

CHAPTER 84.

FEDERAL AID; TRUNK HIGHWAYS.

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84.01 Federal highway aid accepted. (1) The legislature of the state of Wisconsin hereby assents to the provisions of the act of congress, approved July eleventh, nineteen hundred and sixteen, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," thirty-ninth United States Statutes at Large, page three hundred and fifty-five. The Wisconsin highway commission is hereby authorized to enter into all contracts and agreements with the United States government relating to the construction and maintenance of rural post roads under the provisions of the said act of congress, to submit such scheme or program of construction and maintenance as may be required by the secretary of agriculture and to do all other things necessary fully to carry out the co-operation contemplated and provided for by the said act. The good faith of the state is hereby pledged to make available funds sufficient to equal the sums apportioned to the state by or under the United States government during each of the years for which federal funds are appropriated by the said act and to maintain the roads constructed under the provisions of said act, and to make adequate provisions for carrying out such construction and maintenance.

(2) The legislature of the state of Wisconsin hereby assents to the provisions of all acts of congress amendatory and supplementary to 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." Inasmuch as congress has appropriated, or has authorized to be appropriated, under these amendatory and supplementary acts, a total amount as federal aid for highways which entitles Wisconsin to be allotted and to receive from the United States as federal aid for highway construction a sum approximately equal to six million, seven hundred thousand dollars, due and available in the fiscal years 1921-1922; 1922-1923; 1923-1924; and 1924-1925, it is the purpose and intent of this legislature to make arrangements for and to provide such legislation as will insure the receipt by Wisconsin of the total funds so allotted to it for the fiscal years above named, so that construction and maintenance may be performed on such roads in Wisconsin as may be entitled to receive federal aid in accordance with the provisions of the said federal enactments.

(3) The legislature of the state of Wisconsin hereby declares its purpose and intent to make arrangements for and to provide such legislation as will insure the receipt by this state of the total funds that may be allotted to the state under any and all acts of congress enacted subsequent to the acts approved November 9, 1921, and June 19, 1922, amendatory and supplementary to the federal aid act of July 11, 1916, by which further allotments of federal aid for the improvement of highways may be made available to this state, so that such roads in this state as may be entitled to receive federal aid in accordance with the provisions of any such acts, may be constructed, maintained, marked and signed in accordance therewith.

(4) The legislature of the state of Wisconsin hereby declares that the purpose and intent of the act [1931 c. 22] of which this subsection is a part, is to give the necessary assent to all federal highway acts and to make provision that will insure the receipt by the state of any federal aid that heretofore has been, or may hereafter be allotted to the state, including all increased and advanced appropriations, to continue highway improvement on a scale commensurate with the needs of the state, to provide emergency relief for unemployment; to make possible a reduction in property taxes for highway purposes; and to meet obligations on county bonds as provided by law. The purpose of the increase in motor vehicle fuel taxes by the said act, is to make financial provision to this end, and especially to provide emergency relief for unemployment. To insure such emergency relief, the governor, upon recommendation of the emergency committee for unemployment relief, is authorized to extend the period for which such increased motor vehicle fuel taxes are specifically made available for such emergency relief, as he may deem necessary. All allotments of state aid for state trunk highways under this act, to

counties which have outstanding bonds, issued and expended for construction on the state trunk highway system, shall be used to meet the obligations of such outstanding bonds. No allotments of state aid for state or county trunk highways, except special bridges, shall be contingent on provision by any county or subdivision thereof, of any funds to match state aid. The state highway commission is directed to select projects, having regard to the necessities of traffic and the existing condition of the highways, to the end that improvements may be made where most needed and thus be of the greatest benefit to the state. In view of the present crushing tax burden on farms, homes and other forms of real estate, the commission is further directed to utilize the moneys available for highway improvement under its stewardship in such manner consistent with the law that the reduction of property taxes contemplated by this act may be realized to the maximum degree. If the governing body of any town, village, city, or county shall fail or neglect to use any and all increased allotments from the appropriation under section 20.49 for the reduction of highway taxes, the highway commission, on petitions of taxpayers residing in said town, village, city, or county, numbering five per cent or more of the vote cast for governor at the last election, alleging such failure or neglect, shall investigate the matter. Not less than fifteen days' notice of the investigation shall be given by notice in writing filed with the clerk of the governing body of the town, city, village or county. If the commission, after such investigation, shall find such failure or neglect has occurred, the commission may withhold further aid from such town, village, city, or county for not more than one year. It is declared the sense of the legislature that the amounts made available for rural highway improvement in 1930, through the state and its counties, exclusive of amounts provided by subdivisions of counties for local improvements, is a sum sufficient to meet reasonable requirements of traffic, being efficiently administered, and is the maximum that a decent regard for the interests of the taxpayers of the state will permit. It is further declared that the intent of the legislature in changing sections 84.07 and 84.10 to provide for state maintenance of highways is to comply with the requirements of federal aid highway laws and not intended to terminate the actual performance of the work by county forces. [1931 c. 22 s. 3]

84.02 Trunk highway system. (1) **DESIGNATION.** The system of main traveled highways interconnecting every county seat and every city with a population of five thousand heretofore laid out by the state highway commission and by special legislative state trunk highway committees and approved by said commission is hereby adopted and shall be known as the "Trunk Highway System." The total mileage of said system shall not exceed seventy-five hundred miles. Said system shall, as far as practicable, coincide with state highways and with the county systems of prospective state highways. But the highway commission may, in its discretion, select other routes if it shall judge that the public welfare would be promoted or public travel benefited by a change in the routes between any two points, and may remove from the county system of prospective state highways any duplicating roads which serve essentially the same purpose and territory.

