or travels with any vehicle upon any portion of a highway closed by barriers as in this section provided, or walks or travels in any manner upon the materials placed thereon as part of the repair or construction work, shall be liable to a fine of not less than \$10 nor more than \$100, or to imprisonment not less than 10 nor more than 60 days, or both, and in addition thereto shall be liable for all damages done to the highway, said damages to be recovered by such governmental agency.

SECTION 147. 83.10 is renumbered 86.07 and revised to read:

86.07 DEPOSITING RUBBISH OR DIGGING IN HIGHWAYS OR USING BRIDGES FOR ADVERTISING. (1) Any person who throws, leaves or deposits any weeds, sod, brush or other waste or rubbish in any highway shall be liable to a forfeiture of not less than \$5 nor more than \$25; and every person who shall draw, paint, print or paste upon any culvert, bridge or guard rail on any highway shall be liable to a like forfeiture.

(2) No person shall make any excavation in any highway or in any manner disturb any highway or bridge without a permit therefor from the proper highway authority. Such permit shall contain the statement and be subject to the condition that such highway or bridge shall be restored to its former condition, and that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the state highway commission or the county board or its highway committee to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. Any person who violates this subsection shall be punished by a fine of not less than \$5 nor more than \$100, or by imprisonment not exceeding 6 months, or both.

SECTION 147a. 86.07 (3) is created to read:

86.07 (3) The prohibitions in this section do not apply to highway authorities in the performance of their duties.

SECTION 148. 82.02 (19) is renumbered 86.08 and revised to read:

86.08 DUST-FREE SURFACING AT CHEESE FACTORIES, CREAMERIES AND CONDENSERIES. The duly constituted authority charged with the maintenance of any highway not having a dust-free surface, shall cause the main traveled portion thereof within 400 feet of a cheese factory, creamery or condensery to be rendered dust-free by palliative treatment or an improved surface approved by the state highway commission. The cost of such treatment or surface shall be paid from the funds for maintenance or improvement of highways which shall be made available by the division of government responsible for the highway.

SECTION 149. 80.48 (7) is renumbered 86.09.

SECTION 150. 86.10 is repealed.

SECTION 151. 87.16 is renumbered 86.10 and revised to read:

86.10 SALVAGE IN HIGHWAY CONSTRUCTION. Materials removed from a highway incident to its improvement or maintenance which are suitable for re-use or have a market value, and which are not used in or disposed of under the contract for the work, shall become the property of the duly constituted authority maintaining the highway from which the material was removed and may be used or disposed of by such authority in the manner as in its judgment is for the best interest of the public, and any money received for such material shall be paid into the maintenance fund.

SECTION 152. 81.18 is renumbered 86.11.

SECTION 153. 81.19 is renumbered 86.12.

SECTION 154. 81.20 is renumbered 86.13 and amended to read:

86.13 RAILROADS TO MAINTAIN HIGHWAY CROSSINGS. (1) When * * * any street or * * * highway crosses any railroad track * * * at grade, the company owning or operating * * * the railroad shall grade, construct and maintain in good and safe condition for public travel the portion of such street or highway extending * * * across said track * * *. When * * * such street or highway * * * shall be or is about to be paved, surfaced or otherwise improved, * * * the railway company shall * * * improve, pave or surface such crossing between the tracks and rails and extending 4 feet beyond the outside rails on * * * its right of way * * * in substantially the same manner as the adjacent highway and with substantially the same materials, but this provision applies in

cities only when the work is under chapter 83 or 84. * * * This section shall *not* restrict * * * the application of section 66.21 relating to special assessments against railroads for street improvements.

(2) When * * * *the* improvement of the portion of a street or highway adjacent to * * * a railroad crossing has been decided upon, notice thereof may be given to the railway company. Unless the * * * company, * * * within 30 days after receipt of such notice, informs the public board, committee or officer in charge of such improvement that it will do the improvement work at the crossing * * *, the * * * company shall be deemed to have elected to have * * * *the* work done by and under the direction of the highway authorities in charge of the adjacent improvement, and to pay the cost thereof as in case of failure to improve * * * *the* crossing as required by law.

(3) When * * * any * * * company * * * fails to grade, construct, pave, surface or otherwise improve or * * * maintain in good and safe condition for public travel as required by this section any * * * street or highway crossing after having been notified so to do by the officer in charge * * * *thereof* or of the highway improvement for 30 days after such notification, the * * * highway authorities may grade, construct, pave, surface, improve or repair * * * *the* street or highway across * * * *the* railroad right of way, and the cost * * * shall be paid by the * * * company to and may be collected by that unit of government out of whose treasury the original cost of the work was disbursed.

