



1999 ASSEMBLY BILL 383

June 10, 1999 - Introduced by Representatives STONE, HUNDERTMARK, LADWIG, PLOUFF, GOETSCH, F. LASEE, OLSEN, MUSSER, GUNDERSON, TURNER, GROTHMAN and POWERS, cosponsored by Senators ROESSLER and FARROW. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 59.21 (1) (intro.), 59.35 (3), 59.38 (3), 59.52 (11) (d), 60.30 (5)
2 (a), 60.30 (5) (b), 60.31 (2), 60.31 (3) (a), 60.31 (3) (b), 60.331, 60.341, 61.22, 61.25
3 (intro.), 61.26 (1), 61.28, 61.29 (1) (a), 62.09 (4) (b), 62.09 (9) (f), 62.09 (10) (h),
4 62.09 (11) (i), 66.12 (1) (b), 66.23 (8), 66.39 (5) (c), 70.67 (1), 70.67 (2), 74.45 (2)
5 and 75.07 (2) (c) of the statutes; **relating to:** eliminating the requirement, and
6 making it a local option, that certain city, village, town and county officers be
7 bonded.

Analysis by the Legislative Reference Bureau

Under current law, most officers of a city, village, town or county must obtain and file an official bond. Generally, in the case of second, third and fourth class cities, the treasurer, comptroller, chief of police and other officers, as the statutes or the common council direct, are required to execute and file an official bond, with sureties, in a sum determined by the common council. Such bonds may also be furnished by a surety company. All official bonds must be approved by the mayor of the city and when approved must be filed within ten days after the person who executes the bond is notified of election or appointment. Official bonds are also filed with the city clerk. Similar bonding requirements apply to officers and other employees of first class cities (presently only Milwaukee).

Generally under current law, in the case of counties, officers who are specified by statute are required to file an official bond with sureties in amounts that are

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specified by statute or fixed by the board within a range specified by statute. Such officers may also obtain bonds from a surety company and the county board may require an officer to provide an additional bond if it considers the statutorily specified amount or range to be insufficient. All bonds and sureties must be approved by a committee made up of the county board chairperson and at least two other board members.

Current law also requires every town clerk, deputy town clerk, town treasurer, deputy town treasurer, elected assessor and town constable to execute and file an official bond provided by the town or by sureties. The town may also provide a blanket bond or a surety company may furnish the required bonds. The bond amounts are fixed by the town board and may be increased if the board determines that the existing bond amount is insufficient. The failure of an elected or appointed town officer to file the required bond within the time prescribed by law for such filing constitutes refusal to serve in office.

Generally under current law, elected and certain appointed village officers are required to obtain an official bond in an amount that is set by the village board or specified by statute, and such bonds must be approved by the village president. Bond amounts may be increased by the village board if the board determines that the existing bond amount is insufficient.

This bill removes the requirements, and makes it a local option, that any elected or appointed officer of a second, third or fourth class city, or of a village, town or county, obtain an official bond.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.21 (1) (intro.) of the statutes is amended to read:

2 59.21 (1) (intro.) Each county officer named in this chapter, except county
3 supervisors, shall execute and file an official bond, if the board enacts an ordinance
4 or adopts a resolution that requires the officers to do so, and shall take and file the
5 official oath within 20 days after receiving official notice of election or appointment,
6 or if not officially notified, within 20 days after the commencement of the term for
7 which the officer is elected or appointed. Every county supervisor shall take and file
8 the official oath within 20 days after receiving official notice of election or
9 appointment, or if not officially notified, within 20 days after the commencement of

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1 the term for which he or she is elected or appointed. Every deputy appointed by any
2 such officer shall take and file the official oath and if the deputy neglects to do so, he
3 or she shall forfeit \$100. ~~Such official bonds shall be in sums and with sureties, as~~
4 ~~follows:~~

5 **SECTION 2.** 59.35 (3) of the statutes is amended to read:

6 59.35 (3) ~~The~~ If the board requires the coroner to be bonded, the coroner may
7 require a deputy coroner, before entering upon the duties of the office, to execute and
8 deliver to the coroner a bond in such sum and with such sureties as the coroner may
9 require, conditioned for the faithful performance of the deputy's official duties; and
10 every default or misconduct of the deputy coroner for which the coroner shall be liable
11 shall be a breach of the bond.