(2) **COUNTY LINE HIGHWAYS APPORTIONED.** The apportionment heretofore made by the highway commission of those portions of said trunk highway system that lie on county lines is hereby ratified and confirmed for all the purposes of this chapter. The portion of such county-line highways assigned to any county shall be considered as lying fully within such county, and all the provisions for construction and maintenance shall apply to such highways just as though they lay wholly within the county to which assigned. Each county shall pay one-half of the counties' share of the cost of constructing and maintaining bridges on the trunk system which span streams where they form the boundary between two counties.

(3) **CHANGES IN SYSTEM.** (a) Any necessary changes may be made in the trunk system from time to time by the commission, if it deems that the public good is best served by making such changes. Due notice shall be given to the localities concerned of the intention to make such 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 shall decide to change more than one mile of the system, a hearing at or near the proposed change shall be held prior commission shall have been referred to and approved by the county board of each county in which any part of such proposed change is situated. A copy of such 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 trunk system shall be void unless the highway commission shall approve the same in writing.

(4) **GUIDEBOARDS AND WARNINGS.** (a) The highway commission shall mark the highways of such system and also the connecting streets in cities. 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 commis-

sion. No similar design or marker shall be used for marking other highway routes.

(b) It shall be illegal for any person to mark any other highway routes or trails through or in the state unless the route marked shall coincide exactly with the trunk system. No such routes shall be marked within or through the state until exact descriptions of the routes selected for marking have been filed with and the routes and markings approved by the highway commission. Every route heretofore laid out and marked shall be made to conform to the trunk system, and the person, corporation or association which marked or maintains the marking of such route shall remove or erase such marks from every portion of such route which does not coincide with the trunk highway system. The highway 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 the funds, appropriated to the commission for administration purposes, and may be recovered by an action in the name of the state from the person, corporation or association whose duty it was to destroy said marks.

(c) The highway commission shall cause to be erected and maintained such standard guide and warning signs as it may deem necessary along the trunk system, and it shall be unlawful to erect or display any other guide or warning signs upon the 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 state highway commission is hereby authorized to co-operate with the United States bureau of public roads and the federal government in formulating and adopting a uniform system of numbering, or designating roads 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 on said highways.

(5) MAPS. As often as it may deem necessary, the highway commission shall publish maps of the state showing thereon the 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 highway commission and shall be sold by him, the price to be fixed by the commission, which price shall be not less than cost. The highway 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. (a) In cases where any state trunk or United States marked route passes near but not through the central or business portion of any city or village, the state highway commission may upon petition of any city or village designate an alternate route through such central or business portion, and shall then proceed to install suitable marking to guide the traveling public over such alternate route, and shall show such alternate routes on its maps. No such designation shall be made unless the commission shall find that public travel will be benefited by such designation. Any such designation may be revoked on thirty days' notice to the city or village if the commission shall find that public travel is not benefited thereby. Such designation shall impose no responsibility whatever, except the cost of marking in the first instance, on the state. Such alternate routes shall be constructed and maintained and kept clear of snow, in a condition satisfactory to the state highway commission without expense to the state, and the commission may require assurances to that effect before making any such designation.

(b) In case it is impracticable or impossible to maintain any portion of the trunk highway system, the highway commission may designate a temporary alternate route as part of the trunk highway system, and in such case the alternate route shall be considered part of the trunk highway system in every respect, except that it may not be constructed under the provisions of this chapter.

(7) TRUNK SYSTEM, ADDITIONS, CHANGES. (a) The Wisconsin highway commission is authorized and directed to make the necessary investigations, hold the necessary hearings, and to add to the state trunk highway system an additional mileage of highways, provided that this additional mileage shall not cause the total mileage on the said system to exceed ten thousand miles. The procedure in laying out the additional mileage shall be, insofar as possible, similar to the procedure followed in laying out the original five thousand mile system. Except as otherwise provided, the new portion of the state trunk highway system shall be maintained, marked, constructed, and administered, commencing March 1, 1924, in the same manner as the portions of said system previously laid out.

(b) The commission shall notify the several county boards at their November, 1923, meetings of the additional mileage placed on the state trunk system and shall file a county map with each of said boards showing the whole system and such additions, which map shall show the trunk system as it will lie when fully completed. At the same time the commission may notify the county board that certain portions of the system selected for

such county will not be required to be maintained by the county under the provisions of chapter 84 of the statutes, until further written notices from the commission to said county board. The mileage not to be immediately maintained by the counties shall not be shown as state trunk highways on the published maps showing the trunk system until the commission directs the counties to maintain such mileage, and no maintenance funds shall be allotted to any county on account of such mileage until said mileage or an alternate route is directed to be maintained by said counties.

