

State trust lands may not be taken for highway purposes without compensation. Under 32.03 (1), Stats. 1939, the general power of condemnation does not extend to state or municipally-owned property. 29 Atty. Gen. 458.

Under 24.39 (4) the state may lease riparian rights on shores of Green Bay to the city of Green Bay, which in turn can sublease an area for harbor or navigation improvement purposes. 52 Atty. Gen. 42.

24.40 History: 1949 c. 150; Stats. 1949 s. 24.40.

The department of public welfare has power, under this section, to consent to the annexation of the grounds of the Wisconsin school for boys by the city of Waukesha. 38 Atty. Gen. 395.

CHAPTER 25.

Trust Funds and Their Management.

25.01 History: R. S. 1849 c. 24 s. 63, 64, 73; R. S. 1858 c. 28 s. 80, 81, 92; 1862 c. 89 s. 1; 1862 c. 225 s. 1; 1863 c. 100 s. 1; 1864 c. 217 s. 1; 1867 c. 46 s. 1; 1868 c. 111 s. 1; 1871 c. 42 s. 1; R. S. 1878 s. 258; 1881 c. 167; 1883 c. 82; 1885 c. 354; Ann. Stats. 1889 s. 258, 258a, 262a; 1893 c. 176 s. 1; Stats. 1898 s. 258; 1899 c. 129 s. 1; 1899 c. 130 s. 2; Supl. 1906 s. 258, 258i; 1913 c. 647, 774; 1917 c. 536 s. 3; Stats. 1917 s. 25.01; 1919 c. 65, 119; 1919 c. 671 s. 11a; 1919 c. 702 s. 9; 1923 c. 126; 1925 c. 267; 1929 c. 261; 1931 c. 67 s. 154; 1933 c. 436 s. 14; 1937 c. 349; 1939 c. 158, 510; 1943 c. 574; 1951 c. 14; 1957 c. 192; 1965 c. 292 s. 11 (2); 1967 c. 29 s. 4; 1969 c. 276 s. 588 (2).

On the school fund see notes to sec. 2, art. X; and on the commissioners of the public lands see notes to sec. 7, art. X.

Deposits of state funds in banks by the state treasurer without the concurrence of either of the other commissioners, from any and all the funds in the treasury, are not investments thereof, and such deposits are not forbidden by this section. *State v. McPettridge*, 84 W 473, 54 NW 1 and 998.

An application for a loan for 2 purposes, one legal and one illegal, cannot be approved where the proceedings of the municipality authorizing such borrowing do not definitely disclose the amount of funds to be used for each purpose. 9 Atty. Gen. 575.

A school district may borrow from the trust funds to equip a school with a heating and ventilating system. 10 Atty. Gen. 978.

A loan to a board of vocational education of a city under 25.01 (3) increases the bonded indebtedness of the city. The loan must be made through and with the approval of the common council. The board of vocational education must provide for repayment of the loan out of its tax under 41.16 (2). 18 Atty. Gen. 516.

Municipalities may borrow money from state trust funds to pay current and ordinary expenses. 25 Atty. Gen. 31.

Trust funds may be loaned to counties for the purpose of paying children's aid, blind pensions and old-age pensions. 25 Atty. Gen. 59.

State trust fund loans (1) may not be made to a county for the purpose of paying a town

therein excess delinquent taxes collected by the county in previous years and spent for county purposes; (2) may not be made to a town for the purpose of paying tuition claim which a school district has against the town; (3) may be made to municipalities for the purpose of refunding current and ordinary expense obligations created by such municipalities pursuant to 67.12 and 67.125; (4) may not be made to refund a municipal obligation unless the same was legally created; (5) may not be made to enable one school district to pay another school district a sum due the latter as the result of adjustment of assets and liabilities made under 66.03. 29 Atty. Gen. 276.

Certificates of indebtedness owed to state trust funds under ch. 25, Laws 1866, could not be paid except by legislative action. 30 Atty. Gen. 290.

25.02 History: 1871 c. 42; R. S. 1878 s. 261; 1881 c. 167 s. 2; 1887 c. 541; 1889 c. 279; Ann. Stats. 1889 s. 258b, 261; 1891 c. 143; Stats. 1898 s. 258a, 261; 1899 c. 129 s. 2; 1899 c. 130; 1901 c. 123; Supl. 1906 s. 258, 261; 1907 c. 216; 1911 c. 363; 1913 c. 236, 563; 1917 c. 536 s. 4; Stats. 1917 s. 25.02; 1925 c. 190; 1935 c. 300; 1937 c. 43; 1939 c. 158, 391; 1947 c. 44; 1951 c. 339; 1955 c. 220, 442, 652; 1961 c. 114; 1963 c. 157; 1969 c. 392 s. 87 (13).

