

No. 460, S.]

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### CHAPTER 186

AN ACT to create 15.96, 20.497 and 182.30 to 182.48 of the statutes, relating to toll roads, and making an appropriation.

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

SECTION 1. 15.96 of the statutes is created to read:

15.96 TURNPIKE COMMISSION. (1) There is hereby created a Wisconsin turnpike commission of 5 members to be appointed by the governor by and with the advice and consent of the senate for terms of 3 years each; all vacancies shall be filled as provided in s. 17.20 (2) (b).

(2) The commission shall have the following powers and duties:

(a) To ascertain the feasibility of the construction of a modern express turnpike or toll highway for the purpose of facilitating vehicular traffic in the state. The route of such proposed highway to run roughly between St. Croix or Pierce counties near the Minnesota border and Rock, Walworth or Kenosha counties near the Illinois border.

(b) The commission shall assemble all information it may deem appropriate relative to planning, surveying routes, cost of land acquisition, means of financing, economic practicability, potential revenues and any other information related in any way to its functions under par. (a). If after study of this material, it is determined by a majority of the commissioners that the construction of a turnpike or toll highway over the general route set forth in par. (a) or any portion thereof is in the interests of the public and social welfare and the traveling public of the state, the individual members of the commission may by and with the consent of the governor incorporate under the provisions of the turn-

pike corporation laws of this state and proceed with the construction of such turnpike or toll highway without further action of the legislature.

(c) The commission shall undertake similar studies of such other turnpike or toll road projects as the legislature may direct.

(3) The commission shall be furnished adequate quarters pursuant to the provisions of ss. 15.64 and 15.77.

(4) The commission shall meet at such times and places as it shall determine.

(5) The commission shall elect its own chairman.

(6) (a) The commission may employ consulting engineers, attorneys, accountants, construction and financial experts and such other employes and agents as may be necessary in its judgment; fix their compensation and promote and discharge such employes and agents; all without regard to any other general or special laws. The commission may further enter into contracts with individuals, partnerships or corporations, for the making of such surveys or studies as are deemed necessary by it.

(b) The commission shall not be subject to the provisions of s. 15.56, but any contract requiring an expenditure of more than \$1,000 may be made only with the approval of the governor.

(7) The commission may call upon any state department, agency, or officer or any agency of any political subdivision for such facilities and data as may be available, and such departments and agencies shall cooperate with the commission to the fullest possible extent.

(8) The commission shall keep a written record of its proceedings. Three members shall constitute a quorum for the transaction of business and all actions shall require the approval of a majority of all the members of the commission.

(9) The commissioners may have other gainful employment and shall be compensated on the basis of \$25 per diem together with necessary and actual expenses incurred while performing their duty.

(10) State employes may be employed by the commission with the consent of the governor and the department concerned. Such employes shall retain uninterrupted their civil service rating, sick leave, vacation and other rights under ch. 16 and after termination of their employment by the commission shall be returned to the respective departments and agencies from which they were transferred for resumption of their regular employment.

(11) Necessary expenditures made in the carrying out of the purposes of the commission shall be paid out of appropriation provided by s. 20.497 and in the manner set forth therein.

(12) The commission shall report annually to the governor and biennially to the legislature and shall make such other reports as the governor may require.

SECTION 2. 20.497 of the statutes is created to read:

20.497 TURNPIKE COMMISSION. There is appropriated from the state highway fund to the Wisconsin turnpike commission \$250,000 as a nonlapsible appropriation which shall not be subject to any other laws regulating the use of highway funds, for the purpose of carrying out the duties and functions of said commission as may be provided by law; expenditures are to be made upon vouchers signed by the chairman or secretary of the commission.

SECTION 3. 182.30 to 182.48 of the statutes are created to read:

182.30 TURNPIKE ACT; TITLE. Ss. 182.30 to 182.48 shall be known and may be cited as the "Wisconsin Turnpike Corporation Act."

182.31 DEFINITIONS. As used in ss. 182.30 to 182.48, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Corporation" or "turnpike corporation" means any corporation organized under this chapter not for profit and without stock for the purposes and with the powers set forth hereunder.

(2) "Project" or "turnpike project" means any highway, express highway, super-highway or motorway constructed under the provisions of this act, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, weighing stations, administration, storage and other buildings and facilities which the corporation may deem necessary for the operation of the project, together with all property, rights, easements and interests which may be acquired by the corporation for the construction or the operation of the project.

(3) "Cost" as applied to a turnpike project shall embrace the cost of construction, including bridges over or under existing highways and railroads, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the corporation for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such build-

ings or structures may be moved, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements therefor, the cost of all machinery and equipment, financing charges, interest prior to, during and after construction, cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of costs and revenues, other expenses, necessary or incidental to determining the feasibility or practicability of constructing any such project, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation.