(d) As soon as may be after the taking effect of this section the governor shall appoint a special legislative state trunk highway committee, consisting of five members, two to be appointed from the membership of the senate and three to be appointed from the membership of the assembly, to act on all matters connected with the laying out of the additional mileage. This committee shall have all the powers and duties and shall receive the compensation conferred upon the similar committees created by the legislatures of 1917 and 1919 to act in the laying out of the present system. The committee shall exercise its functions until the legislature of 1925 is organized.

(e) In laying out the additional state trunk highway mileage, the commission and legislative committee are authorized to alter or discontinue any part of the present trunk system, if, in the opinion of the commission and committee the alteration or discontinuance will result in giving improved facilities to the traveling public.

(7a) ADDITION OF COUNTY TRUNK HIGHWAYS TO STATE TRUNK HIGHWAYS. Whenever the traffic on any county trunk highway averages in any year two hundred fifty or more vehicles daily, the county board of the county wherein such county trunk highway is situated may by resolution request that such county trunk highway be added to and made a part of the state trunk highway system. A copy of such resolution shall be filed with the state highway commission. If after investigation the said commission finds that the traffic on said county trunk highway meets the requirements of this subsection, it may by order provide that said highway be added to and made a part of the state trunk highway system, but the total additions under this subsection shall not exceed five hundred miles. All additions to the state trunk highway system under this section shall be in addition to the total mileage otherwise provided in this section. Whenever the traffic on any state trunk highway averages in any year one hundred fifty or less vehicles daily, the county board of the county wherein such state trunk highway is situated may by resolution request that such state trunk highway be taken from the state trunk highway system and made a county trunk highway. A copy of such resolution shall be filed with the state highway commission. If after investigation the said commission finds that the traffic on said state trunk highway is as stated in said resolution, it may by order provide that said highway be taken from the state trunk highway system and made a county trunk highway.

(8) FEDERAL HIGHWAY SYSTEM. (a) The special legislative state trunk highway committee created in subsection (7) of this section shall, acting jointly with the state highway commission, select from the state trunk highway system as it will exist after the additions and alterations provided to be made in accordance with subsection (7) of this section have been made, the federal aid highway systems provided to be laid out in accordance with the act of congress relating to federal aid highways, dated November 9, 1921. Provided that prior to the appointment of said legislative committee, the state highway commission is authorized and empowered to select the portion of said system necessary to be selected, in order that the federal aid construction contemplated for 1923 may proceed.

(b) Every mile of interstate and intrastate highway selected by said committee and commission as part of the federal aid highway systems, shall be a part of the ten thousand mile state trunk highway system provided for in subsection (7) of this section.

(c) In the layout of said federal system it may be provided that certain other state trunk highways may be used as detours pending the construction of parts of the federal system. This paragraph shall be in effect only in case the federal government shall determine to number and mark, or otherwise designate, the federal highway system.

(d) The said committee and commission shall, if in their opinion it shall be desirable, after the layout of the ten thousand mile state trunk highway system is completed, hold hearings at such points in the state as may seem expedient to gather additional information as to the proper highways to be selected as a part of said federal systems.

(e) Except in so far as is provided for by congressional action or by regulation of the federal body in charge of highway work, the federal highway systems in Wisconsin shall be considered only as a part of the state trunk highway system, and shall be marked, maintained, mapped and administered in every respect as are the other portions of the state trunk highway system.

(9) SECONDARY OR FEEDER ROADS EXCEPTED. The provisions of this section and of section 84.025 shall not apply to the system of secondary or feeder roads within the meaning of any act of congress relating to federal highway aid, including, but not limited

to, the act approved June 16, 1936, forty-ninth United States Statutes at Large, commencing page fifteen hundred and nineteen, which system is authorized by subsection (18) of section 82.02 of these statutes. [1931 c. 22 s. 1; 1931 c. 45 s. 14; 1931 c. 79 s. 14; 1931 c. 470 s. 4; 1933 c. 196; 1935 c. 133; 1937 c. 393; 1939 c. 420]

Note: Word "change" used in (3) (a) does not include "relocation" which highway commission may make under 83.08. Commission need not secure approval of county board for relocation, but must secure such approval for change in trunk system involving more than one mile of said system. 22 Atty. Gen. 654.

to passage of (2) apportioned state trunk highway on county line between two counties such apportionment was ratified and confirmed by (2) and cost of construction of bridge on portion apportioned to one county is properly chargeable to that county's allotment of state aid if bridge does not span stream forming part of boundary between two counties. 26 Atty. Gen. 232.

