

CHAPTER 87.

BRIDGES.

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87.01 Town bridges; construction and repair; county aid. (1) When any town has voted to construct or repair any bridge on a highway maintainable by the town, and has provided for such portion of the cost of such construction or repair as is required by this section, the town board shall file a petition with the county board setting forth said facts and the location of the bridge; and the county board, except as herein provided, shall thereupon appropriate such sum as will, with the money provided by the town, be sufficient to defray the expense of constructing or repairing such bridge, and shall levy a tax therefor, which tax when collected shall be disbursed on the order of the chairman of the county board and the county clerk, when the town board and county highway committee shall file a written notice with the clerk that the work has been completed and accepted. The county board of any county which has never granted aid under this section may in its discretion refuse to make any appropriation.

(2) If the town has an assessed valuation of four hundred thousand dollars or over as last equalized by the county board, the county shall pay the cost in excess of two hundred dollars up to four hundred dollars. The town and county shall each pay one-half of the cost of construction or repair above four hundred dollars. If the town has an equalized assessed valuation of less than four hundred thousand dollars, the county shall pay the cost in excess of one-twentieth of one per cent of said valuation until the cost equals one-tenth of one per cent of said valuation. The town and county shall each pay one-half of the cost of such construction or repair in excess of one-tenth of one per cent of said valuation of the town. In determining the cost of construction or repair of any bridge, the cost of constructing or repairing any approach not exceeding one hundred feet in length shall be included.

(3) Whenever the construction or repair of any such bridge must be made without delay, the town board may file its petition with the county clerk and the county highway committee, setting forth the facts respecting the necessity for immediate construction or repairs. It shall then be the duty of the town board and the county highway committee to make such construction or repairs with the least possible delay. The town board is authorized to borrow the entire cost of the work, and to include the town's share of such cost in the next tax levy. But if the said town's share of such cost shall exceed the amount produced by a tax of two mills on the dollar the action of a town meeting shall be required. The construction or repair of a bridge performed and accepted pursuant to this subsection shall entitle the town to the same county aid that the town would have been entitled to had it filed its petition with the county board as provided in subsection (1).

(4) The county highway committee and the town board shall have full charge of letting, inspecting and accepting the work, but the town board may leave the matter entirely in the hands of the county highway committee.

(5) No county order shall be drawn under subsection (1) for the construction of a bridge unless the bridge is constructed in a workmanlike manner and built of creosoted wood or timber, steel, stone or concrete or of a combination thereof.

(6) Nothing herein contained shall authorize the levy of a tax upon the property in any city or village which is required to maintain its own bridges, and the supervisors from such cities and villages shall have no vote upon any matter arising under this section. [1937 c. 52]

Note: City participating in construction of bridge under provisions of 87.02 or 87.03 is subject to county tax for bridges. 21 Atty. Gen. 933.

Town officers are not criminally liable for nonfeasance in failing to repair bridge where town has refused to vote necessary funds for repairs. Civil remedies of parties claiming injury are limited to relief afforded under 81.14 and 81.15. 23 Atty. Gen. 601.

Procedure whereby county board may improve or construct bridge or culvert in county trunk highway system and assess part of

cost to town is provided by 83.03 (6). 24 Atty. Gen. 297.

Aid available for construction of bridges under this section is available only to towns. Members of county board representing cities and villages have no vote upon question of whether county shall grant aid in construction and repair of town bridges. Cities and villages are exempt from tax levied for county aid under this section unless they have participated in aid afforded by 87.02 and 87.03. 26 Atty. Gen. 485.

See note to 80.11, citing 27 Atty. Gen. 53.

87.02 Intrastate bridges. (1) **ELIGIBILITY.** Bridge projects shall include all approaches and embankments, all lands necessary for right of way or other purposes, and all other necessary appurtenances. The word "construction" as used in this section shall include reconstruction. The word "commission" as used in this section means highway commission of Wisconsin. The following classes of bridge projects located wholly within the state shall be eligible to construction under the provisions of this section, provided that such eligibility shall not require that any such project be constructed under this section exclusively or bar any such eligible project from construction under any other provision of law that may be applicable:

(a) Any bridge project not eligible under paragraph (b) in which the bridge portion necessarily must be four hundred and seventy-five feet in length or more, not including approaches;

(b) Any bridge project located wholly or partly on the state trunk highway system or on a street in a fourth class city, not a portion of the state trunk highway system, but selected by the commission as a direct connection between portions of such system, provided the bridge portion necessarily must be three hundred feet or more in length not including approaches, or the cost of the bridge portion as estimated by the commission in its finding and determination is seventy-five thousand dollars or more, or there must be provided a movable span to permit navigation.

