

ury as part of a sinking fund for retirement of such bonds, as provided by 67.11 (1), and may not be used for construction purposes "as proceeds from county bonds" authorized to be used for construction purposes by 67.13. 17 Atty. Gen. 632.

**67.13 (4) History:** 1915 c. 533 s. 18; Stats. 1915 s. 1317m—12 sub. 4; 1917 c. 500 s. 2, 3; 1923 c. 108 s. 149; Stats. 1923 s. 67.13 (4); 1925 c. 385 s. 6; 1969 c. 500 s. 30 (2) (e).

Contracts may be let for highway construction prior to the actual sale of bonds already authorized. 9 Atty. Gen. 133.

**67.14 History:** 1913 c. 668 s. 10; Stats. 1913 s. 1317m—12a; 1917 c. 500 s. 4; 1921 c. 516; 1923 c. 108 s. 150; Stats. 1923 s. 67.14; 1925 c. 385 s. 6; 1929 c. 145; 1937 c. 55; 1943 c. 334 s. 12.

When a highway bonding proposition must be submitted to the electors, a complete bonding resolution must be passed by the county board before the matter can be submitted to the electors. The county board can call a special election for the purpose. The county clerk must give 20 days' notice of the election in the manner prescribed for advertising general county elections. 8 Atty. Gen. 540.

The county board has no power to change the denominations of highway improvement bonds provided for by a bonding resolution submitted to the electors. 12 Atty. Gen. 192.

"Bonds outstanding" as used in 67.14 do not include bonds which have matured and which are unpaid, but for payment of which bonds funds are available in the sinking fund created for that purpose. 20 Atty. Gen. 118.

**67.156 History:** 1943 c. 431; Stats. 1943 s. 67.156.

A county should borrow only to the extent of its equity in tax certificates owned by it; it should set aside tax certificates in which the county has an equity equal to the amount borrowed; and it should set aside, for retirement of the loan, proceeds realized on said certificates to the extent of the county's equity therein. 22 Atty. Gen. 559.

**67.17 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.12; 1923 c. 274 s. 1; Stats. 1923 s. 67.17; 1925 c. 385 s. 6; 1937 c. 214.

**67.22 History:** 1927 c. 138 s. 2; 1927 c. 541 s. 35; Stats. 1927 s. 67.22.

**67.23 History:** 1935 c. 528; Stats. 1935 s. 67.23.

**67.24 History:** 1957 c. 207; Stats. 1957 s. 67.24.

**67.25 History:** 1959 c. 515; Stats. 1959 s. 67.25.

## CHAPTER 68.

### General Statistics.

**68.01 History:** 1872 c. 150 s. 1; R. S. 1878 s. 1004; 1881 c. 236 s. 1; Ann. Stats. 1889 s. 1004; Stats. 1898 s. 1004; 1917 c. 515 s. 2; 1921 c. 25 s. 2; Stats. 1921 s. 68.01; 1923 c. 435 s. 1; 1925 c. 205 s. 2; 1943 c. 20; 1963 c. 173; 1969 c. 276 s. 590 (1).

**68.02 History:** 1899 c. 143 s. 1 to 4; Supl.

1906 s. 1004a; 1909 c. 212; 1911 c. 262; 1921 c. 25 s. 3; Stats. 1921 s. 68.02; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.03 History:** 1872 c. 150 s. 2; R. S. 1878 s. 1005; 1881 c. 236 s. 2, 4; Ann. Stats. 1889 s. 1005, 1005b; Stats. 1898 s. 1005; 1903 c. 315 s. 12; Supl. 1906 s. 1005; 1909 c. 212; 1911 c. 262; 1911 c. 664 s. 80; 1921 c. 25 s. 4; Stats. 1921 s. 68.03; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.04 History:** 1873 c. 210 s. 1, 5; 1874 c. 311 s. 1; R. S. 1878 s. 1007; 1885 c. 64; Ann. Stats. 1889 s. 1007; Stats. 1898 s. 1007; 1903 c. 373 s. 1; Supl. 1906 s. 1007; 1907 c. 522; 1921 c. 25 s. 5; Stats. 1921 s. 68.04; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.05 History:** 1873 c. 210 s. 2; R. S. 1878 s. 1008; Stats. 1898 s. 1008; 1907 c. 522; 1921 c. 25 s. 6; Stats. 1921 s. 68.05; 1943 c. 20.