(4) The notice to the * * * company shall be in writing and shall specify with reasonable certainty the work to be done by the * * * company and may be served on any station agent of the company in this state. But failure to give such notice shall not prevent a recovery from the company of such sum as may be equitably due for the performance of a duty imposed by this section upon the company.

SECTION 155. 87.07 is renumbered 86.14 and is revised to read:

86.14 STRENGTH OF BRIDGES. (1) After July 1, 1943, no bridge or culvert shall be constructed in any highway unless it shall be designed to have sufficient strength to carry at least 15 ton truck loading in accordance with standard specifications covering de-

sign for structures as adopted by the state highway commission and in force at the time of design. Repairs to any bridge or culvert shall be of substantial character, strengthening same as much as practical and leave such bridge or culvert in condition to safely carry the load for which it was originally designed.

(2) Any person who subjects any bridge or culvert to a load in excess of maximum limitations on weight of vehicles on highways imposed by law or regulations thereunder or limitation as to gross weight of vehicles as posted on any such bridge or culvert shall be liable for double the amount of damages that may be caused thereby, but there shall be no recovery for any injury to himself or to the property in his keeping.

(3) Every person who wilfully injures any highway structure shall be liable for treble damages to the subdivision of the state chargeable with the maintenance or repair of such structure.

SECTION 156. 86.15 is reenacted.

SECTION 157. 86.16 is reenacted.

SECTION 158. 86.17 is reenacted.

SECTION 159. 86.18 is reenacted.

SECTION 160. 86.19 is reenacted and 86.19 (1) is revised to read:

86.19 (1) No sign shall be placed within the limits of any street or highway except such as are necessary for the guidance or warning of traffic or as provided by section 66.45. The authorities charged with the maintenance of streets or highways shall cause the removal therefrom and the disposal of all other signs.

SECTION 161. 87.054 is renumbered 86.20.

SECTION 162. 87.11 is renumbered 86.21.

SECTION 163. 87.12 is renumbered 86.22 and is amended by substituting the word "section" for "act" therein.

SECTION 164. 87.08 is renumbered 86.23.

SECTION 165. 88.34 is amended to read:

88.34 TRIAL OF ISSUE. If the owner or occupant upon whom a copy of * * * *the order* * * * is served shall, within 10 days after the service thereof, deny, in writing, *that* such obstruction *exists*, and deliver * * * *his denial* to one of * * * *the* supervisors, the said supervisor shall * * * cause a jury to be summoned, and like proceeding shall be had as in case of an encroachment upon a highway * * *.

SECTION 166. 195.29 (5) is revised to read:

195.29 (5) **ELIMINATION OF GRADE CROSSINGS, COSTS.** Upon petition of the state highway commission, or of the common council or board of any city, village, town or county, alleging that one or more of them have undertaken or proposed to undertake to relocate or improve an existing highway or to construct a new highway in such manner as to eliminate a highway grade crossing with any railroad or so as to permanently divert a material portion of the highway traffic from a highway grade crossing with any railroad, the commission shall issue notice of investigation and hearing, as provided in section 196.26. If upon such hearing the commission finds that the public safety will be promoted by said highway relocation, improvement or new construction, the commission shall order the old crossings closed and new crossings opened as are deemed necessary for public safety; and shall order the railroad company or companies to pay to the interested municipality or municipalities such sum as the commission finds to be an equitable portion of the cost of the highway relocation, improvement or new construction, if the work is performed by the municipalities; or to the state treasurer if the work is performed by the state; or to the proper county treasurer if the work is performed by the county. Said sum shall be added to the joint fund available for the improvement and may be expended in like manner as the other portions of said fund.

SECTION 167. 87.15 is renumbered 195.32 and is amended by substituting "sections 196.26 to 196.29" for "195.17."

SECTION 168. The title to chapter 87 is repealed.

Approved June 16, 1943.

No. 634, A.]

[Published June 18, 1943.

CHAPTER 335.

AN ACT to amend 20.60 (28) of the statutes, relating to inspections of farm products, and making an appropriation.

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

20.60 (28) of the statutes is amended to read:

20.60 (28) **VOLUNTARY * * * INSPECTIONS.** All moneys received for or on account of inspecting potatoes, vege-