Public utility property not assessed locally and not subject to local tax levy cannot be included as part of "last preceding assessed valuation" in determining the amount which may be loaned from state trust funds. 19 Atty. Gen. 404.

25.03 History: 1909 c. 152; Stats. 1911 s. 258am; 1917 c. 536 s. 5; Stats. 1917 s. 25.03; 1969 c. 276 s. 588 (2).

25.04 History: 1901 c. 72 s. 1; Supl. 1906 s. 258a-1; 1917 c. 536 s. 6; Stats. 1917 s. 25.04; 1935 c. 396.

25.05 History: 1871 c. 42 s. 2, 3, 7; 1873 c. 60 s. 1; R. S. 1878 s. 262; 1881 c. 167 s. 3, 10; 1889 c. 393; Ann. Stats. 1889 s. 258c, 258j, 262; 1893 c. 176 s. 2, 5; Stats. 1898 s. 258b, 258h, 262; 1917 c. 536 s. 7; Stats. 1917 s. 25.05; 1931 c. 461; 1943 c. 20; 1947 c. 44; 1961 c. 39; 1969 c. 276 ss. 588 (2), 590 (1); 1969 c. 392 s. 87 (11), (13).

In order to be valid, a municipal loan from the state trust funds must be made for a lawful purpose, and statutory requirements on the part of the municipality and its governmental authorities, prescribed as necessary to empower the municipal action involved, must be complied with. *Handlos v. State Line*, 233 W 145, 288 NW 748.

Money may not be borrowed by a town from the trust funds, for the purpose of refunding existing railroad bonds, unless authority to do so has been conferred upon the town board by a vote of the electors of the town. 1902 Atty. Gen. 35.

Taxes levied to pay loans from state trust funds to school districts constitute a lien upon each parcel of taxable property within such district, so that property remains liable for such tax regardless of its purchase by the state or federal government. 20 Atty. Gen. 214.

An election authorizing an issue of bonds

is not sufficient to authorize an application for a loan for the same purpose from state trust funds. 21 Atty. Gen. 858.

Where lands located in a municipality which obtained a state trust fund loan and levied an irrevocable tax to pay the same subsequently are acquired by the county through tax deed, 25.05 (5a), Stats. 1937, has no application when the county sells such lands to the United States. 28 Atty. Gen. 118.

25.06 History: 1881 c. 167 s. 4; Ann. Stats. 1889 s. 258d; 1893 c. 176 s. 3; Stats. 1898 s. 258c; 1917 c. 536 s. 8; Stats. 1917 s. 25.06; 1927 c. 352; 1947 c. 472; 1965 c. 249; 1969 c. 8; 1969 c. 276 ss. 582 (17), 588 (2); 1969 c. 392 s. 87 (11).

When the commissioners of public lands have approved a loan from trust funds and advanced a portion of such loan they cannot refuse to advance the balance thereof. 22 Atty. Gen. 97.

Notes or certificates of indebtedness held by the commissioners of public lands under this section may be assigned when it appears to the commissioners to be necessary or desirable as a matter of sound investment policy. 28 Atty. Gen. 269.

25.07 History: 1881 c. 167 s. 5; Ann. Stats. 1889 s. 258e; Stats. 1898 s. 258d; 1911 c. 363; 1917 c. 536 s. 9; Stats. 1917 s. 25.07; 1927 c. 352.

Notwithstanding a change in the boundaries of the town or a change in the name of the town all taxable property in a joint school district is liable for payment of principal and interest due on a loan from the state. State ex rel. Owen v. Rogers, 166 W 628, 166 NW 19.

A town treasurer must pay to the state special charges for loans to school districts before paying sums due other school districts which have obtained no loans. 22 Atty. Gen. 239.

25.08 History: 1881 c. 167 s. 6; Ann. Stats. 1889 s. 258f; Stats. 1898 s. 258e; 1917 c. 536 s. 10; Stats. 1917 s. 25.08; 1943 c. 275 s. 9; 1947 c. 472; 1959 c. 228 s. 66; 1969 c. 8.

Where a school district obtains a loan from state trust funds, territory subsequently annexed to the district is liable for a proportionate share of the tax raised annually to pay principal and interest on the loan. 22 Atty. Gen. 267.

