

63.60 History: 1937 c. 155; s. 59.100; Stats. 1967 s. 63.60.

Home-rule powers granted to Milwaukee county by ch. 405, Laws 1965, are insufficient to permit the county board to merge the pension systems for county employes created by chs. 155 and 201, Laws 1937. 57 Atty. Gen. 239.

63.61 History: 1937 c. 155; s. 59.101; 1959 c. 216; 1961 c. 309; Stats. 1967 s. 63.61.

63.62 History: 1937 c. 155; s. 59.102; Stats. 1967 s. 63.62.

63.63 History: 1937 c. 155; s. 59.103; Stats. 1967 s. 63.63.

63.64 History: 1937 c. 155; s. 59.104; Stats. 1967 s. 63.64.

63.65 History: 1937 c. 155; s. 59.105; Stats. 1967 s. 63.65.

63.66 History: 1937 c. 155; s. 59.106; Stats. 1967 s. 63.66.

63.67 History: 1937 c. 155; s. 59.107; 1953 c. 451 s. 1; Stats. 1967 s. 63.67.

63.68 History: 1937 c. 155; s. 59.108; Stats. 1967 s. 63.68.

63.69 History: 1937 c. 155; s. 59.109; Stats. 1967 s. 63.69.

63.70 History: 1937 c. 155; s. 59.110; Stats. 1967 s. 63.70.

63.71 History: 1937 c. 155; s. 59.111; Stats. 1967 s. 63.71.

63.72 History: 1937 c. 155; s. 59.112; Stats. 1967 s. 63.72.

63.73 History: 1937 c. 155; s. 59.113; Stats. 1967 s. 63.73.

63.74 History: 1937 c. 155; s. 59.114; Stats. 1967 s. 63.74.

63.75 History: 1937 c. 155; s. 59.115; Stats. 1967 s. 63.75.

63.76 History: 1937 c. 155; s. 59.116; Stats. 1967 s. 63.76.

63.77 History: 1937 c. 155; s. 59.117; Stats. 1967 s. 63.77.

63.78 History: 1937 c. 155; s. 59.118; Stats. 1967 s. 63.78.

63.79 History: 1937 c. 155; s. 59.119; Stats. 1967 s. 63.79.

63.80 History: 1937 c. 155; s. 59.120; Stats. 1967 s. 63.80.

63.81 History: 1937 c. 155; s. 59.121; Stats. 1967 s. 63.81.

63.82 History: 1937 c. 155; s. 59.122; Stats. 1967 s. 63.82.

63.83 History: 1937 c. 155; s. 59.123; Stats. 1967 s. 63.83.

63.84 History: 1937 c. 155; s. 59.124; 1943 c. 249; 1953 c. 451 s. 2; Stats. 1967 s. 63.84.

63.85 History: 1937 c. 155; s. 59.125; 1953 c. 451 s. 3; Stats. 1967 s. 63.85.

63.86 History: 1937 c. 155; s. 59.126; Stats. 1967 s. 63.86.

63.87 History: 1937 c. 155; s. 59.127; Stats. 1967 s. 63.87.

63.88 History: 1937 c. 155; s. 59.128; Stats. 1967 s. 63.88.

63.89 History: 1937 c. 155; s. 59.129; Stats. 1967 s. 63.89.

63.90 History: 1937 c. 155; s. 59.130; 1955 c. 487; 1963 c. 267 s. 5; Stats. 1967 s. 63.90.

63.91 History: 1937 c. 155; s. 59.131; Stats. 1967 s. 63.91.

63.92 History: 1937 c. 155; s. 59.132; Stats. 1967 s. 63.92.

63.93 History: 1937 c. 155; s. 59.133; Stats. 1967 s. 63.93.

63.94 History: 1937 c. 155; s. 59.134; Stats. 1967 s. 63.94.

63.95 History: 1939 c. 250; s. 59.135; 1953 c. 451 s. 4; Stats. 1967 s. 63.95.

63.96 History: 1947 c. 357 s. 25; s. 59.136; 1953 c. 451 s. 5; Stats. 1967 s. 63.96.

63.97 History: 1965 c. 405; s. 59.137; Stats. 1967 s. 63.97.

63.98 History: 1969 c. 83 s. 1; Stats. 1969 s. 63.98.

CHAPTER 64.

Other Forms of City Government.

64.01 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.01; 1927 c. 453; 1949 c. 231; 1961 c. 570; 1965 c. 666 s. 22 (28).

On delegation of power see notes to sec. 1, art. IV; on general laws on enumerated subjects see notes to sec. 32, art. IV; and on jurisdiction of circuit courts see notes to sec. 8, art. VII, and notes to 252.03.