Where state highway commission prior

84.025 State trunk highway system to be revised. (1) AUTHORITY FOR REVISION.

In order that the state trunk highway system may be laid out so as better to serve the state, the legislative committee appointed under this section and the state highway commission are authorized to revise such system as provided in this section. Such revision shall be accomplished by removing from the system such highways or portions thereof as shall be deemed to be not of state-wide importance, and by substituting therefor other highways deemed to be of state-wide importance; provided that the mileage so revised shall not exceed four hundred miles nor shall the mileage of highways on the state trunk highway system after such revision exceed the present mileage.

(2) SPECIAL LEGISLATIVE COMMITTEE. The special legislative committee provided by this section shall consist of two members of the senate and three members of the assembly to be appointed by the governor not later than thirty days after the adjournment of the 1933 legislature. The members of such committee shall receive their actual and necessary expenses incurred in the performance of their duties under this section. The committee shall elect its chairman and secretary. Such committee shall terminate December 31, 1934.

(3) HEARINGS; NOTICES; JOINT ACTIONS. The legislative committee and the highway commission shall hold a joint hearing or hearings at the county seats of every county in which any revision is contemplated. Due notice of the hearing, setting forth the contemplated revision, shall be given by publication in at least one newspaper of general circulation in the county. No roads shall be added to the state trunk system or removed therefrom unless due notice of the proposed revision or a substantially similar revision shall be given in the published notice, and discussed at the hearing. No roads shall be so added or removed unless such addition or removal is separately agreed to by the legislative committee and the highway commission.

(4) FEDERAL AID SYSTEM. Subject to the approval of the authority constituted by the congress of the United States, the legislative committee and the highway commission shall have authority to revise the federal aid system. Only roads on the state trunk highway system may be designated federal aid highways. No such revision shall be made unless agreed to separately by the legislative committee and the highway commission.

(5) PROCEDURE. As soon as may reasonably be arranged after the committee has been appointed, the legislative committee and the highway commission shall hold a joint meeting to consider matters that may properly come before it and to make arrangements with respect to the performance of their duties. As soon as practicable after all of the revisions to be made have been decided, the state highway commission shall prepare and file in its permanent records a map of each county, on a scale not less than one-half inch per mile, showing the system, as revised, in the county, and a map of the state showing the revised state system. Copies of such maps shall be filed with the respective county clerks. [1933 c. 447 s. 1]

Note: Legislative committee and highway commission need not secure approval of county board as provided in 84.02 (3) (a) to revise state trunk highway system. 22 Atty. Gen. 962.

84.03 Trunk and federal aided systems. (1) FEDERAL AID AND STATE AND LOCAL FUNDS.

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 provisions of any applicable 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, including, but not limited to, any means made available as to such municipality by chapter 67 where applicable, raise or 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 the provisions of any act of congress relating to federal highway aid, including, without limitation because of enumeration, the act approved July 11, 1916, thirty-ninth United States Statutes at Large, commencing page three hundred and fifty-five, the act approved November 9, 1921, forty-

second United States Statutes at Large, commencing page two hundred and twelve, the act approved June 16, 1936, forty-ninth United States Statutes at Large, commencing page fifteen hundred and nineteen, and all acts of congress now or hereafter amendatory of or supplementary to any such acts, and all such 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 federal 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 any such county, city, village or town of the obligation to maintain such highway, street or bridge.

(2) COUNTY TRUNKS. From the appropriation under subsection (4) of section 20.49 there shall be allotted, by the state highway commission, to the several counties of the state as state aid for the respective county trunk county highway systems, the sum of three million and five hundred thousand dollars. Such sum shall be allotted to the several counties forty 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 sixty 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 such counties of sixty-five dollars per mile for each mile of county trunk highway. Such allotments shall be used for constructing, repairing and maintaining such county trunk highway systems and the bridges thereon, including snow removal and snowdrift prevention, under the direction of the county highway committees. Any county may allocate all or part of its allotment under this subsection, 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 within such county 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 any such allotment not allocated to match or supplement federal aid as herein provided shall be expended in accordance with the applicable provisions of chapter 83.

(3) STATE TRUNKS. The remainder of the appropriation under subsection (4) of section 20.49 shall be allotted by the state highway commission to the credit of the several counties of the state as state aid for the construction, reconstruction and improvement of the state trunk highway system in such counties, to be expended by the commission in accordance with the provisions of section 84.06 upon projects which have been first approved by such counties, but such remainder shall be so expended subject to the provisions of subsection (4) of section 84.03 relative to the retirement of bonds issued under section 67.13 or 67.14. Not more than two per cent of any such allotment shall be used to pay the cost of supervision by the state highway 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. The amount to be allotted under this subsection shall be allotted, forty 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 sixty 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. Provided, that in counties where more than sixty per cent of the state trunk highway system is constructed and surfaced with a surfacing of high type, 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 state highway commission shall approve may be added to the appropriation provided for such county by subsection (2) of this section and shall be expended by such county in accordance with the provisions thereof.