(2) **INITIATION OF PROCEEDINGS.** (a) *By any county, city, village or town.* Proceedings for the construction of a bridge project under paragraphs (a) or (b) of subsection (1) may be initiated by a petition filed with the commission. Such petition shall state that the petitioner desires such construction, and the approximate location thereof, and shall further state that, in the opinion of petitioner, such construction is necessary and is a bridge project eligible to construction under the provisions of this section. Such petition may be filed by any county, city, village or town required to pay a portion of the cost of construction, in the case of a bridge project eligible under paragraph (a) of subsection (1), or by any county, city, village or town in which a portion of the bridge project will be located in the case of a bridge project eligible to construction under the provisions of paragraph (b) of subsection (1). Such petition shall be signed and filed on behalf of such county, city, village or town only by such officer thereof as shall be authorized so to do by a resolution duly adopted by its governing body.

(b) *By the highway commission.* Proceedings for the construction of a bridge project under this section may also be initiated by the commission by the adoption of a resolution stating the approximate location of such construction and that such construction appears to be necessary and to be a bridge project eligible to construction under this section.

(3) **HEARING.** Within sixty days of the receipt of a petition under paragraph (a) of subsection (2) or the adoption of a resolution under paragraph (b) of subsection (2) the commission shall fix a time and place for a hearing which shall be held thereon, and give ten days' notice of such hearing by publication in at least one newspaper published in and having general circulation in the vicinity of one of the counties, cities, villages or towns, in which any portion of the bridge project will be located, or if no newspaper is so published, in one or more newspapers deemed by the commission as likely to give notice of such hearing. Notice shall also be given by registered letter addressed to the clerks of the counties, cities, villages and towns in which any part of the bridge project will be located. Such hearings may be held in any county, city, village or town in which any part of the bridge project will be located.

(4) **FINDING, DETERMINATION AND ORDER.** After such hearing the commission shall make its finding, determination and order, in writing, and file certified copies thereof with the clerks of each county, city, village and town in which any portion of the bridge project will be located and also with the secretary of state and the state treasurer. If the commission shall find that the construction is necessary it shall determine the location thereof, and if the project as so located is eligible to construction under this section the commission shall determine the character and kind of bridge most suitable for such location and estimate separately the cost of the bridge portion and the entire project. In the case of projects eligible to construction under paragraph (a) of subsection (1) the commission shall also determine the respective portions of such estimated cost of the

entire project to be paid by each county, city, village and town required to provide any portion thereof, and the portion to be paid by the state. The determination of the location of the project made by the commission and set forth in its finding, determination and order, shall be conclusive as to such location and shall constitute full authority for any relocations of highways made necessary for the construction of the project and for acquirement of any lands necessary for such relocation or construction. The estimate of cost made by the commission shall be conclusive in so far as cost may determine eligibility of construction under this section.

(5) APPOINTMENT OF COST. (a) The cost of projects eligible to construction under the provisions of paragraph (a) of subsection (1) shall be borne as follows: The state shall pay one-third, the county or counties in which the bridge project will be located shall pay one-third, and the one or more cities, villages and towns in which any part of such bridge project will be located shall pay one-third. The portion to be paid by the counties shall be borne equally by the counties in which such bridge project will be located; provided, that no bridge project shall be considered as located within a county unless an entrance to the bridge proper shall be wholly or partly within the limits of such county. If a bridge project wholly within one county is located in more than one city, village or town, their respective portions of the cost shall be in proportion to their respective assessed valuations as last equalized by the county board. If such cities, villages or towns are located in more than one county, the portion of the cost paid by all cities, villages and towns shall first be apportioned equally according to the number of counties, and then to the cities, villages and towns in each county in proportion to their respective assessed valuations as hereinbefore provided.