25.09 History: 1917 c. 546; 1917 c. 677 s. 88; Stats. 1917 s. 25.09; 1919 c. 290; 1945 c. 506; 1947 c. 178, 472; 1951 c. 111; 1959 c. 228 s. 66; 1967 c. 92 s. 22; 1969 c. 8; 1969 c. 392 s. 87 (11).

25.10 History: 1881 c. 167 s. 8; Ann. Stats. 1889 s. 258h; Stats. 1898 s. 258f; 1917 c. 536 s. 12; Stats. 1917 s. 25.10; 1969 c. 276 s. 588 (2).

25.11 History: 1881 c. 167 s. 9; Ann. Stats. 1889 s. 258i; 1893 c. 176 s. 4; Stats. 1898 s. 258g; 1917 c. 536 s. 14; Stats. 1917 s. 25.11; 1969 c. 392 s. 87 (11).

The commissioners of public lands have no authority to agree to an extension of time of payment of municipal bonds held as an investment and purchased with trust funds. Neither has the city authority, in consideration of such extension, to agree to payment of a higher rate of interest. 7 Atty. Gen. 579.

A loan made from state trust funds to a school district may be extended to not exceeding 20 years from inception of the loan. When the loan is extended, the balance due must be payable in equal annual installments. 20 Atty. Gen. 171.

25.12 History: 1871 c. 42 s. 6, 11; R. S. 1878 s. 264; Stats. 1898 s. 264; 1917 c. 536 s. 18; Stats. 1917 s. 25.12; 1969 c. 8.

25.13 History: 1917 c. 536 s. 20; Stats. 1917 s. 25.13.

25.14 History: 1957 c. 697; Stats. 1957 s. 25.14; 1959 c. 228 s. 62, 66; 1959 c. 659 s. 46; 1961 c. 507; 1963 c. 291; 1967 c. 29 s. 1; 1969 c. 259; 1969 c. 276 ss. 596, 598 (1), 602 (1); 1969 c. 392 s. 87 (13).

25.156 History: 1961 c. 507; Stats. 1961 s. 25.156; 1969 c. 276 ss. 181, 182, 598 (2).

25.16 History: 1929 c. 491 s. 2; Stats. 1929 s. 25.16; 1933 c. 140 s. 4; 1939 c. 264; 1943 c. 404; 1949 c. 405; 1951 c. 319 s. 233; 1951 c. 511; 1953 c. 454, 540, 631; 1959 c. 657; 1961 c. 507; 1963 c. 504; 1969 c. 276 ss. 183, 598 (1), (2).

25.17 History: 1929 c. 491 s. 2; Stats. 1929 s. 25.17; 1933 c. 159 s. 9; 1935 c. 55 s. 5; 1935 c. 222, 438; Stats. 1935 ss. 25.17, 34.03 (c); 1937 c. 426; Stats. 1937 ss. 25.17, 34.03 (1) (c); 1943 c. 275 s. 10; 1943 c. 553 s. 2b; 1945 c. 274, 304; 1947 c. 28, 270, 362, 469, 556, 614; 1949 c. 604, 641; 1951 c. 511, 734; 1953 c. 61, 204, 403; 1955 c. 37, 59; 1957 c. 430, 461, 519, 607, 620, 672, 690, 697; 1959 c. 19, 605; 1959 c. 657 s. 6; 1959 c. 660 s. 26; 1961 c. 506, 507, 513; Stats. 1961 s. 25.17; 1963 c. 34, 291, 443, 523, 552, 574; 1965 c. 247; 1965 c. 432 s. 6; 1965 c. 433 ss. 51, 121; 1965 c. 551, 566, 581; 1967 c. 26, 43; 1967 c. 92 s. 22; 1967 c. 291 s. 14; 1969 c. 4, 48, 144, 154; 1969 c. 158 ss. 14, 106; 1969 c. 259; 1969 c. 276 ss. 184, 591 (2), (3), 595 (1), 596, 598 (1), 603 (2); 1969 c. 386; 1969 c. 392 s. 87 (13); 1969 c. 443 s. 17.

The state investment board has no responsibilities for the application of funds of the state building trust fund by the state building commission for the purpose of financing the construction of regional state office building facilities. The duties of the state investment board under 25.17 and of the state building commission under 14.89 are mutually exclusive. 45 Atty. Gen. 308.

See note to 34.01, citing 51 Atty. Gen. 57.