**68.06 History:** 1850 c. 105 s. 1; R. S. 1858 c. 18 s. 179; 1873 c. 210 s. 4; 1874 c. 311 s. 2; R. S. 1878 s. 1009; Stats. 1898 s. 1009; 1907 c. 522; 1911 c. 262; 1921 c. 25 s. 7; Stats. 1921 s. 68.06; 1943 c. 20; 1969 c. 276 s. 590 (8).

**68.07 History:** 1874 c. 38 s. 1, 2; 1877 c. 244; 1878 c. 260; R. S. 1878 s. 1010; 1889 c. 226; Ann. Stats. 1889 s. 1010; 1897 c. 24, 122; Stats. 1898 s. 1010; 1899 c. 210 s. 1; 1903 c. 39 s. 1; Supl. 1906 s. 1010; 1907 c. 38; 1909 c. 242; 1917 c. 131; 1921 c. 25 s. 8; Stats. 1921 s. 68.07; 1935 c. 550 s. 8, 407; 1943 c. 229.

**68.09 History:** 1874 c. 43 s. 1; 1875 c. 183 s. 3; 1876 c. 54 s. 1; 1876 c. 186 s. 1; R. S. 1878 s. 1015; 1917 c. 515 s. 4; 1921 c. 25 s. 10; Stats. 1921 s. 68.09; 1939 c. 513 s. 23.

**68.10 History:** 1872 c. 110; R. S. 1878 s. 1017; Stats. 1898 s. 1017; 1921 c. 25 s. 11; Stats. 1921 s. 68.10.

**68.11 History:** 1875 c. 183 s. 2; R. S. 1878 s. 1019; Stats. 1898 s. 1019; 1917 c. 515 s. 5; 1921 c. 25 s. 12; Stats. 1921 s. 68.11.

## CHAPTER 69.

### Collection of Vital Statistics.

**69.01 History:** 1969 c. 366; Stats. 1969 s. 69.01.

**69.02 History:** 1907 c. 469; Stats. 1911 s. 1022—2; 1921 c. 12 s. 2; Stats. 1921 s. 69.02; 1943 c. 503 s. 3, 4; 1945 c. 173; 1951 c. 247 s. 24; 1951 c. 319 s. 205; 1969 c. 366 ss. 53, 117 (1) (a).

**69.03 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022—3; 1921 c. 12 s. 2; Stats. 1921 s. 69.03; 1943 c. 503 s. 5; 1969 c. 366 s. 117 (1) (a).

The state board of health does not have power under 69.03 and 140.05 (3), Stats. 1947, to promulgate a rule prohibiting distribution of information shown on registrations of births and deaths, except to the extent that such a rule might be made applicable to the state and local registrars in performance of their duties under ch. 69 if it affects efficient administration. 36 Atty. Gen. 633.

**69.04 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022—4; 1921 c. 12 s. 2;

Stats. 1921 s. 69.04; 1943 c. 503 s. 6; 1969 c. 366 s. 117 (1) (a).

**69.05 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022-7; 1921 c. 12 s. 2; Stats. 1921 s. 69.06; 1943 c. 503 s. 8; Stats. 1943 s. 69.05; 1953 c. 305 s. 2; 1961 c. 96.

**69.06 History:** 1907 c. 469; Stats. 1911 s. 1022-8; 1917 c. 105; 1921 c. 12 s. 2; Stats. 1921 s. 69.07; 1943 c. 503 s. 9, 9a; Stats. 1943 s. 69.06; 1953 c. 305 s. 2; 1955 c. 204; 1961 c. 96; 1969 c. 366 s. 117 (1) (a).

**69.07 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022-9; 1921 c. 12 s. 2; Stats. 1921 s. 69.08; 1943 c. 503 s. 10; Stats. 1943 s. 69.07.

The report of the registrar of vital statistics under sec. 1022-9, Stats. 1913, is not a prerequisite to prosecution. 4 Atty. Gen. 47.

The state registrar of vital statistics may not determine judicial questions of disputed parentage of a child and may not change or alter a birth certificate to conform to what upon investigation he believes to be the truth in the matter. 27 Atty. Gen. 759.