(b) The cost of bridge projects eligible under paragraph (b) of subsection (1) shall be borne as follows: The county or counties in which any part of the bridge project will be located are authorized, but not required, to pay, jointly or severally, a total of not more than one-fourth; the one or more cities, villages or towns in which any part of the bridge project will be located are authorized, but not required, to pay, jointly or severally, a total of not more than one-fourth. The commission shall include in its finding, determination and order a statement of the amounts it shall find to be equitable for the respective counties, cities, villages and towns to pay toward such construction but such statement shall not require any such county, city, village or town to make any payment. Any county, city, village or town may, with the approval of the commission, make all or part of its total authorized payment by furnishing land necessary or suitable for use in such bridge project. The state shall pay the entire cost not otherwise paid as provided in this paragraph; provided, that if any bridge project to be constructed under this section meets the requirements for construction with federal aid, the commission may in its discretion apply federal aid to such project, in accordance with a project agreement to be entered into with the proper representatives of the federal government and use any money provided by the state or paid by any county, city, village or town to match such federal aid.

(6) PROVISION OF PORTIONS OF COSTS BY LOCAL UNITS. When the commission shall have made and filed its finding, determination and order favorable to the construction of any bridge project under the provisions of this section, the governing body of each county, city, village and town required by such order to pay a portion of the cost in the case of bridge projects eligible to construction under the provisions of paragraph (a) of subsection (1) shall take action at its next regular or special meeting to arrange to provide such portion. Within five days after the adjournment of such meeting the governing body of any such city, village or town shall cause its clerk to certify the action of such governing body to the county clerk and the commission. Within five days after the adjournment of such meeting of the county board the county clerk shall certify the action of the county board to the commission. In the case of projects eligible to construction under the provisions of paragraph (b) of subsection (1), when the commission shall have made and filed its findings, determination and order favorable to such construction, the governing body of each county, city, village or town in which any part of the project will be located shall take action at its next regular or special meeting to determine what amount, if any, shall be offered and paid toward such construction and to arrange to provide any amount that shall be so determined upon. Such action shall be certified to the commission within five days after such meeting.

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

county, city, village or town shall fail to pay the amount required of it as to any project eligible to construction under the provisions of paragraph (a) of subsection (1) or offered by it as to any project eligible to construction under the provisions of paragraph (b) of subsection (1), or in the event the commission shall determine that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys to be provided by counties, cities, villages and towns shall be deposited by them in the state treasury, when required by the commission, and paid out on order of the commission. Any of such moneys remaining in the state treasury after the completion of such project shall be repaid to the respective counties, cities, villages and towns in the proportion paid in. [S^{pl.} S. 1931 c. 14; 1935 c. 285; 1937 c. 55]

Note: A provision in (5) (b), Stats. 1935, that if a bridge eligible to construction under (1) (b) is located on a United States highway no portion of the cost shall be paid by any county is valid; and bonds proposed to be issued by the county for the purpose of raising funds to contribute to such a bridge above described are not authorized by law. *Schaettle v. State Highway Commission*, 223 W 528, 271 NW 63.

Under (3) (b) (Stats. 1929) one-half of estimated costs of bridge is to be apportioned to counties benefited in proportion to such benefits, subject only to maximum limitations imposed. 19 Atty. Gen. 542.

Last assessment of property of county made by tax commission prior to making and filing of order of highway commission is assessment to be used in calculating ap-

portionment of bridge project. 21 Atty. Gen. 470.

Where city has acquired right of way and let contracts, which have been partially executed, for construction of bridge, it is too late to apply for apportionment of costs thereof. 21 Atty. Gen. 968.

Money raised by bond issue under (1) (b) cannot be used for any other purpose. If bonds have not been sold action for bond issue may be rescinded and county's share of bridge may be paid out of general fund without levying county tax for that specific purpose. 22 Atty. Gen. 113.

Bridge constructed under 87.02, in second class city, over which connecting street was subsequently routed, is subject to maintenance and operation allotment provided by 84.10 (1) (d). 30 Atty. Gen. 6.