Investments by the state investment board under 25.17 (3), Stats. 1967, lie within the sound discretion of the board to the extent that the liquidity of the general fund is involved. 57 Atty. Gen. 220.

25.18 History: 1929 c. 491 s. 2; Stats. 1929 s. 25.17 (7); 1951 c. 511; Stats. 1951 ss. 25.17 (7), 25.18; 1953 c. 251 s. 59; 1957 c. 697 s. 10; Stats. 1957 ss. 25.17 (10), 25.18; 1959 c. 605 s. 2; 1959 c. 657; Stats. 1959 ss. 25.17 (5), (10), 25.18; 1961 c. 507 s. 11, 11a, 15, 16, 17; Stats. 1961 s. 25.18; 1963 c. 523, 552; 1965 c. 550; 1967 c. 202, 203; 1969 c. 276 s. 598 (1).

25.19 History: 1951 c. 511; Stats. 1951 s. 25.19; 1969 c. 276 s. 598 (1).

The state treasurer may deposit securities in vaults either in or outside of the state; the investment board may deposit its securities

outside the state without the consent of the treasurer, and if it does, the state treasurer is no longer responsible for them. 47 Atty. Gen. 94.

25.20 History: 1931 c. 67 s. 153; Stats. 1931 s. 25.20.

25.21 History: 1927 c. 536 s. 1, 2; Stats. 1927 s. 20.24; 1931 c. 67 s. 45; Stats. 1931 s. 25.21; 1933 c. 140 s. 4; 1945 c. 20; 1953 c. 61 s. 2; 1969 c. 276 s. 602 (1).

On the school fund see notes to sec. 2, art. X.

25.22 History: 1927 c. 536 s. 1, 2; Stats. 1927 s. 20.24; 1931 c. 67 s. 46; Stats. 1931 s. 25.22.

25.23 History: 1927 c. 536 s. 1, 2; Stats. 1927 s. 20.24; 1931 c. 67 s. 47; Stats. 1931 s. 25.23; 1935 c. 263; 1937 c. 49; 1939 c. 513 s. 5; 1943 c. 373; 1945 c. 367; 1965 c. 189.

25.235 History: 1917 c. 14 s. 61; Stats. 1917 s. 20.36 (1); 1931 c. 67 s. 78; Stats. 1931 s. 25.235; 1951 c. 247; 1965 c. 433.

Editor's Note: In State ex rel. Owen v. Donald, 160 W 21, 151 NW 331, secs. 250 and 251, Stats. 1915, from which 25.235, 25.24 and 25.25 were in part derived, were declared to be still in force and never superseded; and ch. 367, Laws 1897, ch. 450, Laws 1903, ch. 364, Laws 1905, and all other acts and parts of acts, insofar as they were in conflict with said sections, were declared to be invalid.

On internal improvements see notes to sec. 10, art. VIII; and on the school fund see notes to sec. 2, art. X.

25.25 History: 1917 c. 14 s. 61; Stats. 1917 s. 20.36 (3); 1931 c. 67 s. 80; Stats. 1931 s. 25.25; 1945 c. 20; 1953 c. 61 s. 2; 1965 c. 163; 1967 c. 43; 1969 c. 276 s. 602 (1).

25.26 History: 1917 c. 14 s. 66; Stats. 1917 s. 20.39 (1); 1931 c. 67 s. 82a; Stats. 1931 s. 25.26.

25.27 History: 1917 c. 14 s. 66; Stats. 1917 s. 20.39 (3); 1931 c. 67 s. 83; Stats. 1931 s. 25.27.

25.28 History: Stats. 1915 s. 172-73; 1917 c. 14 s. 50; 1917 c. 662 s. 3; 1917 c. 671 s. 38; Stats. 1917 s. 20.30; 1921 c. 459 s. 3; 1923 c. 412; 1925 c. 53; 1929 c. 491 s. 3; 1931 c. 67 s. 58; 1931 c. 470 s. 1; Stats. 1931 s. 25.28; 1943 c. 404; 1945 c. 274; 1947 c. 600; 1951 c. 511; 1953 c. 204; 1955 c. 324; 1957 c. 533; 1961 c. 652; 1965 c. 250; 1967 c. 92 s. 22; 1967 c. 204; 1969 c. 158 s. 106; 1969 c. 331 s. 62.