(4) COUNTY MINIMUM. No county shall be allotted less than forty thousand dollars under subsection (3) of this section nor shall any county that has constructed portions of its state trunk highway system with the proceeds of bonds issued and expended with the approval of the state highway commission, be allotted a lesser amount as state aid for state trunk highways in any year than the amount necessary to meet its obligations on account of such bonds until the total amount to which such allotments may lawfully be applied, is paid. If the allotment to any county shall be less than the minimum amounts hereinbefore stated, such allotment shall be increased to the minimum amount with money from the amount available under subsection (9) of this section. All allotments under subsection (3) of this section to counties having bonds outstanding which have been 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 such extent as shall be necessary each year.

(5) ALLOTMENTS NONLAPSABLE. Allotments of state aid for the construction of the state trunk highway system need not be expended in each county every year, but the allotments made to any county shall stand to its credit until expended as provided by law. If the commission shall determine that the public welfare and the best interests of travel make it necessary to complete any portion of the system in a single project, the commission and the county board of the county in which such project is located may agree that more than one year's allotment to the county may be used for such 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 succeeding allotments to the county in the amount agreed upon by the commission and the county board.

(6) DISCRETION TO MILWAUKEE COUNTY. The county board of any county having a population of five hundred thousand or more may appropriate any portion of the moneys received by such county under the provisions of 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 within such county for the construction of bridges carrying a traffic in excess of twenty-five hundred vehicles per day, according to a determination made by the state highway commission.

(9) COMMISSION TO IMPROVE STATE TRUNKS. The appropriation made by subsection (9) of section 20.49 shall be used by the commission for the purposes set forth in section 84.10 and the improvement 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 to life at railroad grade crossings and for any other highway purpose for which the state may now or hereafter match or supplement federal aid funds pursuant to the provisions of 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 the provisions of section 84.06 and any applicable act of congress. Such appropriation shall, subject to the provisions of section 84.10, be expended by the commission on such projects of such nature, 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 tend to promote the general welfare in the most effective manner. Such appropriation may be used for improvements within the provisions of this section independent of, or in conjunction with, any other funds that may have been or may be made available for such improvements. Any requirements of any federal highway act, or regulations of the United States bureau of public roads thereunder, may be met from such appropriation. All maintenance, snow removal and drift prevention work on the state trunk highway system shall be carried out with such appropriation.

(9a) LANDSCAPING AND ACQUISITION OF ROADSIDE PARKS. The commission shall:

(a) Landscape rights of way along the state trunk highway system.

(b) Develop and maintain roadside park areas along, or in close proximity with the state trunk highway system. Such areas may be developed within existing or later acquired rights of way and upon lands publicly owned or controlled or in proximity therewith. No area not within existing or later acquired rights of way shall exceed 5 acres. When necessary to such development, the commission may purchase lands for such purposes. Development and maintenance includes the following: planting, landscaping, the furnishing of sanitary, parking, cooking and picnicking facilities and any other facility which the commission deems reasonably necessary to accommodate the traveling public and the providing of convenient and safe access thereto by pedestrians and vehicular traffic. Funds appropriated by subsection (6a) of section 20.49 shall be expended for the purposes set forth in this subsection but nothing herein contained shall be construed as limiting the commission's power to expend funds appropriated by subsection (9) of section 20.49 for similar purposes when said funds are used to match federal funds pursuant to Title 23, Paragraph 10B, U.S.C.A. nor shall anything herein contained be construed as limiting the power of the commission to expend money appropriated by said subsection for maintenance purposes as defined by section 84.07 and subsection (3) of section 80.01.

(10) IMPROVEMENT OF STREETS CONNECTING TRUNK HIGHWAYS. All streets in any city, marked as a part of the state trunk highway system, and forming connections through such city between portions of the state trunk highway system, or between such system and the highway systems of adjoining states, may be constructed or reconstructed by the state

in the same manner as portions of the state trunk highway system. [1931 c. 22 s. 3; 1931 c. 346; 1931 c. 391 s. 4; 1937 c. 55, 393; 1939 c. 42, 105; 1941 c. 117]

Note: Under (4) (as amended by chapter 22, Laws 1931) counties are required to pay from allotment under (3) principal and interest of bonds, but counties may use such allotment for retirement of bonds only to amount of original cost of construction. 20 Atty. Gen. 1055.

Where county board makes appropriation for acquiring right-of-way on federal aid

relocation project under (5) and highway commission is induced thereby to proceed with relocation at considerable expense county board cannot thereafter lawfully rescind appropriation. 25 Atty. Gen. 427.

Allotment provisions of (4) are revocable as to county issuing bonds thereunder. 27 Atty. Gen. 126.

84.04 Notice of county allotments and improvements to be made; acquisition of right of way. (1) Annually, not later than November first, the commission shall notify each county clerk of the allotments of state aid to the county under subsections (2) and (3) of section 84.03.

(2) 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 the first of November, as to the improvements in their respective counties.

(3) Each county may acquire any lands needed to relocate or widen any highway to be improved. Such lands and any other needed lands may be acquired by the county in the manner provided by section 83.07 or section 83.08 or by chapter 32. [1931 c. 22 s. 3]

Note: See note to 84.05, citing *Ullrich v. County of Kenosha*, 219 W 65, 261 NW 747.