**69.08 History:** 1907 c. 469; Stats. 1911 s. 1022-10, 1022-11; 1921 c. 12 s. 2; Stats. 1921 s. 69.09, 69.10; 1943 c. 503 s. 11, 12; Stats. 1943 s. 69.08; 1953 c. 305 s. 2; 1969 c. 366 s. 117 (1) (a).

Omissions in the state record of births, deaths and marriages may be supplied by positive affidavits. 6 Atty. Gen. 427.

**69.09 History:** 1943 c. 503 s. 13; Stats. 1943 s. 69.09; 1945 c. 173.

**69.10 History:** 1907 c. 469; Stats. 1911 s. 1022-14; 1921 c. 12 s. 2; Stats. 1921 s. 69.13; 1943 c. 503 s. 16; Stats. 1943 s. 69.10; 1945 c. 173; 1953 c. 305 s. 2.

**69.11 History:** 1907 c. 469; Stats. 1911 s. 1022-15; 1921 c. 12 s. 2; Stats. 1921 s. 69.14; 1943 c. 503 s. 17; Stats. 1943 s. 69.11.

**69.13 History:** 1907 c. 469; 1911 c. 663 s. 127, 128; Stats. 1911 s. 1022-18; 1921 c. 12 s. 2; Stats. 1921 s. 69.16; 1943 c. 503 s. 19; Stats. 1943 s. 69.13.

**69.14 History:** 1907 c. 469; 1909 c. 188; Stats. 1911 s. 1022-24; 1921 c. 12 s. 2; Stats. 1921 s. 69.22; 1943 c. 503 s. 22; Stats. 1943 s. 69.14; 1953 c. 305 s. 2.

**69.15 History:** 1919 c. 237; Stats. 1919 s. 1022-63; 1921 c. 12 s. 2; Stats. 1921 s. 69.58; 1943 c. 503 s. 59; Stats. 1943 s. 69.15; 1945 c. 173; 1953 c. 305 s. 2; 1969 c. 366 s. 117 (1) (a).

**69.18 History:** 1943 c. 503 s. 28a; Stats. 1943 s. 69.18; 1953 c. 305 s. 2.

**69.21 History:** 1909 c. 188; Stats. 1911 s. 1022-61; 1921 c. 12 s. 2; Stats. 1921 s. 69.56; 1943 c. 503 s. 57; Stats. 1943 s. 69.21; 1945 c. 173; 1953 c. 305 s. 2.

**69.22 History:** 1943 c. 503 s. 26; Stats. 1943 s. 69.22.

The provisions of this section as to the minimum proof required for the filing of delayed birth certificates are mandatory and registers of deeds may not file or issue such certificates

unless such proof is supplied. A violation of the law may subject a register of deeds to penalties prescribed by 69.55 and to removal from office under 17.09 (5), Stats. 1943. Where a delayed birth certificate received from a register of deeds shows on its face that less than the statutory minimum proof was submitted, the statutes contemplate that the state registrar should file it for what it is worth and require the register of deeds to obtain further proof and send an abstract of the same to the state registrar. 32 Atty. Gen. 409.

The provisions of 137.01 (4), Stats. 1943, are not applicable to a form prepared and furnished under 69.06 (1) by the state registrar of vital statistics for delayed registration of births under 69.22. Such form does not require that the date of expiration of a notary's commission be included in the jurat. 32 Atty. Gen. 415.

Under this section a delayed birth record may be filed by the register of deeds of any county, whether or not the birth occurred there. The register of deeds must make and file a copy and send an original to the state registrar for filing, who shall make and send a copy thereof to the register of deeds of the county in which the birth occurred, if not originally filed there. Under 69.24 (2), Stats. 1943, the register of deeds originally filing a delayed birth record is entitled to a fee of \$1 plus an additional fee if he issues certified proof thereof. Under 69.24 he is entitled to a filing fee to be paid by the county, as is the register of deeds of the county where the birth occurred upon filing a copy of a delayed birth certificate transmitted by the state registrar. 32 Atty. Gen. 428.

**69.225 History:** 1949 c. 154; Stats. 1949 s. 69.225.

Local registrars have no authority under ch. 69 to record births occurring outside the state, with the exception of cases of adoption under 69.33. 37 Atty. Gen. 138.