87.03 Interstate bridges. (1) **ELIGIBILITY.** All bridge projects which include bridges located over any waters forming a portion of the state boundary shall be eligible to construction under this section, provided that such eligibility shall not require that any such project be constructed under this section exclusively or bar any such eligible project from construction under any other provision of law that may be applicable. Projects shall include all approaches and embankments, all lands necessary for right of way or other purposes, and all other necessary appurtenances. The word "construction" as used in this section shall include reconstruction. The word "commission" as used in this section means highway commission of Wisconsin. Such bridge projects shall be classified as follows:

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

(b) Any bridge project so located as to form a direct connection between the state trunk highway system of this state and the corresponding system of the adjoining state.

(2) **INITIATION OF PROCEEDINGS.** (a) *By any county, city, village or town.* Proceedings for the construction of a bridge project under this section may be initiated by a petition filed with the commission by any county, city, village or town in which a portion of the bridge project will be located. Such petition shall state that the petitioner desires such construction and the approximate location thereof; and shall further state that, in the opinion of petitioner, such construction is necessary and is a bridge project eligible to construction under the provisions of this section. Such petition shall be signed and filed on behalf of such county, city, village or town only by such officer thereof as shall be authorized so to do by a resolution duly adopted by its governing body.

(b) *By the highway commission.* Proceedings for the construction of a bridge project under this section may also be initiated by the commission by the adoption of a resolution stating the approximate location of such construction and that such construction appears to be necessary and to be a bridge project eligible to construction under this section.

(3) **HEARING, INVESTIGATION AND NEGOTIATIONS.** Within sixty days of the receipt of a petition under paragraph (a) of subsection (2) or the adoption of a resolution under paragraph (b) of subsection (2) the commission shall fix a time and place for a hearing which shall be held thereon. In all cases, the commission shall give notice and hold the hearing in the manner provided by subsection (3) of section 87.02. The commission shall also give notice by registered letter addressed to the state highway department of the adjoining state and to the governing body of any county, city, village or town of the adjoining state in which any portion of the bridge project will be located. The commission may make such investigation as it shall deem necessary and conduct such negotiations with the state highway department and other authorities in the adjoining state as it may deem advisable.

(4) **FINDING, DETERMINATION AND ORDER.** If the commission shall find that the construction is necessary, and that provision has been made or will be made by the adjoining state or its subdivisions to bear its or their portions of the cost of the project, the commission, in co-operation with the state highway department of the adjoining state, shall determine the location thereof, the character and kind of bridge and other construction

most suitable at such location, estimate the cost of the project, and determine the respective portions of such estimated cost to be paid by each state and its subdivisions. In the case of projects eligible to construction under paragraph (a) of subsection (1) the commission shall further determine the respective portions of the cost to be paid by this state and by its subdivisions which are required to pay portions of the cost. The commission, after such hearing, investigation and negotiations, shall make its finding, determination and order in writing and file certified copies thereof with the clerk of each county, city, village or town in this state in which any part of the bridge project will be located, with the secretary of state and the state treasurer and with the state highway department of the adjoining state. The determination of the location of the bridge project made by the commission and set forth in its finding, determination and order shall be conclusive as to such location and shall constitute full authority for any relocations of the highways made necessary for the construction of the project and for acquirement of any lands within this state necessary for such relocation or construction.

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

(a) The cost of projects eligible to construction under paragraph (a) of subsection (1) to be borne by this state and its subdivisions shall be borne by the state and the counties, cities, villages and towns in which any part of the project in this state will be located in the manner and proportion provided by paragraph (a) of subsection (5) of section 87.02.

(b) The cost of projects eligible to construction under paragraph (b) of subsection (1), to be borne by this state and its subdivisions shall be borne by the state; provided that such cost may be shared in the manner and proportion provided in paragraph (b) of subsection (5) of section 87.02 by the one or more counties, cities, villages and towns in which any part of the bridge project in this state will be located and by the application and matching of federal aid in the manner and proportion provided in paragraph (b) of subsection (5) of section 87.02.

