

57.14 History: 1955 c. 30; Stats. 1955 s. 57.14; 1969 c. 366.

CHAPTER 58.

Private Asylums, Hospitals and Societies.

58.01 History: R. S. 1858 c. 187; 1872 c. 146 s. 8; 1875 c. 325; 1877 c. 149; R. S. 1878 s. 1785, 1786; Stats. 1898 s. 1785, 1786; 1899 c. 351 s. 28; 1919 c. 616 s. 2; Stats. 1919 s. 58.01; 1923 c. 444 s. 1; 1929 c. 439 s. 11; 1955 c. 575 s. 20.

Editor's Note: The discharge of an inmate of a veterans' home was upheld, under sec. 1785, Stats. 1898, in *Smith v. Board of Trustees*, 138 W 628, 120 NW 403.

58.05 History: 1883 c. 171; 1887 c. 316; Ann. Stats. 1889 s. 1786a; Stats. 1898 s. 1786a; 1919 c. 616 s. 7; Stats. 1919 s. 58.05; 1943 c. 93; 1955 c. 506 s. 28; 1969 c. 366 s. 117 (1)(c).

58.06 History: 1917 c. 432; Stats. 1917 s. 1957 sub. 10; 1919 c. 616 s. 8; Stats. 1919 s. 58.06; 1929 c. 316 s. 1, 2; 1939 c. 233, 473; 1945 c. 104; 1949 c. 235; 1953 c. 430; 1957 c. 526 s. 26; 1957 c. 698; 1959 c. 555; 1961 c. 342; 1969 c. 366 s. 117 (1)(b), (c).

Under 58.06 (2), Stats. 1953, a philanthropic tuberculosis sanatorium approved by the state board of health may receive public patients at state and county expense notwithstanding that it leases the buildings and equipment from another non-profit corporation. The rent paid is a proper item of expense to be considered in calculating the per capita cost of maintenance, and the provisions of 50.07, relating to depreciation, have no application. The reasonableness of the rental charge is to be considered by the state board of health in determining whether to approve the sanatorium, but the use of the rent money by the owning corporation is immaterial. 44 Atty. Gen. 47.

See note to 50.09, citing 49 Atty. Gen. 191.

58.07 History: 1880 c. 179; Ann. Stats. 1889 s. 4445e; 1891 c. 292; Stats. 1898 s. 1636k; 1909 c. 65; 1911 c. 258; Stats. 1911 s. 1636k, 1636o; 1913 c. 106; 1919 c. 616 s. 9; Stats. 1919 s. 58.07; 1945 c. 158; 1947 c. 311, 540; 1949 c. 232; 1953 c. 193; 1969 c. 366 s. 117 (1)(c); 1969 c. 459.

A municipal humane officer has the powers of a constable; these do not extend beyond the limits of the county. 13 Atty. Gen. 134.

58.566 History: 1947 c. 93; 1947 c. 560.

CHAPTER 59.

Counties.

59.001 History: 1955 c. 651; Stats. 1955 s. 59.001.

59.01 History: R. S. 1849 c. 10 s. 1, 2; R. S. 1858 c. 13 s. 1, 2; R. S. 1878 s. 650; Stats. 1889 s. 650; 1919 c. 695 s. 3; Stats. 1919 s. 59.01; 1935 c. 212; 1955 c. 651 s. 2; 1969 c. 276 s. 610.

On legislative power generally see notes to sec. 1, art. IV; on uniform town and county government see notes to sec. 23, art. IV; on

prohibition of special and private laws see notes to sec. 31, art. IV; on election, terms, and removal of county officers see notes to sec. 4, art. VI; on division of counties see notes to sec. 7, art. XIII; on removal of county seats see notes to sec. 8, art. XIII; and on the division of the state into counties, and their boundaries, see notes to various sections of ch. 2.

The right of a county to challenge acts of the legislature is sharply restricted, since the county is a creature of the state and exists in a large measure to help handle the state's burdens of political organization and civil administration. *State v. Mutter*, 23 W (2d) 407, 127 NW (2d) 15.

59.02 History: R. S. 1849 c. 10 s. 7; R. S. 1858 c. 13 s. 6; R. S. 1878 s. 652; Stats. 1898 s. 652; 1915 c. 385 s. 14; Stats. 1915 s. 652, 670m; 1919 c. 695 s. 4, 5; Stats. 1919 s. 59.02; 1943 c. 177; 1955 c. 651 s. 3, 5.

A county board may delegate to a committee of its members the power to purchase a poor farm for the county, but it cannot delegate powers legislative in their character. *French v. Dunn County*, 58 W 402, 17 NW 1.

This section states the common-law rule that a legal assembly of the members of a definite municipal governing body is made up of a majority of all its members. This is the universal rule applicable to all corporations, public or private. Wherever the common-law rule has been changed by statute, language uniformly occurs which is so plain as to leave very little, if any, room for judicial construction. Under this section it was held that a majority vote of a quorum but by less than a majority of all the members of the board constitutes the legal action of the whole board. *St. Aemilianus Orphan Asylum v. Milwaukee County*, 107 W 80, 82 NW 704.

Commissioners appointed by the county board to act with the town board in the building of a bridge cannot alone or acting with the board bind the county by contract for the construction of such bridge. *Johnson v. Buffalo County*, 111 W 265, 87 NW 240.

An oral motion when adopted by a county board or city council becomes a resolution. *Meade v. Dane County*, 155 W 632, 145 NW 239.

Sec. 652, Stats. 1911, contemplates that some powers of a county board may be exercised by a committee, but it does not attempt to define the extent of such power of delegation. *First S. & T. Co. v. Milwaukee County*, 158 W 207, 148 NW 22, 1093.

Where a motion to accept a bid for furnishing furniture for the courthouse is voted on, 7 voting in the affirmative, 5 in the negative, 2 not voting, it is not carried, the statute requiring a determination by a majority of those present. 2 Atty. Gen. 251.

The county board may delegate power to a committee to attend to the erection of an addition to the courthouse. 5 Atty. Gen. 652.

The county board is empowered to employ a graduate trained nurse. This may be done by the board direct or in pursuance of a resolution or an ordinance. 7 Atty. Gen. 613.

A county board may not adopt a rule requiring a larger vote than is required by statute to authorize expenditures by that body. 12 Atty. Gen. 24.

Even though rules of parliamentary proce-