(4) "Owner" includes all individuals, copartnerships, associations, or corporations having any title or interests in any property, right, easement and interest authorized and required to be taken under authority of this act.

(5) "Revenues" shall mean all tolls, rentals, gifts, grants, moneys, and all other forms of property coming into the possession or under the control of the corporation by virtue of the terms and provisions hereof, except the proceeds from the sale of bonds issued under the provisions of this act.

182.32 GENERAL POWERS. Turnpike corporations may be organized under this chapter and shall have the powers enumerated in ss. 182.011 (1) and 182.201 except as otherwise provided in this act.

182.33 ADDITIONAL POWERS. Such corporation shall have the following additional powers:

(1) To construct, maintain, repair, police and operate turnpike projects as hereinbefore defined, upon such routes as are agreed to by the state highway commission by and with the written consent of the governor; and to establish rules and regulations for the use of any such turnpike project.

(2) To fix, devise, charge and collect tolls for transit over each turnpike project and to provide and issue special licenses authorizing transit over the turnpike project without the payment of such tolls during the period specified in the license and to fix and devise fees to be charged for such licenses.

(3) To designate the locations, and to establish, limit and control such points of ingress and egress from each turnpike project as may be necessary or desirable in the judgment of the corporation to insure the proper operation and maintenance of such project, and to prohibit ingress to such project from any point not so designated. The corporation shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing the traffic from each direction on the turnpike. Such signs shall designate the number and other designations, if any, of all highways of ingress and egress, the names of all appropriate municipalities of the state and the distance in miles to such designated municipalities.

(4) (a) To employ consulting engineers, superintendents, managers, and such other engineers, construction and consultant experts, attorneys, and other employes and agents as may be necessary in its judgment, and to fix their compensation; provided that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of this act or from revenues.

(b) State employes may be employed by the corporation with the consent of the governor and the department concerned. Such employes shall retain uninterrupted their civil service rating, sick leave, vacation and other rights under ch. 16 and after termination of their employment by the corporation shall be returned to the respective departments and agencies from which they were transferred for resumption of their regular employment.

(5) To lease suitable parcels of land for or to construct and lease to private persons, after competitive bidding, gasoline stations, garages, stores, hotels, motels, restaurants, tourist rooming houses, and such other facilities as the corporation may deem to be necessary or desirable. The corporation shall have full power to determine the number and location of such facilities.

(6) To receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or maintenance of any turnpike project, and to receive and accept aid, gifts or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

(7) To do all acts and things necessary or proper to carry out the powers expressly or impliedly granted in this act.

182.34 ISSUANCE OF BONDS. (1) The corporation is authorized to provide by resolution at one time or from time to time for issuance of turnpike revenue bonds in such amount as may be required to pay for all or part of the cost of any one or more turnpike projects. It is likewise authorized similarly to provide for the issuance of refunding bonds, to retire any bonds then outstanding at the principal amount thereof plus any redemption premium and accrued interest thereon; and to pay for all or part of the cost

of future extensions, enlargements, or improvements of the project for which the bonds being refunded were issued.

(2) The bonds to be so issued may be offered and sold by the corporation in such manner as is determined by the corporation to be most suitable and economical. The bonds shall be signed by the chairman and vice-chairman of the corporation or by their facsimile signatures, and the official seal of the corporation shall be affixed thereto and attested by the secretary-treasurer of the corporation, and any coupons attached thereto shall bear the facsimile signature of the chairman of the corporation. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient, for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of this state.

(3) To the extent that the proceeds of any bonds sold exceed the cost of the project or projects for which such bonds were issued, those funds shall be applied to the credit of the sinking fund reserve or other reserve for such issue.

(4) The corporation is authorized to take any action in connection with the mechanics of setting up and servicing the issuing of bonds which will provide proper and adequate protection for the purchasers, and which may be required by the circumstances then in force.

(5) Turnpike revenue bonds and refunding bonds issued under the provisions of this act shall be payable solely from the funds pledged for their payment as herein authorized and shall not constitute a debt of the state or of any political subdivision of the state.

(6) All expenses incurred by a turnpike corporation shall be payable solely from funds provided under the authority of this act and nothing contained in this act shall be construed to authorize a turnpike corporation to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

(7) Tolls and license fees authorized under s. 182.33 (2), shall be so fixed and adjusted in respect of the aggregate of tolls of each turnpike project including any extension or section thereof in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenue from such turnpike project or extensions or sections thereof, if any, to pay (a) the cost of maintaining, repairing and operating such turnpike project or extension or section thereof, including the legal liabilities of the corporation, and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserve for such purposes. Such tolls shall not be subject to supervision or regulation by any commission, board, bureau or agency of the state. The tolls and all other revenues derived from each turnpike project or extensions or sections thereof in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such costs of maintenance, repair and operation including the legal liabilities of the corporation, and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which shall be pledged to and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price and the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof, or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation. All trust agreements and all resolutions relating thereto shall be filed in the office of the secretary of state and recorded in the records of the corporation.