(6) **PROVISION OF COSTS BY LOCAL UNITS.** When the commission shall have made and filed its finding, determination and order favorable to the construction of any bridge project under the provisions of this section, the governing body of each county, city, village and town of this state required by such order to pay a portion of the cost, in the case of bridge projects eligible to construction under the provisions of paragraph (a) of subsection (1), shall take action at its next regular or special meeting to arrange to provide such portion. Within five days after the adjournment of such meeting the governing body of any such city, village or town shall cause its clerk to certify the action of such governing body to the county clerk and the commission. Within five days after the adjournment of such meeting of the county board the clerk shall certify the action of the county board to the commission. In the case of projects eligible to construction under the provisions of paragraph (b) of subsection (1), when the commission shall have made and filed its finding, determination and order favorable to such construction, the governing body of each county, city, village and town in which any part of the bridge project in this state will be located shall take action at its next regular or special meeting to determine what amount, if any, shall be offered and paid toward such construction and to arrange to provide any amount that shall be so determined upon. Such action shall be certified to the commission within five days after any such meeting.

(7) **EXECUTION AND CONTROL OF WORK.** Subject to the control and supervision over the navigable waters of the state conferred by law upon the public service commission, and the control exercised by the United States, the construction under this section of any bridge project shall be under the joint supervision and control of the commission and of the state highway department of the other state concerned. If the highway department of such other state is not authorized to act jointly with this state in such bridge project, arrangements may be made with such subdivisions of the other state as may have proper authority, represented by their proper officers. Control shall be exercised in the manner deemed most expedient by the commission and such department or by the commission and the officers of the subdivisions of the other state concerned in the said construction. All contracts for the construction of said bridge projects shall be made and executed by the commission and the highway department of the other state jointly, or jointly by the commission and such subdivisions of the other state as may participate in the said construction. The commission shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town shall fail to pay the amount required of it as to any project eligible to construction under the provisions of paragraph (a) of subsection (1) or offered by it as to any project eligible to construction under the provisions of paragraph (b) of subsection (1), or in the event the commission shall determine that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys available from this state,

or its subdivisions, shall be deposited in the state treasury of this state when required by the commission and shall be paid out only upon order of the commission. Any of such moneys so deposited by such subdivisions and remaining in the state treasury after the completion of such project shall be repaid to the respective subdivisions in the proportion paid in.

(8) CONNECTION WITH STATE TRUNK HIGHWAY SYSTEM. In order to carry out the provisions of this section the commission is authorized to add to the state trunk highway system any bridge constructed or purchased under the provisions of this section, and any road or street eligible to become a portion of the state trunk highway system, which will form the most reasonable and practical connection from such bridge to the state trunk highway system. In such cases any limitations on the total mileage of highways included in the state trunk highway system shall not apply. [*Spl. S. 1931 c. 14; 1937 c. 55*]

87.04 Purchase of toll bridges. Any toll bridge eligible to be reconstructed as a free bridge under the provisions of section 87.02 or 87.03, may be purchased under such section and made a free bridge, and the procedure in such case, so far as applicable, shall be the same as for the construction or reconstruction of bridges. If the state highway commission is unable to agree with the owners of such toll bridge as to purchase price, the said toll bridge may be condemned, by exercising the right of eminent domain, in the following manner: The state highway commission shall petition the public service commission to fix a time and place for public hearing in the matter of the just compensation to be paid for the taking of said toll bridge, as provided by section 197.05, and the subsequent procedure, so far as applicable, shall be as provided by sections 197.05 to 197.09. The word "municipality" as used in such sections means the state highway commission in all proceedings brought under this section. Any toll bridge so purchased or acquired may be later reconstructed under the provisions of this chapter in the same manner as other free bridges may be reconstructed.

87.045 City bridges on trunk highways. Any bridge in any city having a population of not more than fifteen thousand, which will necessarily be over one hundred twenty-five feet in length, on a road or street forming a direct connection between portions of the state trunk highway system and carrying the standard markings of three or more state or federal trunk highways, may be constructed or reconstructed when deemed necessary by the city council of such city, with the approval of the state highway commission. The cost thereof shall be apportioned one-third each to the state, county and such city. The state's share of the cost of any such bridge shall be paid from the appropriation made in subsection (5) of section 20.49. [*1931 c. 317*]

Note: Section 1, chapter 137, Laws 1931, created this section. Section 2 of that act follows: This act shall apply to any bridge described in section 1 which has heretofore been authorized by the city council without

the approval of the state highway commission and which is under construction or for which contracts have been let at the time this act takes effect.