**69.23 History:** 1907 c. 469; 1909 c. 188; Stats. 1911 s. 1022-12; 1921 c. 12 s. 2; Stats. 1921 s. 69.11; 1939 c. 524; 1943 c. 328; 1943 c. 503 s. 14; 1943 c. 552 s. 14; Stats. 1943 s. 69.23; 1945 c. 173; 1953 c. 305.

**Editor's Note:** Sec. 69.11, Stats. 1929, not only authorized the furnishing to any applicant of "a certified copy of a record of any birth, death, marriage or divorce", but provided that such copy "when properly certified to shall be prima facie evidence in all courts and all places of the facts stated therein." The statute was applied in *Milwaukee E. R. & L. Co. v. Industrial Comm.* 222 W 111, 267 NW 62.

On records of births, stillbirths, fetal deaths, deaths and marriages see notes to 891.09.

Certified copies of death certificates are procurable only from the officers named in 69.23 (1), Stats. 1957, upon payment of the fees specified. After a death certificate is filed with the proper officer, any person may make a photo or other copy of a certificate at the office where filed if proper care is taken. It is not illegal to make a copy of an unfiled death certificate. 46 Atty. Gen. 276.

A register of deeds furnishing a certified copy of a birth certificate should omit the confidential medical section, and the certification accompanying a copy should show that

the nonconfidential portion only is being provided. 53 Atty. Gen. 22.

**69.24 History:** 1943 c. 503 s. 29; Stats. 1943 s. 69.24; 1945 c. 173; 1947 c. 184, 533; 1953 c. 305, 375; 1965 c. 177; 1967 c. 43.

This section is controlling in establishing the fee to be charged by a register of deeds who is on a fee basis. 7 Atty. Gen. 641.

See note to 69.25, citing 32 Atty. Gen. 331. Under 69.02 (3) (d) and 69.24 (3), Stats. 1943, the bureau of vital statistics may charge a fee, to be prescribed by the state board of health by regulation published as prescribed by 140.05 (3) and 227.03, for searching its records to answer an inquiry whether or not a birth certificate or other vital record is on file. No charge (other than the statutory fee for issuing copies) may be made when the search is for the purpose of making a certified copy or short form certificate. 33 Atty. Gen. 106.

**69.25 History:** 1907 c. 469; 1909 c. 188; 1911 c. 105, 636; 1911 c. 663 s. 127; 1911 c. 664 s. 152; Stats. 1911 s. 1022—57; 1921 c. 12 s. 2; Stats. 1921 s. 69.53; 1943 c. 503 s. 54; Stats. 1943 s. 69.25; 1945 c. 173.

69.24 (1), Stats. 1943, authorizes the state registrar, register of deeds, or city health officer to collect one 50-cent fee from a person who requests him to make a correction in a birth record pursuant to 69.335, except in cases involving correction on a record filed before one year of date of birth, in which case he may not collect any fee. The official collecting such fee and making such correction must certify such correction to other officials named in 69.25 (2), who apparently must make a corresponding correction on their records. Other officials to whom certification is made under 69.25 (2) are not entitled to any part of the fee, nor may an official who makes a correction and certification collect an additional fee for them. 69.24 (1) does not authorize any of the officials therein mentioned to collect a fee for correcting a record of stillbirth, death, marriage or divorce. 32 Atty. Gen. 331.

**69.27 History:** 1907 c. 469; Stats. 1911 s. 1022—23; 1921 c. 12 s. 2; Stats. 1921 s. 69.21; 1943 c. 503 s. 25; Stats. 1943 s. 69.27.

**69.28 History:** 1907 c. 469; Stats. 1911 s. 1022—31; 1921 c. 12 s. 2; Stats. 1921 s. 69.30; 1943 c. 503 s. 35; Stats. 1943 s. 69.28.

**69.29 History:** 1907 c. 469; Stats. 1911 s. 1022—30; 1915 c. 258; 1917 c. 105; 1921 c. 12 s. 2; Stats. 1921 s. 69.28; 1931 c. 352 s. 1; 1937 c. 205; 1943 c. 503 s. 33, 33a; Stats. 1943 s. 69.29; 1951 c. 247; 1957 c. 296; 1961 c. 68; 1969 c. 366 s. 117 (1) (a).