The city manager plan abolishes the elaborate system of checks and balances existing in city government, and turns over the legislative powers to the city council, and executive and administrative powers to the manager. *Webb v. Beloit*, 229 W 51, 281 NW 662.

64.02 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.02.

64.03 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.03; 1949 c. 308.

64.04 History: 1919 c. 75; 1919 c. 353 s. 1 to 4; Stats. 1919 s. 64.04; 1955 c. 396.

64.05 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.05; 1957 c. 240.

64.06 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.06; 1965 c. 666 s. 22 (33).

64.07 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.07.

64.07 (3), providing that a "majority vote" of all members of the council shall be neces-

sary to adopt any ordinance or resolution, establishes a minimum, and the council may, under certain circumstances, require a larger majority vote. *Vaicelunas v. Fechner*, 7 W (2d) 14, 95 NW (2d) 786.

64.08 History: 1919 c. 75; 1919 c. 353 s. 1 to 4; Stats. 1919 s. 64.08; 1949 c. 24.

64.09 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.09; 1947 c. 35.

64.10 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.10; 1933 c. 263; 1965 c. 666 s. 22 (26).

The provision of 64.10 (2), regarding the board of police and fire commissioners, is mandatory, and the failure of the city to comply therewith vested no power in the city manager to discharge a police officer, but merely suspended the power of removal. *Logan v. Two Rivers*, 222 W 89, 267 NW 36.

64.105 History: 1961 c. 570; Stats. 1961 s. 64.105.

64.11 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.11; 1931 c. 142; 1941 c. 324; 1963 c. 251.

The board of police and fire commissioners in a city operating under the city manager plan can legally appoint a nonresident of the state to the office of chief of police. The appointment of the chief of police in a city under the city manager plan is governed by 64.11 (3), empowering the city manager to appoint all heads of departments and subordinate city officials but reserving to the board of police and fire commissioners all of the powers conferred by 62.13, which includes the power to appoint the chief of police without limitation as to residence, and 64.11 (6), providing that residence in the city or state shall not be a qualification for any appointment of heads of departments and subordinate city officials under the city manager plan. State ex rel. *Evjue v. Weatherly*, 255 W 225, 38 NW (2d) 472.

64.12 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.12.

64.13 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.13.

64.14 History: 1919 c. 75; 1919 c. 353 s. 1 to 3; Stats. 1919 s. 64.14; 1927 c. 453.

A charter ordinance purporting to abandon the city manager form of government and to restore the mayor-alderman plan under ch. 62 must not conflict with ch. 62. 26 Atty. Gen. 43.

64.15 History: 1923 c. 229; Stats. 1923 s. 64.15.

64.25 History: 1909 c. 448; 1911 c. 663 s. 89; Stats. 1911 s. 925m—301; 1919 c. 226 s. 2; Stats. 1919 s. 63.01; 1927 c. 368 s. 1, 3; 1959 c. 228 s. 58; Stats. 1959 s. 64.25; 1965 c. 666 s. 22 (28).

On delegation of power see notes to sec. 1, art. IV; on general laws on enumerated subjects see notes to sec. 32, art. IV; and on jurisdiction of circuit courts see notes to sec. 8, art. VII, and notes to 252.03.

This chapter is a grant of power to cities, al-

though they may not exercise it, and is not an option law in any sense of the word. State ex rel. *Sleeman v. Baxter*, 195 W 437, 219 NW 558.

The only discretion allowed any officer or body after the filing of a petition for election on a change in the form of city government is the power conferred on the council to determine when and how the matter shall be submitted. State ex rel. *Oaks v. Brown*, 211 W 571, 249 NW 50.

64.26 History: 1909 c. 448; Stats. 1911 s. 925m—307; 1911 c. 387; 1911 c. 663 s. 92; 1915 c. 385 s. 4; Stats. 1915 s. 10.33; 1919 c. 362 s. 24; 1933 c. 433 s. 2; Stats. 1933 s. 63.02; 1959 c. 228 s. 58; Stats. 1959 s. 64.26.

64.27 History: 1909 c. 448; 1911 c. 663 s. 91; Stats. 1911 s. 925m—303; 1919 c. 226 s. 4; Stats. 1911 s. 63.03; 1959 c. 228 s. 58; Stats. 1959 s. 64.27.

The mode of creating and organizing a school commission for a city, provided by the special charter under which it was operating at the time when it adopted the commission form of government, continued the lawful mode after such adoption. State ex rel. *Baxter v. Carlson*, 184 W 233, 199 NW 70.

64.28 History: 1909 c. 448; 1911 c. 387 s. 1, 2; 1911 c. 664 s. 60; Stats. 1911 s. 925m—304; 1919 c. 61; 1919 c. 226 s. 5; Stats. 1919 s. 63.04; 1949 c. 593; 1959 c. 228 s. 58; Stats. 1959 s. 64.28.