12 **SECTION 3.** 59.38 (3) of the statutes is amended to read:

13 59.38 (3) **MEDICAL EXAMINER'S BOND.** Before entering upon the duties of office,
14 if required to do so by the board, the medical examiner of the county shall deliver to
15 the clerk a bond, subscribed by 2 or more sufficient sureties, in such penal sum as
16 the board determines, conditioned for the faithful performance of all official duties
17 as set forth in this chapter and ch. 979 and that he or she will faithfully account for
18 and pay to the treasurer of the county all moneys which may come to him or her
19 belonging to the county, and which by virtue of this chapter and ch. 979 the medical
20 examiner is required to account for and pay as aforesaid.

21 **SECTION 4.** 59.52 (11) (d) of the statutes is amended to read:

22 59.52 (11) (d) *Bonds of officers and employes.* Provide for the protection of the
23 county and public against loss or damage resulting from the act, neglect or default
24 of county officers, department heads and employes and may contract for and procure
25 ~~bonds or~~ contracts of insurance to accomplish that purpose either from commercial

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1 companies or by self-insurance created by setting up an annual fund for such
2 purpose or by a combination thereof. Any number of officers, department heads or
3 employes not otherwise required by statute and county ordinance or resolution to
4 furnish an official bond may be combined in a schedule or blanket bond or contract
5 of insurance. So far as applicable ss. 19.01 (2), (2m), (3), (4) (d) and (dd) and 19.07
6 shall apply to such bonds or contracts of insurance. The bond shall be for a definite
7 period, and each renewal thereof shall constitute a new bond for the principal
8 amount covering the renewal period.

9 **SECTION 5.** 60.30 (5) (a) of the statutes is amended to read:

10 60.30 (5) (a) If any elected town officer, other than a town board supervisor, is
11 absent or temporarily incapacitated from any cause, the town board may appoint, if
12 there is no deputy officer for the office, a suitable person to discharge the duties of
13 the office until the officer returns or the disability is removed, except that the
14 appointment procedures of this paragraph apply to a town board supervisor if he or
15 she is absent because of entry into the U.S. armed forces. Appointees shall file the
16 official oath required, and bond that may be required, under s. 60.31.

17 **SECTION 6.** 60.30 (5) (b) of the statutes is amended to read:

18 60.30 (5) (b) If any elected town officer, other than a town board supervisor,
19 refuses to perform any official duty, the town board may appoint a suitable person
20 to perform those duties which the officer refuses to perform. An appointee shall file
21 the official oath required, and bond that may be required, of the office under s. 60.31.
22 This paragraph does not preclude a finding that refusal to perform official duties
23 constitutes cause under s. 17.13 (3).

24 **SECTION 7.** 60.31 (2) of the statutes is amended to read:

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1 60.31 (2) OFFICIAL BOND. ~~Every~~ If the town board enacts an ordinance or adopts
2 a resolution that requires the officers to do so, every town clerk, deputy town clerk,
3 town treasurer, deputy town treasurer, elected assessor and town constable shall
4 execute and file an official bond provided by the town or by sufficient sureties, or the
5 town may provide a schedule or blanket bond that includes any or all of these
6 officials. The official bond or schedule or blanket bond provided by the town may be
7 furnished by a surety company under s. 632.17 (2). The amount of the bond shall be
8 fixed by the town board. If the amount of the bond is not fixed by the board, the
9 amount shall be the same as that required of the last incumbent of the office. If the
10 town board at any time determines that the bond is insufficient, it may require an
11 additional bond to be filed within 10 days, in an amount fixed by the board.

12 **SECTION 8.** 60.31 (3) (a) of the statutes is amended to read:

13 60.31 (3) (a) An elected assessor shall take and file the official oath, and bond
14 if a bond is required under sub. (2), at any time between May 27 to May 31.