87.05 Bridges. (2) MAINTENANCE AND OPERATION OF INTRASTATE BRIDGES. All matters relating to the maintenance and operation of bridges constructed, reconstructed or purchased under the provisions of section 87.02 shall be under the jurisdiction and complete control of the state highway commission and the cost of such maintenance and operation thereof shall be the direct obligation of the state. Such portion of the approaches as may be determined by the state highway commission shall be considered a part of such bridge for maintenance and operation purposes. Authority is given the commission to carry fire or tornado insurance, or both, on bridges where such hazard exists and the premium on such insurance shall be included as a portion of such maintenance and operation costs.

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

(3) INTERSTATE BRIDGES, WISCONSIN'S SHARE. The provisions of this section shall also apply to all interstate bridges constructed, reconstructed or purchased under the provisions of section 87.03; and the term "bridge" as used in subsections (1) and (2) of this section shall be construed to mean Wisconsin's portion of such interstate bridges. [*1931 c. 436; 1935 c. 30*]

87.054 Interstate bridge corporations. Any corporation organized for the purpose of constructing, operating and maintaining a bridge over navigable boundary waters of this state and authorized by congress to erect such bridge shall have all the rights and powers with respect to entry upon, and acquisition, of real estate for the construction, operation and maintenance of such bridge, with the necessary approaches, terminals and appurtenances thereto, that are possessed by railroad corporations.

87.055 [Repealed by 1929 c. 528 s. 1]

87.06 Bridge construction in the order petitioned for. (1) ORDER OF BRIDGE CONSTRUCTION. The state highway commission shall consider all petitions under sections 87.02 and 87.03 in the order in which said petitions are received, and shall allot aid for the construction, reconstruction or purchase of bridges in such order as the commission may deem advisable. Projects shall be undertaken in the order in which aid has been granted.

(2) ANTICIPATION OF FUNDS. If the amount appropriated by the state in any one year shall not be sufficient to pay the state's share of all bridges certified under section 87.02 or 87.03, the appropriation for the ensuing year may be drawn upon to supply such sums as are necessary.

(3) PARTICIPATION IN TOWN BRIDGE CONSTRUCTION. Whenever any municipality shall have participated in the cost of the construction, reconstruction, or purchase of a bridge under the provisions of sections 87.02 and 87.03, the property in such municipality shall thereafter be subject to taxation by the county for the construction and repair of bridges within such county under section 87.01.

(4) LEGALITY OF PROCEEDINGS HERETOFORE HAD. All bridges which have been or shall be constructed, reconstructed or purchased pursuant to proceedings initiated by petitions heretofore filed with the state highway commission, or by the commission on its own motion, under the provisions of sections 87.02, 87.03, 87.04, 87.05 or 87.055 of pre-existing statutes, shall be construed to have been constructed, reconstructed or purchased under the provisions of section 87.02 or 87.03, and shall be operated and maintained as provided by section 87.05, and all proceedings, findings and determinations and all contracts for bridge projects now being or to be constructed, reconstructed or purchased with funds now available, are declared to be valid and in full force and effect. All proceedings of any nature had or held relative to the construction of any bridge project, including, without limitation because of enumeration, all contracts, any authorization, issuance, sale, execution or delivery of bonds and all bonds issued in connection with any such project, constructed subsequent to January 1, 1928 which project was eligible to construction under sections 87.02, 87.03, 87.04, 87.05 or 87.055 of present or pre-existing statutes, are hereby validated, ratified, approved and confirmed notwithstanding any defects or irregularities therein or lack of power therefor other than constitutional and notwithstanding any such project was not constructed under sections 87.02, 87.03, 87.04, 87.05 or 87.055 of present or pre-existing statutes. [1937 c. 55]

87.07 Strength of bridges. (1) After June 4, 1919, no bridge or culvert shall be constructed in any highway unless it shall be designed, according to standard engineering practice, and have sufficient strength to carry a load of fifteen tons drawn or propelled thereon, and no iron, steel, stone or concrete bridge or culvert shall be repaired unless such repairs shall be of a substantial character, strengthening such bridge or culvert as much as is practicable, and shall leave such bridge or culvert in condition to safely carry the load for which it was originally designed. Nothing in this section shall be held to prohibit the renewal of the stringers or planks of any wooden floored iron or steel bridge without making further repairs, unless, upon complaint, and for the public safety further repairs are ordered by the state highway commission.