64.29 History: 1909 c. 448; 1911 c. 387 s. 1, 2; 1911 c. 664 s. 60; Stats. 1911 s. 925m—308; 1913 c. 279, 488; 1915 c. 59, 302, 572; 1919 c. 226 s. 6; 1919 c. 423; Stats. 1919 s. 63.05; 1959 c. 228 s. 58; Stats. 1959 s. 64.29.

Under 63.05, Stats. 1947, a majority vote of the council in a city operating under the commission form of government is sufficient to pass an initial resolution for the issuance of general obligation bonds, under ch. 67, for the construction of a sewage disposal plant. 37 Atty. Gen. 425.

64.30 History: 1909 c. 448; 1911 c. 387 s. 3; Stats. 1911 s. 925m—309; 1915 c. 59; 1919 c. 226 s. 7; Stats. 1919 s. 63.06; 1939 c. 513 s. 19; 1959 c. 228 s. 58; Stats. 1959 s. 64.30.

64.31 History: 1941 c. 45; Stats. 1941 s. 63.075; 1947 c. 398; 1959 c. 228 s. 58; 1959 c. 603 s. 4, 5; 1959 c. 641 s. 15, 16; Stats. 1959 s. 64.31; 1961 c. 622.

64.32 History: 1909 c. 448; Stats. 1911 s. 925m—311; 1913 c. 85; 1919 c. 226 s. 9; Stats. 1919 s. 63.08; 1959 c. 228 s. 58; Stats. 1959 s. 64.32.

64.33 History: 1909 c. 448; Stats. 1911 s. 925m—312; 1919 c. 226 s. 10; Stats. 1919 s. 63.09; 1959 c. 228 s. 58; Stats. 1959 s. 64.33.

64.34 History: 1909 c. 448; Stats. 1911 s. 925m—314; 1913 c. 294; 1919 c. 226 s. 12; Stats. 1919 s. 63.10; 1939 c. 87, 107; 1959 c. 228 s. 58; Stats. 1959 s. 64.34; 1965 c. 252.

64.35 History: 1909 c. 448; 1911 c. 663 s. 93; Stats. 1911 s. 925m—315; 1919 c. 226 s. 13; Stats. 1919 s. 63.11; 1959 c. 228 s. 58; Stats. 1959 s. 64.35.

64.36 History: 1909 c. 448; 1911 c. 387 s. 3; 1911 c. 664 s. 60; Stats. 1911 s. 925m—317; 1917 c. 493; 1919 c. 226 s. 14; Stats. 1919 s. 63.12; 1959 c. 228 s. 58; Stats. 1959 s. 64.36; 1965 c. 666 s. 22 (26).

The adoption of this chapter by a city prior to its amendment by ch. 387, Laws 1911, abolished an existing fire and police commission. The later act had the effect of creating or restoring such a commission which had been so abolished, but did not reinstate in office the former members of the commission. State ex rel. Bloomer v. Canavan, 155 W 398, 145 NW 44.

64.37 History: 1909 c. 448; 1911 c. 387; 1911 c. 664 s. 60; Stats. 1911 s. 925m—318; 1917 c. 358; 1919 c. 38, 66; 1919 c. 226 s. 15; Stats. 1919 s. 63.13; 1927 c. 368; 1929 c. 482 s. 3; 1943 c. 6; 1959 c. 228 s. 58; 1959 c. 659 s. 61; Stats. 1959 s. 64.37; 1965 c. 273.

While there may be doubt as to the validity of the provision allowing a city, by vote of its electors, to abandon the commission form, such invalidity, if finally adjudged, will not impair the validity of the other provisions of the chapter. State ex rel. Bloomer v. Canavan, 155 W 398, 145 NW 44.

64.38 History: 1919 c. 226 s. 17; Stats. 1919 s. 63.14; 1959 c. 228 s. 58; Stats. 1959 s. 64.38.

64.39 History: 1917 c. 481; Stats. 1917 s. 925m—320; 1919 c. 157; 1919 c. 226 s. 18; 1919 c. 671 s. 14; Stats. 1919 s. 63.15; 1931 c. 149; 1933 c. 93; 1935 c. 18; 1941 c. 60; 1959 c. 228 s. 58; 1959 c. 659 s. 62; Stats. 1959 s. 64.39.

An option law is one which, although a full and complete law in itself, becomes of force and effect in a given municipality only upon the assent of the municipality. Under this section, upon the filing of a petition with the city clerk, it was the duty of the mayor of the city, which had been operating under the commission form of government, to submit to the electors the question whether the council should be increased to include one councilman from each ward. State ex rel. Sleeman v. Baxter, 195 W 437, 219 NW 858.