15 **SECTION 9.** 60.31 (3) (b) of the statutes is amended to read:

16 60.31 (3) (b) Municipal judges shall take and file the official oath, and bond if
17 a bond is required under sub. (2), under s. 755.03.

18 **SECTION 10.** 60.331 of the statutes is amended to read:

19 **60.331 Deputy town clerk.** Each town clerk may appoint one or more
20 deputies for whom the town clerk is responsible. A deputy shall take and file the
21 official oath, and bond if a bond is required, under s. 60.31. The town clerk may
22 designate a deputy to perform the clerk's duties during the absence, sickness or other
23 disability of the clerk.

24 **SECTION 11.** 60.341 of the statutes is amended to read:

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1 **60.341 Deputy town treasurer.** Each town treasurer may appoint a deputy
2 for whom the treasurer is responsible. The deputy shall take and file the official oath,
3 and bond under s. 60.31. In case of the absence, sickness or other disability of the
4 treasurer, the deputy shall perform the treasurer's duties.

5 **SECTION 12.** 61.22 of the statutes is amended to read:

6 **61.22 Official bonds; officers not to be sureties.** The village board may
7 enact an ordinance or adopt a resolution that requires a village officer to obtain a
8 bond. Every bond required of a village officer shall be executed with sufficient
9 sureties in a sum fixed by the village board when not otherwise prescribed and be
10 approved by the president. Whenever the village board deems any bond insufficient
11 they may require an additional bond to be executed and filed in a sum and within a
12 time not less than 10 days, to be fixed by them.

13 **SECTION 13.** 61.25 (intro.) of the statutes is amended to read:

14 **61.25 Clerk.** (intro.) The If required to do so under s. 61.22, the village clerk
15 shall execute and file an official bond. It shall be the village clerk's duty:

16 **SECTION 14.** 61.26 (1) of the statutes is amended to read:

17 61.26 (1) ~~Execute~~ If a bond is required under s. 61.22, execute and file an official
18 bond which may be furnished by a surety company as provided by s. 632.17 (2).

19 **SECTION 15.** 61.28 of the statutes is amended to read:

20 **61.28 Marshal.** The If required to do so under s. 61.22, the village marshal
21 shall execute and file an official bond. The marshal shall possess the powers, enjoy
22 the privileges and be subject to the liabilities conferred and imposed by law upon
23 constables, and be taken as included in all writs and papers addressed to constables.
24 The marshal shall obey all lawful written orders of the village board; and arrest with
25 or without process every person found in the village engaged in any disturbance of

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1 the peace or violating any law of the state or ordinance of the village. The marshal
2 may command all persons present in that case to assist, and if any person, being so
3 commanded, refuses or neglects to render assistance the person shall forfeit not
4 exceeding \$10. The marshal is entitled to the same fees prescribed for sheriffs in s.
5 814.70 for similar services, unless a higher fee is applicable under s. 814.705 (1) (c);
6 for other service rendered the village, compensation as the board fixes.

7 **SECTION 16.** 61.29 (1) (a) of the statutes is amended to read:

8 61.29 (1) (a) ~~Execute~~ If a bond is required under s. 61.22, execute and file an
9 official bond.

10 **SECTION 17.** 62.09 (4) (b) of the statutes is amended to read:

11 62.09 (4) (b) ~~The~~ If the council enacts an ordinance or adopts a resolution that
12 requires the treasurer, comptroller, chief of police and such others as ~~the statutes or~~
13 ~~the council may direct,~~ to do so, or if the statutes direct a city officer to do so, such
14 officer, shall execute and file an official bond in such sum as the council may
15 determine, with 2 or more sureties or such bond may be furnished by a surety
16 company as provided by s. 632.17 (2). The council may at any time require new and
17 additional bonds of an officer. All official bonds must be approved by the mayor, and
18 when so approved shall be filed within 10 days after the officer executing the same
19 shall have been notified of election or appointment. Official bonds filed with the city
20 clerk shall be recorded in a book kept for that purpose.