(8) All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds, or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this act. Such funds shall be kept in such depositories as are selected by the corporation.

(9) Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust agreement or reso-

lution to be performed by the corporation or by any officer thereof, including the fixing, charging and collecting of tolls.

(10) The issuance of turnpike revenue bonds or turnpike revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

**182.35 ACQUISITION OF LANDS AND INTERESTS THEREIN.** (1) Turnpike corporations may acquire by gift, devise, purchase or condemnation any lands determined by them to be necessary for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving and maintaining its project including lands which may be necessary for toll houses and appropriate concessions and for any other purpose authorized by this act. Title may be acquired in fee simple and any other interest in lands may be acquired as may be deemed expedient or necessary by the corporation. Any lands determined to be unneeded by the corporation may be sold by the corporation at public or private sale with or without restrictions or reservations concerning the future use and occupation of such lands so as to protect the project and improvements and their environs and to preserve the view, appearance, light, air and usefulness of the project.

(2) If the lands or interests therein cannot be purchased expeditiously for a reasonable price, the corporation may acquire the same by condemnation either by the existing power under ch. 32 or in the following manner. The corporation shall by resolution make an award of damages to the owner which said award shall be in writing stating the names of the owner or owners, a description of the premises taken and the interest therein and shall be duly executed and acknowledged by 2 officers of the corporation; thereupon the amount of the award shall be tendered or paid to the owner or owners and said owner or owners may receive the same without prejudice to his right to claim and to contest for a greater sum, except that no interest upon the original amount of the award paid or tendered shall be recoverable or allowed in any subsequent appeal. A copy of the award of damages shall be delivered or mailed to the owner or owners if the address is known and if not known, then to the occupant of the land. If the land is unoccupied and the name or address of the owner or owners is unknown, the award shall be published once each week for 3 successive weeks in a newspaper having a general circulation in the county where the land is situated and shall state that the amount awarded is available at the office of the turnpike corporation. If such an award is not claimed within 5 years from the date of last publication, it shall escheat to this state and be paid forthwith to the state treasurer, subject to refund to the rightful owner as provided by law. After tender payment or publication the award shall be recorded in the office of the register of deeds of the appropriate county, after which the turnpike authorities and their contractors and employes may take possession of the land and exercise full control of the interests in the land acquired. The former owner may within one year after the recording of the award with the register of deeds apply to the county judge to have his damages reappraised. Notice of such application for reappraisal shall be served upon the turnpike corporation within such one year period or the appeal deemed invalid. As soon thereafter as practicable but after not less than 5 days written notice, the county judge shall call the parties before him and make such inquiry and investigation as he may deem advisable. Such inquiry and investigation is not a proceeding in county court and there shall be no necessity of preserving a record of the same. Within not more than 10 days thereafter, the judge shall make his appraisal in writing and notify the parties of the same. Within 30 days after notification, either party may appeal to the circuit court for an additional reappraisal under the provisions of s. 32.11 and such other provisions of ch. 32 as are applicable to appeals in other eminent domain proceedings.

**182.36 AUTHORITY TO CONSTRUCT GRADE SEPARATIONS AND RELOCATE PUBLIC ROADS, STREETS, HIGHWAYS, RAILROADS AND PUBLIC UTILITIES.** (1) It is declared that the construction of modern toll roads in this state is in the promotion of public and social welfare and for the benefit of public travel. It is recognized that in the construction of such highways, it will become necessary to make changes and adjustments in the lines and grades of public roads, streets, highways, railroads and public utility systems and, in some instances, to relocate the same.

(2) In the furtherance of the public interest, the corporation is hereby granted the authority to construct grade separations at intersections of any turnpike project with public roads, streets, highways and railroads and to change and adjust the lines and grades of public roads, streets and highways, and, if necessary, to relocate the same. Such changes in public roads, streets and highways shall be made with the approval of the appropriate governmental highway or street authority. If the corporation and local authority cannot agree in any matter, such changes may be made with the consent of the state highway commission. The cost of the grade separations and changes and any dam-

ages incurred thereby shall be ascertained and paid by the turnpike corporation as a part of the cost of such turnpike project.