64.40 History: 1921 c. 543; Stats. 1921 s. 63.155; 1929 c. 482 s. 4; 1959 c. 228 s. 58; Stats. 1959 s. 64.40.

CHAPTER 65.

Municipal Budget Systems.

65.01 History: 1921 c. 33 s. 2; Stats. 1921 s. 65.01; 1943 c. 490.

65.02 History: 1921 c. 33 s. 2; 1921 c. 581 s. 1; Stats. 1921 s. 65.02; 1943 c. 280; 1959 c. 476; 1967 c. 92 s. 22; 1969 c. 276 s. 616.

65.03 History: 1921 c. 33 s. 2; 1921 c. 581 s. 1; Stats. 1921 s. 65.03; 1943 c. 280; 1955 c. 450; 1959 c. 476.

65.04 History: 1921 c. 33 s. 2; 1921 c. 581 s. 1; Stats. 1921 s. 65.04; 1943 c. 280; 1943 c. 552 s. 12; 1955 c. 450; 1959 c. 476; 1965 c. 252.

65.05 History: 1921 c. 33 s. 2; 1921 c. 581 s. 1; Stats. 1921 s. 65.05; 1943 c. 280; 1955 c. 450.

65.06 History: 1921 c. 33 s. 2; 1921 c. 271; 1921 c. 581 s. 1; Stats. 1921 s. 65.06; 1939 c. 513 s. 20; 1943 c. 280; 1959 c. 476; 1969 c. 276 s. 599.

65.07 History: 1921 c. 33 s. 2; 1921 c. 581 s. 1, 2; Stats. 1921 s. 65.07, 65.08 (6) to (9), (15), (16); 1937 c. 19; Spl. S. 1937 c. 13; 1941 c. 146; 1941 c. 213 s. 35; 1943 c. 280, 574; Stats. 1943 s. 65.07; 1945 c. 202; 1947 c. 212, 396; 1953 c. 58; 1955 c. 6, 450; 1959 c. 134, 357, 476; 1959 c. 660 s. 45, 46; 1963 c. 85, 363; 1965 c. 627; 1967 c. 92 s. 22; 1967 c. 108, 209, 313; 1969 c. 45, 154.

An amount segregated from funds of a city by action of its common council appropriating the same to a city-county nonlapsing building reserve fund, under 65.07 (1) (c) and 67.04 (2) (w), thereby ceased to be an unallocated surplus required by 65.90 to be applied to budgeted expenses and to reduce the amount to be raised by taxation; it was immaterial that the appropriation resolution, adopted at the meeting at which the budget hearing was held, was not adopted until after the budget was adopted. Fiore v. Madison, 264 W 482, 59 NW (2d) 460.

65.10 History: 1921 c. 33 s. 2; Stats. 1921 s. 65.10.

65.90 History: 1941 c. 221; Stats. 1941 s. 65.90; 1943 c. 137, 213; 1943 c. 275 s. 27; 1943 c. 280; 1943 c. 490 s. 13; 1945 c. 88, 366, 418, 586; 1949 c. 262; 1951 c. 220; 1953 c. 61, 486; 1959 c. 446, 496; 1961 c. 222; 1963 c. 38; 1965 c. 252; 1965 c. 659 s. 23 (2); 1967 c. 226; 1969 c. 55.

A so-called "special sinking fund," not earmarked for any specific purpose, and later carried on the county records as "new courthouse fund," pursuant to a resolution of the county board to that effect and merely reciting that it was the desire of the board to set aside funds for future use in building a new courthouse, without any effective commitment to incur any binding obligation for the building of a new courthouse, or the actual appropriation of such sinking fund for that purpose, constituted and was available as "funds on hand," within the meaning of 65.90 (1), so that the amount thereof should have been deducted from the proposed levy of a county tax to finance the county budget for the ensuing year. Unexpected amounts remaining in the county road and bridge fund, lawfully accumulated under 83.065 and 83.04 (5), constituted trust funds dedicated to the purpose for which they were appropriated, and did not constitute "funds on hand," within the meaning of 65.90 (1), which would be free and available for use for some other purpose. Im-mega v. Elkhorn, 253 W 282, 34 NW (2d) 101.

A city surplus unallocated "funds on hand" must be applied to finance the budget, but the funds must be in cash or in so liquid a form as to be the equivalent of cash in order to be classed as such surplus unallocated funds, and ordinary business principles, which a city government is neither required by law nor expected to disregard, permit the retention of reasonable working cash balances in the city treasury without their being classed as such surplus unallocated funds. Fiore v. Madison, 264 W 482, 59 NW (2d) 460.

65.90 (5) (a), so far as authorizing the di-