**69.30 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022—28, 1022—29; 1915 c. 230; 1921 c. 12 s. 2; Stats. 1921 s. 69.26, 69.27 (1); 1933 c. 110; 1935 c. 41; 1941 c. 259; 1943 c. 503 s. 30, 31; Stats. 1943 s. 69.30; 1945 c. 39; 1949 c. 154; 1953 c. 375.

The requirement of a court order to obtain a copy of an illegitimate birth record, applies to all illegitimate birth records and is not limited to records of those births that occur after October 1, 1907, and is applicable to delayed illegitimate birth records as well as to such

records made at the time of the birth. 31 Atty. Gen. 316.

See note to 69.335, citing 34 Atty. Gen. 72.

A physician, in making out a birth certificate where a child is born to a married woman as the result of artificial insemination, is bound by presumption of legitimacy and must enter the name of the mother's husband as the father of such child. 35 Atty. Gen. 175.

69.30 (2), Stats. 1953, does not contemplate the preparation and filing of a birth certificate by an unlicensed physician or an unlicensed midwife. 44 Atty. Gen. 94.

**69.31 History:** 1933 c. 110; Stats. 1933 s. 69.27 (2); 1943 c. 503 s. 32; Stats. 1943 s. 69.31; 1969 c. 366 s. 117 (1) (a).

**69.32 History:** 1917 c. 105; Stats. 1917 s. 1022—30m; 1921 c. 12 s. 2; Stats. 1921 s. 69.29; 1931 c. 79 s. 12; 1937 c. 136; 1943 c. 503 s. 34; Stats. 1943 s. 69.32; 1969 c. 276 s. 589 (1) (d), (3) (a); 1969 c. 366 s. 117 (1) (a).

**69.33 History:** 1931 c. 352 s. 2; Stats. 1931 s. 69.60; 1939 c. 524; 1943 c. 275 s. 28; 1943 c. 284; 1943 c. 503 s. 61; 1943 c. 552 s. 15; 1943 c. 553 s. 12; Stats. 1943 s. 69.33; 1947 c. 184; 1951 c. 208; 1953 c. 31; 1955 c. 26.

69.33 (1) and (7), Stats. 1955, do not authorize registration of the birth of a foreign-born child adopted by Wisconsin residents in the country of the child's nationality. 69.33 (1) applies only to adoptions in Wisconsin and 69.33 (7) applies only if the child was born in the United States. 44 Atty. Gen. 254.

The state registrar of vital statistics has no power to change the birth certificate of an adopted child born in Wisconsin. 52 Atty. Gen. 1.

**69.335 History:** 1943 c. 503 s. 62; Stats. 1943 s. 69.335.

A child need not retain the name recorded on his birth certificate. A change of surname is a "major" correction under 69.335 and requires an affidavit of the person whose birth is recorded. The surname of an illegitimate child may legally be changed from that of the mother to that of the putative father and if this is done under the procedure of 296.36, the birth certificate will be amended as a matter of course. The putative father's name should not be entered on the birth certificate of an illegitimate child. 34 Atty. Gen. 72.

The mother of minor children may not make an affidavit under this section for the changing of a surname on a birth record. The affidavit must be made by the person whose name is to be changed and may be made by a minor old enough to understand the facts and the obligation of an oath if the minor has knowledge of the pertinent facts or has information and belief sufficient to infer the facts. 35 Atty. Gen. 311.

**69.336 History:** 1947 c. 184; Stats. 1947 s. 69.336.

**69.34 History:** 1907 c. 469; Stats. 1911 s. 1022—33; 1921 c. 12 s. 2; Stats. 1921 s. 69.32; 1941 c. 179; 1943 c. 503 s. 37; Stats. 1943 s. 69.34; 1953 c. 305; 1969 c. 366 s. 117 (1) (a).

**69.35 History:** 1907 c. 469; Stats. 1911 s. 1022—34; 1921 c. 12 s. 2; Stats. 1921 s. 69.33;

1929 c. 272; 1941 c. 179; 1943 c. 503 s. 38; Stats. 1943 s. 69.35; 1951 c. 247 s. 26; 1969 c. 366 s. 117 (1) (a).

**69.36 History:** 1907 c. 469; Stats. 1911 s. 1022—35; 1921 c. 12 s. 2; Stats. 1921 s. 69.34; 1943 c. 503 s. 39; Stats. 1943 s. 69.36.