(3) The corporation may enter into contracts with public utilities, including railroads, for the removal or change in location of the lines of such public utilities where the same is deemed necessary by the corporation in the construction of the project. Such contracts shall be for the payment of damages caused the utilities by the relocation of their lines. In the event the corporation and the utility are unable to reach an agreement, the public service commission shall direct the manner, location and time allowed for the change in the utility line and the corporation shall be liable for the reasonable costs of such change. In the event the public utility fails to comply with the order of the public service commission it shall be liable to the corporation for all damages occasioned by such failure.

182.37 RIGHTS OF PUBLIC UTILITIES. All public utilities shall have the right to cross the lands or easements of the corporation with any lines at such reasonable place and in such reasonable manner, either over or under the project, as the corporation may direct upon payment of damages to the corporation. In cases of dispute, utilities shall have the right to condemn easements under ch. 32 but such easements shall not conflict with the planned operation, or operation of the project.

182.38 ENTRY UPON LANDS. The turnpike corporation by its authorized agents and employes may enter upon any lands in the state for the purpose of making such surveys and examinations as are necessary or proper for the purposes of this act. Such entry shall not be deemed a trespass nor entry under any kind of condemnation proceedings which may be then pending. The corporation shall make reimbursement for any actual damage resulting to such lands or premises and to private property located on the same as a result of such activities.

182.39 USE OF STATE LANDS. This state, subject to the approval of the governor, hereby consents to the use of all lands owned by it, including lands lying under water which are necessary or proper for the operation and construction of any turnpike project provided adequate compensation is made for such use.

182.40 TOLL EXEMPTIONS. (1) The following government agencies are to be exempt from the payment of tolls: All armed forces of the United States including the Wisconsin national guards and national guard units from other states; the Wisconsin state guard; and civilian defense organizations.

(2) When not traveling on an emergency mission the corporation shall have the power to designate the time of such use, the length and timing of convoys, serials and march units, rate of march, and intervals, and make such other requirements as may be necessary to properly control traffic in the interest of general safety and convenience of travel.

(3) The corporation shall have the power to exempt law enforcement officers and those operating emergency vehicles from the payment of tolls upon such conditions as it may direct.

182.41 CORPORATION TO BE NONPROFIT. All turnpike corporations shall be nonprofit corporations, that is, corporations formed without capital stock, operated not for profit and exclusively for the purposes set forth in this chapter and which declare no dividend, benefit or pecuniary profit to be paid to or received by any of their members, directors, or officers.

182.42 NOT TO BE CONSIDERED PUBLIC UTILITIES. Turnpike corporations are not to be subject to regulations under ch. 196 as a public utility.

182.43 UNDERPASS AUTHORIZED. Wherever a turnpike project divides the land of one owner so as to prevent ingress to and egress from said lands, the corporation is authorized to provide an underpass or culvert sufficient to provide ingress and egress between said lands. Plans for the existence of an underpass shall be admissible in evidence in condemnation proceedings.

182.44 LIMITATIONS ON POWERS. Turnpike corporations shall not have the power to secure any of their obligations by mortgage or pledge of all or any of their properties, either real, personal or mixed, except the pledging of tolls as herein provided.

182.45 REPORTS. On or before the first day of February of each year, the corporation shall make an annual report of its activities for the preceding calendar year to the secretary of state. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The corporation shall cause an audit of its books to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of the construction or of operations of the project.

182.46 TAX EXEMPTIONS. The exercise of the powers granted by this act will be in all respects for the benefit of the people of this state, for the increase of their com-

merce and prosperity and for the improvement of their health and living conditions, therefore the corporation shall not be required to pay any taxes or assessments upon any turnpike project or any property acquired or used by the corporation under the provisions of this act or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state.

182.47 MOTOR VEHICLE LAWS TO APPLY. (1) The provisions of chs. 85 and 86 relative to the operation of motor vehicles on highways and the protection of public highways including the weight restriction laws shall be applicable to turnpikes and for the purpose of these laws, turnpikes shall be deemed to be public highways. Turnpikes shall be considered as class "A" highways under s. 85.46 and all limitations on the use of such class "A" highways shall be applicable. Turnpikes shall not be subject to traffic control by any local governmental ordinance, rule or regulation.

(2) The corporation is authorized to hire suitable persons to enforce the statutes referred to in sub. (1), and, upon approval of the governor, they are vested for that purpose with the powers of state traffic officers. Such authority shall be evidenced by the governor's certificate of approval.

182.48 STATE MAY ACQUIRE. When all turnpike revenue bonds issued under the provisions of this act in connection with any turnpike project or extension or sections thereof and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project or extension or sections thereof, shall become a part of the state trunk highway system and shall thereafter be maintained by the state highway commission and shall be free of tolls.

Approved May 27, 1953.

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