(2) Any person who shall subject any bridge or culvert to a load of over fifteen tons shall be liable for double the amount of damages that may be caused thereby, but such person shall not recover for any injury to himself or to the property in his keeping.

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

Note: Liability to state of all persons who participate in subjecting bridge to excessive load is absolute, irrespective of liability of defendants as among themselves. *State v. Yellow B. & T. Co.*, 211 W 391, 247 NW 310.

87.08 Maintenance of drawbridges owned jointly. All swing or drawbridges built or purchased by any city and town or by any other two municipalities, and so situated that a part thereof is in one municipality and a part in another, shall be operated and maintained at the joint expense of the municipalities which built or purchased them in proportion to the amount of the cost thereof borne by each. If either such municipality shall not provide for or pay its full share of such expense in any year the other may provide for or pay it, and upon paying the same may recover of the municipality in default its share of the same, with interest from the time of payment and costs of suit; provided, that no action to recover the same shall be brought until thirty days after demand of payment is made.

87.09 Aid by county for state line bridge. The county board of any county bounded in part by a river which is also a state boundary line may aid any municipality of such county in the construction of a bridge across such river or any part thereof, by an appropriation therefor not exceeding one-third of the cost of such bridge.

87.10 County may contract with foreign county. The board of supervisors of any county in this state bordering on any navigable stream which is the boundary line between such county and a county in another state is hereby authorized in conjunction with the board of supervisors of such adjoining county in such other state, to construct and maintain a bridge or bridges across such river at a place or places within the limits of such county as may be agreed upon by said respective boards of supervisors, whenever said board of supervisors in this state shall deem it necessary, and to enter into a contract with such board of supervisors of the adjoining county of such other state for the construction, maintenance and repair of such bridge or bridges.

87.11 Interstate toll bridges. (1) Any town, or any village or city however organized, bordering upon any navigable waters which form the boundary line between this and another state, may construct, maintain and operate a foot and vehicular toll bridge over and across such river or waters, commencing at a point within or near the limits of such town, village or city, or may acquire, maintain and operate any such toll bridge which spans any such river or waters, whether such bridge is located wholly or partly only within the boundaries of this state and whether such bridge is located within or only partly within and partly without the limits of such town, village or city.

(2) (a) Before any such toll bridge is constructed or acquired under this section, a resolution authorizing the construction or acquisition thereof and specifying the method of payment therefor, shall be adopted by a majority of the members of the governing body of such town, village or city at a regular meeting, after publication of said resolution, at least one week previous in the official newspaper. The resolution shall include a general description of the property it is proposed to acquire or construct. Any town, village or city constructing or acquiring a toll bridge under this section may provide for the payment of the same or any part thereof from the general fund, from taxation, or from the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or as otherwise provided by law. Such resolution shall not be of force or effect until 15 days after its passage and publication. If within said 15 days a petition shall be filed with the clerk of such municipality signed by 20 per cent of the electors thereof requesting that the question of acquiring such toll bridge be submitted to the said electors, such question shall be submitted at any general or regular municipal election that may be held not less than 10 nor more than 40 days from the date of filing such petition. In case no such general or regular municipal election is to be held within such stated period, then the governing body of such municipality shall order a special election to be held within 30 days from the filing of such petition upon the question of whether such toll bridge shall be acquired by said municipality. The question submitted to the electors shall specify the method of payment for such toll bridge as provided in the resolution for the acquisition thereof. If no such petition shall be filed, or if the majority of votes cast at such referendum election shall be in favor of the acquisition of such toll bridge, then the resolution of the governing body for the acquisition of such toll bridge shall be of full force and effect.