84.05 Railroad grade crossings. Whenever the commission shall determine that the proper construction of a portion of the trunk highway system, or the system of the prospective state highways which crosses one or more railroads or street railways at grade, in the interest of public safety or for convenience of public travel and for the proper construction of said portion, necessitates grade separation or the rearrangement or elimination of such crossings or any other rearrangement of the highways or tracks, the highway commission and the public service commission, jointly, shall make a plan of the changes proposed and an estimate of the cost thereof, including the cost of needed right of way. The highway commission shall endeavor to make an agreement with all persons concerned as to all matters involved in the plans, including the portion of the cost of the contemplated work which the persons shall defray. If the highway commission shall find it impossible to deal by contract with the persons concerned as to the proper distribution and payment of the cost of the work, the highway commission shall lay the matter before the public service commission, and the public service commission shall review the whole proceedings and hold a hearing or hearings thereon in accordance with the provisions of 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 highways not on the trunk highway system, and apportion and charge to the units of government responsible for the construction of such highway a fair portion of the cost.

Note: County and not railroad company was not exclusively for railroad purposes. was liable for land taken by highway committee for construction of overhead crossing to eliminate railroad crossing, since taking *Ullrich v. County of Kenosha*, 219 W 65, 261 NW 747.

84.06 Construction. The word "improvement" as used in this section shall include construction or reconstruction but not maintenance. The state highway commission at such times and in such manner as it deems advisable may prepare plans, estimates and specifications and undertake and perform all surveys, investigations and engineering work for any highway improvement which it has power to execute. When provision has been made for obtaining 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 pursuant to any applicable federal requirement or regulation, the commission may proceed with the improvement as provided in this section, with due regard to any applicable federal requirement or regulation.

(1) **BIDS, CONTRACTS.** All highway improvement which the commission has power to execute shall be executed by contract based on bids unless the commission shall find that another method as provided in subsection (2) of this section would be more feasible and advantageous for highway purposes. Such bids shall be advertised for in the manner determined by the commission, and a contract shall be awarded by the commission 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 found to be unreasonable or beyond any such estimate, or 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 con-

tracts. The contract so awarded shall be entered into between the state and the contractor and 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 section 15.26 to 15.40 and section 15.81.

(2) SPECIAL CONTRACTS; DIRECT LABOR; MATERIALS. (a) If the commission shall find that it would be more feasible and advantageous for highway purposes to have any such improvement performed by the county in which the proposed highway improvement is located and without bids, the commission may, by arrangement with the county highway committee of such county, negotiate for and, if possible, obtain 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 provide for the purchase, delivery and storing of materials and the necessary rental of small tools and equipment. In such instance the contract shall be entered into between such county and the state and shall not be based on bids. Such contract may be entered into on behalf of the county by the county highway committee and on behalf of the state by the commission. Every such contract is excepted from all provisions of chapter 15 and section 289.16, but no such contract in which the total indebtedness to be incurred thereby as therein estimated exceeds five thousand dollars shall be valid or effectual for any purpose until it shall have indorsed thereon in writing the approval of the governor.

(b) If the plans of the commission for any part of any such highway improvement indicate that such part of such improvement will cross, traverse or affect, directly or indirectly, the property of any railroad company or public utility, and if the commission shall find that it would be more feasible and advantageous for highway purposes to have such part of such improvement performed directly and without bids by such railroad or public utility, the commission may negotiate for and, if possible, obtain a contract satisfactory to the commission to have such part of such improvement performed directly by such railroad or public utility. In such instance a contract shall be entered into between such railroad or public utility and the state and shall not be based on bids, but nothing herein shall be construed to prevent the entry into a contract based on bids with any railroad or public utility in other instances. Such contract 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, but no such contract in which the total indebtedness to be incurred thereby as therein estimated exceeds five thousand dollars shall be valid or effectual for any purpose until it shall have indorsed thereon in writing the approval of the governor. The term "public utility" as used in this paragraph shall be defined as in section 196.01 and the word "railroad" as used in this paragraph shall be defined as in section 195.02. The word "property" as used in this paragraph includes but is not limited to tracks, trestles, signals, grade crossings, rights of way, stations, pole lines, plants, substations and other facilities. Nothing in this paragraph shall be construed to relieve any such railroad or public utility from any financial obligation, expense, duty or responsibility otherwise provided by law relative to any such property.

(c) If the commission shall find that it would be more feasible and advantageous for highway purposes to have the proposed improvement performed by convict labor or labor employed directly by the commission, it shall submit a written report of such finding to the governor. If the governor approves the same he shall indorse his approval in writing upon such report and upon receipt of such approved report the commission may proceed to do the work by convict labor, in accordance with the provisions of section 56.04, or by labor employed directly by the commission, and may rent or purchase necessary small tools or equipment.

(3) EXCESS COST. Any excess in construction cost over the funds made available for any piece of work, shall be paid out of the state trunk highway appropriation, and any balance shall be credited to said appropriation; and the distribution of the cost of the next improvement in the same county shall be so made that the statutory ratio of payment shall be preserved.