**69.37 History:** 1907 c. 469; Stats. 1911 s. 1022—36; 1921 c. 12 s. 2; Stats. 1921 s. 69.35; 1943 c. 503 s. 40; Stats. 1943 s. 69.37; 1957 c. 62.

For construction of 69.37, Stats. 1953, see 43 Atty. Gen. 268.

**69.38 History:** 1907 c. 469; Stats. 1911 s. 1022—37; 1921 c. 12 s. 2; Stats. 1921 s. 69.36; 1943 c. 503 s. 41; Stats. 1943 s. 69.38.

A death certificate signed by an osteopath is valid. 9 Atty. Gen. 292.

A chiropractor is not a physician and has no right to sign a death certificate. 16 Atty. Gen. 95.

Legal concepts of human life: the infanticide doctrines. Meldman, 52 MLR 105.

What is death? Biorck, 1968 WLR 484.

**69.39 History:** 1907 c. 469; Stats. 1911 s. 1022—38; 1921 c. 12 s. 2; Stats. 1921 s. 69.37; 1943 c. 503 s. 42; Stats. 1943 s. 69.39.

The district attorney may order an inquest even after the deceased has been buried. 9 Atty. Gen. 387.

A local registrar of vital statistics has no authority to employ a physician to investigate the cause of death where the deceased has no attending physician or the attending physician cannot be reached in time. The cost of investigating cause of death is part of the burial expenses to be paid by the person who wants to dispose of a body, and cannot be paid by the local registrar. The only fee authorized to be paid from public funds is the sum of 25 cents for making and filing a death certificate pursuant to 69.26. 29 Atty. Gen. 470.

**69.40 History:** 1907 c. 469; Stats. 1911 s. 1022—39; 1921 c. 12 s. 2; Stats. 1921 s. 69.38; 1943 c. 503 s. 43; Stats. 1943 s. 69.40.

A local registrar may not sign a death certificate merely because a physician refuses to do so for lack of sufficient information. He may do so only if no physician can be obtained early enough. 40 Atty. Gen. 476.

**69.41 History:** 1907 c. 469; Stats. 1911 s. 1022—40; 1921 c. 12 s. 2; Stats. 1921 s. 69.39; 1943 c. 503 s. 44; Stats. 1943 s. 69.41; 1953 c. 194; 1955 c. 97; 1969 c. 255 s. 65.

A coroner is not authorized to sign a death certificate unless there has been an inquest. But if there has been an autopsy under 366.121, Stats. 1951, the autopsy surgeon may sign the death certificate. 40 Atty. Gen. 476.

**69.42 History:** 1907 c. 469; Stats. 1911 s. 1022—21; 1909 c. 188; 1921 c. 12 s. 2; Stats. 1921 s. 69.19; 1943 c. 503 s. 23; Stats. 1943 s. 69.42; 1945 c. 173; 1953 c. 305.

See note to 69.50, citing 46 Atty. Gen. 80.

**69.43 History:** 1907 c. 469; Stats. 1911 s. 1022—22; 1921 c. 12 s. 2; Stats. 1921 s. 69.20; 1943 c. 503 s. 24; Stats. 1943 s. 69.43; 1969 c. 366 s. 117 (1) (a).

**69.44 History:** 1907 c. 469; Stats. 1911 s.

1022—32; 1921 c. 12 s. 2; Stats. 1921 s. 69.31; 1933 c. 109; 1943 c. 503 s. 36; Stats. 1943 s. 69.44; 1945 c. 173.

On funeral directors and embalmers see notes to various sections of ch. 156; and on cemeteries see notes to various sections of ch. 157.

The transportation across the state boundary of a corpse of one whose death occurred in Wisconsin, without a burial or removal permit from the proper Wisconsin authority, constitutes a violation of lawful regulations of the state board of health. 39 Atty. Gen. 480.

If there has been no inquest and the physician called for the purpose refuses to sign a death certificate (for lack of sufficient information), the person desiring to dispose of the body has the responsibility of procuring a proper death certificate in order to obtain a burial permit under 69.44 (1), and the cost of investigating the cause of death is a necessary part of the burial expense. (29 Atty. Gen. 470 followed.) 40 Atty. Gen. 476.