21 **SECTION 18.** 62.09 (9) (f) of the statutes is amended to read:

22 62.09 (9) (f) The treasurer may in writing, filed in the office of the clerk, appoint
23 a deputy who shall act under the treasurer's direction and in the treasurer's absence
24 or disability, or in case of a vacancy shall perform the treasurer's duties. The deputy
25 shall receive such compensation as the council shall provide. The acts of such deputy

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1 shall be covered by official bond, if one is required under sub. (4) (b), as the council
2 shall direct.

3 **SECTION 19.** 62.09 (10) (h) of the statutes is amended to read:

4 62.09 (10) (h) The comptroller may in writing, filed in the office of the clerk,
5 appoint a deputy who shall act under the comptroller's direction and in the
6 comptroller's absence or disability, or in case of a vacancy shall perform the
7 comptroller's duties. The deputy shall receive such compensation as the council
8 provides. The acts of such deputy shall be covered by official bond, if one is required
9 under sub. (4) (b), as the council directs.

10 **SECTION 20.** 62.09 (11) (i) of the statutes is amended to read:

11 62.09 (11) (i) The clerk may in writing filed in the clerk's office appoint a deputy,
12 who shall act under the clerk's direction, and in the clerk's absence or disability or
13 in case of a vacancy shall perform the clerk's duties, and shall have power to
14 administer oaths and affirmations. The deputy shall receive such compensation as
15 the council shall provide. The clerk and the clerk's sureties shall be liable on the
16 clerk's official bond, if one is required under sub (4). (b), for the acts of such deputy.

17 **SECTION 21.** 66.12 (1) (b) of the statutes is amended to read:

18 66.12 (1) (b) Local ordinances, except as provided in this paragraph or ss.
19 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
20 or all violations under those ordinances, and may designate the manner in which the
21 stipulation is to be made and fix the penalty to be paid. When a person charged with
22 a violation for which stipulation of guilt or no contest is authorized makes a timely
23 stipulation and pays the required penalty and pays the penalty assessment imposed
24 by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime laboratories and
25 drug law enforcement assessment imposed by s. 165.755 and any applicable

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1 domestic abuse assessment imposed by s. 973.055 (1) to the designated official, the
2 person need not appear in court and no witness fees or other additional costs may be
3 taxed unless the local ordinance so provides. A court appearance is required for a
4 violation of a local ordinance in conformity with s. 346.63 (1). The official receiving
5 the penalties shall remit all moneys collected to the treasurer of the city, village, town
6 sanitary district or public inland lake protection and rehabilitation district in whose
7 behalf the sum was paid, except that all jail assessments shall be remitted to the
8 county treasurer, within 20 days after its receipt by him or her; and in case of any
9 failure in the payment, the treasurer may collect the payment of the officer by action,
10 in the name of the office, and upon the official bond of the officer if such a bond exists,
11 with interest at the rate of 12% per year from the time when it should have been paid.
12 In the case of the penalty assessment imposed by s. 165.87, the crime laboratories
13 and drug law enforcement assessment imposed by s. 165.755, the driver
14 improvement surcharge imposed by s. 346.655 (1) and any applicable domestic abuse
15 assessment imposed by s. 973.055 (1), the treasurer of the city, village, town sanitary
16 district or public inland lake protection and rehabilitation district shall remit to the
17 state treasurer the sum required by law to be paid on the actions so entered during
18 the preceding month on or before the first day of the next succeeding month. The
19 governing body of the city, village, town sanitary district or public inland lake
20 protection and rehabilitation district shall by ordinance designate the official to
21 receive the penalties and the terms under which the official shall qualify.

22 **SECTION 22.** 66.23 (8) of the statutes is amended to read:

23 66.23 (8) The treasurer of the city, village or town having the largest equalized
24 valuation within the district shall act as treasurer of the district, shall receive such
25 additional compensation therefor as the commission may determine, and shall at the

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1 expense of the district furnish such bond, or additional bond, as the commission may
2 require. Such treasurer shall keep all moneys of the district in a separate fund to be
3 disposed of only upon order of the commission signed by the president and secretary.