(b) Where such payment is to be made in whole or in part through the issuance of mortgage bonds or mortgage certificates, such bonds or certificates shall be issued in the manner provided in subsection (9) of section 66.06. The amount of all incidental expenses incurred in connection with the construction or acquisition of the bridge and in connection with the authorization and issuance of the bonds or certificates may be included in the amount for which bonds or certificates are issued. Such mortgage bonds or certificates shall be payable solely from the revenues to be derived from the operation of the bridge and shall not constitute a general indebtedness of the town, village or city. Any toll bridge property owned or acquired pursuant to this section is defined and declared to be a public utility. The provisions of subsection (10) of section 66.06 shall be applicable to the management of such bridge and the provisions of subsections (9) and (10) of section 66.06 shall govern in so far as they may be applicable. [1937 c. 132; 1941 c. 65]

87.12 Interstate railroad bridges must have convenient approaches. It shall be the duty of any corporation incorporated under the laws of this state and which have been granted a franchise or permit by the United States congress to construct, maintain and operate a railroad bridge and provide for the passage of pedestrians, wagons, vehicles and all kinds of street railway and motor cars across the waters forming a boundary line between this and any other state and to forever maintain such bridge in accessible and serviceable condition, to construct or cause to be constructed, approaches making such bridge accessible and serviceable for the use of pedestrians, wagons, vehicles and all kinds of street railway and motor cars as a connection between this state and the state connected therewith by such bridge, so that such bridge shall be accessible and serviceable to pedestrians, wagons and vehicles and all kinds of street railway and motor cars at the time such bridge is used for railroad service, and if any such corporation shall fail or refuse to

comply with the provisions of this act within one year from the time such bridge is used for railroad service the charter of such corporation granted by this state shall thereupon be ipso facto forfeited without any further action whatever and such corporation shall forthwith discontinue the transaction or operation of its business in this state.

87.13 Dams used for bridges. (1) The town board may contract with the owner of any dam with a roadway thereon for the use of such roadway for highway purposes for such period of time as the board may determine. The contract shall provide that the roadway shall at all times be kept in repair by the owner.

(2) Whenever any town board shall file its petition with the county board, setting forth that said town board has voted to acquire the right to use any such roadway, designating as near as may be the location of such dam and roadway, and stating the amount agreed to be paid to the owner for the use thereof, the county board shall appropriate a sum equal to one-half the amount so agreed to be paid for such use, and shall cause such sum to be paid to the treasurer of said town on the order of the chairman of the county board and county clerk whenever the town board shall notify them that a contract for the use of such roadway has been executed.

87.14 Special town tax for repair of bridges. The town board may levy a tax for the purpose of rebuilding or repairing bridges and culverts which the town is required to maintain and which do not come within the provisions of section 87.01. But no such tax shall exceed three hundred dollars for any bridge or culvert, and not more than one such tax shall be levied in any year.

87.15 Safety gates on drawbridges. Whenever a complaint is lodged with the public service commission by any person, firm, corporation, or association, or any body politic or municipal organization to the effect that any bridge within the state, equipped with a draw which is opened to allow the passage of boats, is not equipped with gates or other safety devices, the commission may give notice to the proper party or parties in interest of the filing of complaint, and may proceed to investigate the same, and to hold a hearing thereon in the manner provided for hearings in section 195.17 [Stats. 1927]. If after such investigation the commission shall determine that public safety requires the erection and maintenance of gates or other safety devices at the points involved in the complaint, it may enter an order requiring the county, city, village, town, corporation or person whose duty it is to maintain such bridge, to erect and maintain at such points such gates or other safety devices of such kind as it may prescribe; and such gates or other safety devices of such kind shall thereupon be erected at such points within the time fixed by the commission and thereafter maintained, unless such order shall be modified by the commission, or shall be set aside in the manner provided in section 196.41. The commission may proceed to conduct the investigations, hold the hearings, and make the orders provided for in this section upon its own motion in the same manner and with the same effect as though complaint were filed. [1933 c. 159 s. 19]

87.16 Salvage in highway construction. Whenever, in the construction or reconstruction of any highway or highway bridge or other structure, any bridge or road material shall be removed which is suitable for highway use or has a market value, such bridge, structure or material shall be considered as the property of the state or subdivision thereof which furnished the funds for such construction work. If said materials cannot be used directly in the construction work they may be disposed of by the authorities having charge of the construction work in such manner, as in their judgment is for the best interest of the public, and any money received therefor shall be paid into the construction fund.

Note: This section does not apply to *ter v. Town of Spring Green*, 231 W 72, 285 bridges on discontinued highways. Carpen- NW 409.