Neither 69.44, Stats. 1967, nor any other statute, prohibits cryogenic interment in Wisconsin. 56 Atty. Gen. 261. See also 57 Atty. Gen. 152.

**69.445 History:** 1945 c. 173, 505; Stats. 1945 s. 69.445; 1953 c. 305.

**69.45 History:** 1907 c. 469; 1911 c. 663 s. 129; Stats. 1911 s. 1022—41; 1915 c. 604 s. 24; 1917 c. 303; 1921 c. 12 s. 2; Stats. 1921 s. 69.40; 1943 c. 503 s. 45; Stats. 1943 s. 69.45; 1955 c. 10; 1957 c. 62.

**69.46 History:** 1907 c. 469; Stats. 1911 s. 1022—42; 1921 c. 12 s. 2; Stats. 1921 s. 69.41; 1943 c. 503 s. 46; Stats. 1943 s. 69.46.

**69.47 History:** 1907 c. 469; Stats. 1911 s. 1022—43; 1917 c. 303; 1921 c. 12 s. 2; Stats. 1921 s. 69.42; 1943 c. 503 s. 47; Stats. 1943 s. 69.47.

**69.48 History:** 1907 c. 469; Stats. 1911 s. 1022—44, 1022—45, 1022—46; 1917 c. 303; 1921 c. 12 s. 2; Stats. 1921 s. 69.43, 69.44, 69.45; 1943 c. 503 s. 49; Stats. 1943 s. 69.48.

**69.49 History:** 1943 c. 503 s. 51; Stats. 1943 s. 69.49.

**69.50 History:** 1909 c. 340; Stats. 1911 s. 1027a; 1921 c. 12 s. 2; Stats. 1921 s. 69.59; 1943 c. 503 s. 60; Stats. 1943 s. 69.50; 1945 c. 36; 1963 c. 407.

**69.52 History:** 1907 c. 469; Stats. 1911 s. 1022—54, 1022—55, 1022—56; 1921 c. 12 s. 2; Stats. 1921 s. 69.50, 69.51, 69.52; 1927 c. 111; 1943 c. 503 s. 53; Stats. 1943 s. 69.52; 1969 c. 366 s. 117 (1) (a).

Clerks of court must supply information required by 69.52 (2) in actions of divorce, legal separation and annulment. Dismissal of such an action is a final disposition of the case, but mere failure to proceed beyond filing of the complaint is not. 54 Atty. Gen. 135.

**69.53 History:** 1911 c. 252; Stats. 1911 s. 1022—53m; 1921 c. 12 s. 2; Stats. 1921 s. 69.49; 1943 c. 503 s. 52; Stats. 1943 s. 69.53; 1957 c. 172; 1969 c. 366 s. 117 (1) (a).

**69.55 History:** 1897 c. 202 s. 11; Stats. 1898

s. 4608h; 1907 c. 469; 1909 c. 188; 1925 c. 4; Stats. 1925 s. 352.52; 1943 c. 503 s. 72; Stats. 1943 s. 69.55.

## CHAPTER 70.

### General Property Taxes.

**70.01 History:** 1933 c. 349 s. 3; Stats. 1933 s. 70.01; 1943 c. 277; 1957 c. 132; 1961 c. 620.

On equality see notes to sec. 1, art. I; on exercises of taxing power see notes to secs. 1 and 13, art. I; on legislative power generally see notes to sec. 1, art. IV; on judicial power generally see notes to sec. 2, art. VII; on the rule of taxation (property taxes) see notes to sec. 1, art. VIII; on direct annual tax to pay debts see notes to sec. 3, art. XI; on property exempted from taxation see notes to 70.11 and 70.111; on collection of taxes see notes to various sections of ch. 74; on land sold for taxes see notes to various sections of ch. 75; and on taxation of forest-crop lands see notes to various sections of ch. 77.

Where the town of Granville was purportedly consolidated with the city of Milwaukee on April 3, 1956, and a portion of the town was purportedly annexed to the village of Brown Deer on July 17, 1956, which was after the property-assessment date of May 1, 1956, persons owning property in such portion of the town were not in any event entitled to have their property taxed by Brown Deer for 1956 but, rather, their property was subject to the property tax levied for Milwaukee for 1956. Foscatto v. Byrne, 2 W (2d) 520, 87 NW (2d) 512.