(4) INSPECTION AND PAYMENT. The commission may provide for the necessary and adequate inspection of each piece of work to insure its proper performance. All indebtedness incurred in accordance with the provisions of this section for any highway improvement shall be paid out of the funds available for the improvement subject, if federal aid is utilized, to any applicable federal requirement or regulation. Such payment shall be made only on the order of the commission, from which order the secretary of state shall draw his warrant upon the general fund of the state in favor of the payee and charge the same to the proper appropriation.

(5) CONTRACT FOR MATERIALS. Whenever an improvement shall have been determined upon and provision has been made for fully financing the cost of such improvement, the commission, if it shall conclude that a probable saving can be effected thereby, is authorized to contract for any or all of the materials to be used in the construction of

the improvement and for the delivery and storage of said materials at suitable points, and to pay for the same out of any funds available for the improvement.

(8) **CATTLE PASSES.** In making any highway improvement under the provisions of this section, cattle passes shall be constructed as a part of such improvement at such places as may be determined necessary and practical. [1937 c. 393]

84.07 Maintenance of state trunks. (1) The state trunk highway system shall be maintained by the state and all the expense of such maintenance shall be borne by the state. The state highway commission shall prescribe regulations and specifications for such maintenance. The commission may arrange with the county highway committee of any county to have the state trunk highways within such county maintained by the county forces. Such maintenance shall include such measures as shall be deemed necessary to keep the state trunk highways open for travel at all seasons, including the removal of snow from the highways and the prevention of snow drifts upon the highways. Such maintenance also includes the care and protection of trees and other roadside vegetation and suitable planting to prevent the erosion of the soil or to beautify highways pursuant to subsection (3) of section 80.01.

(2) When any county shall maintain the state trunk highways within such county, in compliance with the regulations of the state highway commission, the said commission shall pay the actual cost of such maintenance, including such reasonable allowance for the use of county machinery and overhead expense as shall be 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) It shall be the duty of the highway patrolman to destroy or cut to the center of any highway which it is his duty to patrol, all weeds named in Class I and Class II in subsection (1) of section 94.20 at such time and in such manner as shall effectually prevent them from bearing seed, or spreading to adjoining property. [1931 c. 22 s. 3; 1931 c. 283 s. 2; 1935 c. 550 s. 408; 1941 c. 117]

Note: A county using a truck in the maintenance of a state trunk highway pursuant to this section was discharging a governmental function; hence the county incurred no liability for an automobile accident in which the truck became involved while being so used, regardless of the negligence of employees of the county in parking the truck. *Lickert v. Harp*, 213 W 614, 252 NW 296.

See note to 85.06, citing *Crowley v. Clark County*, 219 W 76, 261 NW 221.

County is liable to county highway workers for compensation for injuries received while constructing highways under arrangement between state highway commission and county highway committee. 21 Atty. Gen. 9.

84.08 Franchises. No franchise or permit granted by any town or village or city common council to any corporation to use any trunk highway shall become effective unless and until such franchise or permit shall have first been approved by order of the state highway commission in accordance with reasonable rules and regulations prescribed by it. 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 or street is to be restored to its former condition. [1937 c. 365]

84.09 Emergency repairs; blocking streets. (1) Except in case of emergency, no city or village shall obstruct any street over which any United States or state trunk highway is marked unless it first makes arrangements with the state highway commission for the marking of a temporary route. [1931 c. 22 s. 3]

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

(a) There shall be allotted for the maintenance of the state trunk highway system within each county such sum as the state highway commission shall deem to be reasonably necessary to meet the requirements. Such estimates may be revised by the commission if deemed necessary.

(b) There shall be allotted to each city and village for the maintenance of streets within its limits selected by the state highway commission, not a part of the state trunk highway system, but forming connections through said city between portions thereof, or between such system and the highway systems of adjoining states, the following amounts per mile of street corresponding to the classification of highways stated: Primary federal aid, five hundred dollars; secondary federal aid, four hundred dollars; other state trunk highways, three hundred dollars. Said allotments may be used for maintenance, repair, construction, snow removal and traffic regulation on said connecting streets, and may be cumulated for any such purpose.

(c) There shall be allotted to the state highway commission for all 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 a total sum of one hundred thirty thousand dollars. Such sum shall be distributed by the commission on February 15th of each year and shall be apportioned pro rata upon the basis of the necessary and actual expenditures by each such city. Each city of the first, second and third class shall annually, on or before January 31st, submit a written report to the state highway commission showing the actual expenditures during the previous calendar year for the maintenance and operation of such bridges.

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

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

(2) DISBURSEMENTS. (b) The funds allotted to cities for the maintenance of connecting streets and swing or lift bridges shall be held to the credit of such cities and shall be paid to the treasurers thereof upon presentation and approval by the commission of certified statements, itemized as may be required by the commission, setting forth the amounts expended by such cities in the maintenance of such connecting streets or swing or lift bridges, and provided such maintenance is satisfactory to the commission. Any city may arrange to have any work on connecting streets or swing or lift bridges for which an allotment is made under this section, performed by the county and in that case the allotment shall be expended as if made to the county. [1931 c. 22 s. 1, 2; 1935 c. 30, 299, 540]

Note: Term "traffic regulation" in (1) (b) includes upkeep and repair of traffic control signals such as speed signs, stop signs and stop and go lights installed pursuant to 85.70. 25 Atty. Gen. 211.