25.29 History: 1917 c. 668 s. 7; 1917 c. 676 s. 4; 1917 c. 678 s. 5; Stats. 1917 s. 20.205; 1921 c. 181 s. 2; 1923 c. 162; 1925 c. 391 s. 2; 1929 c. 420 s. 3, 4; 1931 c. 67 s. 39; Stats. 1931 s. 25.29; 1939 c. 234; 1951 c. 480; 1953 c. 52; 1955 c. 362; 1957 c. 653; 1961 c. 349; 1963 c. 345, 400; 1963 c. 517 s. 1; 1965 c. 276; 1967 c. 302; 1969 c. 276 s. 588 (4).

25.30 History: 1925 c. 129; 1925 c. 445 s. 2; Stats. 1925 s. 20.207; 1931 c. 67 s. 42; Stats. 1931 s. 25.30; 1935 c. 448; 1947 c. 9 s. 31; 1947 c. 563; 1953 c. 425; 1961 c. 622; 1963 c. 400; 1969 c. 276 s. 588 (4).

25.31 History: 1919 c. 649 s. 7; 1919 c. 702 s. 2; Stats. 1919 s. 20.17 (14) (e); 1931 c. 67 s. 30; Stats. 1931 s. 25.31; 1943 c. 93; 1945 c. 158; 1969 c. 366 s. 117 (2) (b).

25.36 History: 1949 c. 627; Stats. 1949 s. 25.36; 1953 c. 540, 681; 1955 c. 10, 353; 1957 c. 350; 1959 c. 11; 1961 c. 513; 1963 c. 326; 1965 c. 247; 1967 c. 291 s. 14; 1969 c. 48; 1969 c. 276 s. 591 (1).

25.39 History: 1951 c. 527 s. 3; Stats. 1951 s. 25.39; 1953 c. 441 s. 4; 1953 c. 568; 1959 c. 628; 1959 c. 659 s. 47; 1961 c. 191; 1965 c. 247.

25.40 History: Stats. 1963 s. 20.420 (91); 1965 c. 396, 591; Stats. 1965 s. 25.40; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 276 s. 582 (17); 1969 c. 336, 392; 1969 c. 500 s. 30 (2) (e), (3) (g).

CHAPTER 26.

Protection of Forest Lands.

26.01 History: 1917 c. 282 s. 2; Stats. 1917 s. 26.01; 1969 c. 276 s. 588 (4); 1969 c. 392.

On internal improvements see notes to sec. 10, art. VIII; and on the conservation act see notes to 23.09.

26.03 History: 1949 c. 252; Stats. 1949 s. 26.03; 1957 c. 164, 447, 672; 1963 c. 80; 1969 c. 140.

"Forest or wild land area" is defined in 31 Atty. Gen. 162.

26.04 History: 1949 c. 252; Stats. 1949 s. 26.04.

26.05 History: 1949 c. 252; Stats. 1949 s. 26.05; 1955 c. 696 s. 5.

See note to sec. 8, art. I, on limitations imposed by the Fourteenth Amendment, citing State v. Biller, 262 W 472, 55 NW (2d) 414.

26.06 History: 1949 c. 252; Stats. 1949 s. 26.06; 1955 c. 696 s. 5a; 1965 c. 252; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (13).

Where lumber unlawfully cut from school land before its sale by the state has been seized by the commissioners, a person who holds the certificate of the subsequent sale of the land, though not himself the trespasser, is not entitled to obtain the lumber and full title to the land by bidding at a sale of the lumber the amount due the state on the land, together with the expenses of seizure and sale; nor is he entitled to mandamus to compel the sale. State ex rel. Smith v. Commissioners, 19 W 237.

26.07 History: R. S. 1858 c. 20 s. 127; 1866 c. 56 s. 3; 1867 c. 138 s. 1; R. S. 1878 s. 245; Stats. 1898 s. 245; 1917 c. 282 s. 9; Stats. 1917 s. 26.07.

26.08 History: R. S. 1849 c. 24 s. 51; R. S. 1858 c. 28 s. 70; R. S. 1878 s. 194; Stats. 1898 s. 194; 1917 c. 282 s. 10; Stats. 1917 s. 26.08; 1949 c. 474; 1969 c. 276 s. 588 (2), (4).

26.09 History: 1905 c. 264 s. 20; Supl. 1906 s. 1494-60; 1911 c. 663 s. 229; 1917 c. 282 s. 12; Stats. 1917 s. 26.09; 1949 c. 252; 1969 c. 392 s. 87 (13).

Editor's Note: Cases decided under 331.18,