A federal tax lien is to be paid out of funds remaining after moneys set aside for prior recorded mortgages; however, real estate taxes are prior to the mortgages and hence are to be paid out of the money set aside. First Nat. Bank v. Charles Henneman Co. 10 W (2d) 260, 103 NW (2d) 24, cert. denied 364 U. S. 836.

Under 70.01, Stats. 1957, road-construction machinery owned by a foreign corporation and concededly general property not specifically exempted, and having a taxable situs in Wisconsin, was made subject to personal-property taxation by the state. Cady v. Alexander Construction Co. 12 W (2d) 236, 107 NW (2d) 267, 108 NW (2d) 145.

Under the express language of this section, as amended by ch. 277, Laws 1943, a general or inchoate lien for real estate taxes arises and attaches, by relation back, as of May 1, and such lien is an incumbrance on sale of the property in June. Van Dyke v. United States, 156 F Supp. 155.

The Wisconsin real estate tax is a lien upon property against which it is assessed superior to all other liens, and effective as of May 1st of the year for which levied. Mack v. United States, 160 F Supp. 421.

Automobiles of Spanish consular officers within the state are exempt from taxation. 18 Atty. Gen. 169.

A product manufactured in Wisconsin and intended for exportation to another state does not cease to be part of the general mass of property in the state subject to its jurisdiction and to taxation in the usual way until the same has been shipped or entered with a common carrier for transportation, or has been

started in continuous route or journey so that the same constitutes interstate commerce. 18 Atty. Gen. 236.

Where state swamp lands have been sold under contract to be paid for in instalments they are properly assessable under this section; but if they are returned delinquent the county treasurer should report to the state treasurer a list of such lands and the amount of taxes assessed thereon as provided by 74.57. 18 Atty. Gen. 319.

State taxation of interstate commerce: nexus and apportionment. Barnes, 48 MLR 218.

**70.02 History:** 1933 c. 349 s. 3; Stats. 1933 s. 70.02; 1959 c. 19; 1961 c. 620.

**70.03 History:** 1865 c. 538 s. 2; R. S. 1878 s. 1035; Stats. 1898 s. 1035; 1917 c. 463; 1919 c. 244; 1921 c. 69 s. 11; Stats. 1921 s. 70.08; 1933 c. 349 s. 2, 4; 1933 c. 444; Stats. 1933 s. 70.03.

An easement appurtenant to land, like the right to draw water on certain lots, is properly assessed in connection therewith. The fact that the lots are unimproved and no race is constructed to or upon them is immaterial. Spensley v. Valentine, 34 W 154.

An equitable title to land, as the right of a railway company to a land grant fully earned, but not patented by the government, is taxable. Wisconsin C. R. Co. v. Price County, 64 W 579, 26 NW 93.

A building erected upon leased premises for a temporary purpose, the lessee having the right to remove it at the end of his term, does not "appertain" to the land within the meaning of this section. It should be assessed as personal property. State ex rel. Hansen S. Co. v. Bodden, 166 W 219, 164 NW 1009.

Machinery in a factory ranged from very small machines to those weighing 30,000 to 40,000 pounds, all adapted to the purposes of the plant. For the most part they were held in position by their own weight and were neither bolted nor screwed to the floor but were all attached either to electric motors by wires or to the steam power plant by belts and pulleys. They were all fixtures and were properly assessed for taxation as part of the realty. State ex rel. Gisholt M. Co. v. Norsman, 168 W 442, 169 NW 429.

Machinery placed in a building by a tenant for purposes of trade or manufacturing is not a fixture and not assessable as real property to the owner of the building. State ex rel. Cramer v. Bodden, 172 W 64, 178 NW 242.

Where a company constructs a private railroad upon land owned by it, using in the construction thereof rails and track materials held by it under lease, the rails and track materials so used are part of the real estate for taxation purposes, and a tax on them as personal property is invalid. Langlade v. Crocker C. Co. 190 W 226, 208 NW 799.

A right to overflow other land does not attach to a dam site, and the value of the right must be included in an assessment of land overflowed. Whiting-Plover P. Co. v. Linwood, 198 W 590, 225 NW 177.

The value of an easement is in the dominant estate and assessable therewith. Doherty v. Rice, 240 W 389, 3 NW (2d) 734.