Allotment of funds to cities and villages for construction of connecting streets and other purposes under (1) (b) may be used to retire bonds issued for construction of connecting streets. 25 Atty. Gen. 660.

Bridge constructed under 87.02 in city of second class and over which connecting street was subsequently routed is subject

to maintenance and operation allotment provided by 84.10 (1) (d). 30 Atty. Gen. 6.

Funds may not be used by municipalities under (1) (b) for street lighting but may be used for following purposes when actually performed on selected connecting streets: routine sweeping or cleaning of streets, including flushing or sprinkling with water; painting vehicle or pedestrian lane markings and restricted parking area designations; policing to prevent traffic violations or to apprehend traffic violators; policing for purpose of directing traffic. 30 Atty. Gen. 82.

84.105 National parkways. (1) HIGHWAY COMMISSION TO CO-OPERATE WITH FEDERAL AGENCIES. The legislature of the state of Wisconsin hereby declares that the intent of this section is to assent to any act of the United States congress authorizing the development of any national parkway located wholly or partly within the state of Wisconsin, to the full extent that is necessary to secure any benefits under such act, provided that the hunting of migratory waterfowl and other game and fishing shall not be prohibited or otherwise restricted by the United States government or any of its designated agencies in control of said project, and to authorize the appropriate state boards, commissions, departments and the governing bodies of counties, cities, towns and villages and especially the state highway commission to co-operate in the planning and development of all national parkways that may be proposed for development in Wisconsin, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop such national parkways. Whenever authority shall exist for the planning and development of any national parkway, of which any portion shall be located in this state, it shall be the duty of the state highway commission to make such investigations and studies in co-operation with the appropriate federal agency, and such state boards, commissions and departments as shall have an interest in such parkway development, to the extent that shall be desirable and necessary in order to provide that the state shall secure all advantages that may accrue through such parkway development and that the interests of the counties, cities, villages and towns along the route shall be conserved.

(2) DEFINITIONS. For the purposes of this section, all terms applying to any parkway, such as "secretary", "parkway", "scenic landscape", "sightly or safety easement", "access", "parkway road", "frontage", and other or similar terms, which are defined in any act of the United States congress applicable to such national parkway, shall have the meanings set forth in such act.

(3) HIGHWAY COMMISSION SHALL MAKE INVESTIGATIONS. The state highway commission shall have full authority to make such investigations, surveys, studies and plans in connection with any proposed national parkway or parkway development as it shall deem

necessary or desirable in order to determine if the proposed development, under the terms of the act of the United States congress applicable to such parkway or any regulations under such act, are advantageous to the state. Such parkway development may be any portion of the proposed parkway, which it may be proposed to construet as a project under such act. The state highway commission may hold such hearings in connection with such investigations as it shall deem necessary or desirable, and shall give at least seven days' notice of such hearings by publication in at least two newspapers having general circulation in the locality.

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

(5) PARKWAY TO BE STATE TRUNK HIGHWAY. If the state highway commission, after such investigations and studies, shall find that the proposed parkway development is advantageous to the state, it shall have full authority to perform, on behalf of the state, each and every duty required of the state by the act of the United States congress applicable to such parkway development, in order to secure the proposed development project for the state. For the purposes of such development project, the parkway shall be a portion of the state trunk highway system. Any moneys that may be available for the improvement of the state trunk highway system within any county shall be available for any proposed national parkway development within such county, in the same manner as such moneys shall be available for state trunk highways. The county board of any county may authorize the use of any moneys available to the county under section 20.49, chapter 83 or chapter 84, for the purposes of the proposed parkway development, to the same amount as for state trunk highways under such section 20.49 and chapters 83 and 84. The county boards may provide money for any national parkway development project in the same manner and in the same amount as for state trunk highways, and any county bonds issued to provide funds for any such parkway development shall be retired in the same manner as bonds issued for state trunk highways.

(6) RIGHT OF WAY AND EASEMENTS. All lands for right of way to be acquired in fee simple and all easements necessary to be acquired for the purposes of the proposed national parkway development shall be acquired by the state highway commission in the name of the state, as may be required by the act of the United States congress applicable thereto. Any lands owned by the state or by any county, city, village or town, may be conveyed to the United States for the purposes of the parkway in the manner provided by law. The commission may acquire such lands by gift, purchase agreement, or by exercising the right of eminent domain in any manner that may be provided by law for the acquirement of lands for public purposes. The commission shall have authority to convey such lands to the United States government or any of its agencies, as may be required by the act of the United States congress applicable to such national parkway.

(7) SECTION TO BE LIBERALLY CONSTRUED. All powers granted in this section shall be liberally construed in favor of the state highway commission and any proposed national parkway development projects. [1939 c. 138]