4 **SECTION 23.** 66.39 (5) (c) of the statutes is amended to read:

5 66.39 (5) (c) At the first meeting of the commissioners after their appointment,
6 they shall select one of their members as chairperson and one as secretary. The
7 county treasurer shall be the treasurer of the board. ~~The~~ If bonded, the official bond
8 of the county treasurer shall extend to cover funds of the authority that may be
9 placed in the charge of the county treasurer and if the treasurer is not bonded, he or
10 she shall obtain bonding to cover such funds. The county treasurer shall disburse
11 money of the authority only upon direction of the commissioners. The county
12 treasurer shall receive no compensation for services as treasurer of the board, but
13 shall be entitled to necessary expenses, including traveling expenses incurred in the
14 discharge of the duties of treasurer of the board. When the office of chairperson or
15 secretary of the commissioners becomes vacant for any reason, the commissioners
16 shall select a new chairperson or secretary as the case may be. The commissioners
17 may employ technical experts, and such other officers, agents and employes,
18 permanent or temporary, as it may require, and may call upon the district attorney
19 of the county for such legal services as it may require.

20 **SECTION 24.** 70.67 (1) of the statutes is amended to read:

21 70.67 (1) The treasurer of each town, city or village shall, unless exempted
22 under sub. (2) or unless the treasurer is not required to execute a bond by the
23 governing body for which he or she serves as treasurer, execute and deliver to the
24 county treasurer a bond, with sureties, to be approved, in case of a town treasurer,
25 by the chairperson of the town, and in case of a city or village treasurer by the county

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1 treasurer, conditioned for the faithful performance of the duties of the office and that
2 the treasurer will account for and pay over according to law all taxes of any kind
3 which are received and which are required to be paid to the county treasurer. If such
4 bond is executed, or the condition thereof guaranteed by personal sureties, the
5 amount of the bonds shall be double the amount of state and county taxes
6 apportioned to the town, village or city, provided that the amount of such bond shall
7 not exceed the sum of \$500,000. When such bond is executed, or the condition thereof
8 guaranteed, solely by a surety company as provided in s. 632.17 (2), such bond shall
9 be in a sum equal to the amount of such state and county taxes, provided that the
10 amount of such bond shall not exceed the sum of \$250,000. The county treasurer
11 shall give to said town, city or village treasurer a receipt for said bond, and file and
12 safely keep said bond in the office.

13 **SECTION 25.** 70.67 (2) of the statutes is amended to read:

14 70.67 (2) The treasurer of any municipality shall not be required to give such
15 bond if the governing body ~~thereof of a city, village or town~~ shall by ordinance obligate
16 ~~such the~~ municipality to pay, in case the treasurer ~~thereof of the municipality~~ shall
17 fail so to do, all taxes of any kind required by law to be paid by ~~such the municipal~~
18 treasurer to the county treasurer. ~~Such~~ If the governing body of a municipality does
19 not require its treasurer to be bonded, the municipality shall by ordinance obligate
20 the municipality to pay, in case the treasurer of the municipality shall fail so to do,
21 all taxes of any kind required by law to be paid by the municipal treasurer to the
22 county treasurer. A governing body is authorized to so obligate ~~such the~~
23 municipality. If the governing body of the municipality has adopted an ordinance as
24 specified in this subsection, it may demand from its treasurer, in addition to the
25 official bond that may be required of all municipal treasurers, a fidelity or surety

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1 bond in an amount and upon such terms as may be determined by the governing body.
2 ~~Such~~ The bond shall run to the town or village board or the city council, as the case
3 may be, and shall be delivered to the clerk of the municipality. A certified copy of ~~such~~
4 the ordinance filed with the county treasurer shall be accepted by the county
5 treasurer in lieu of the bond required by sub. (1). ~~Such~~ The ordinance shall remain
6 in effect until a certified copy of its repeal ~~shall be~~ is filed with the county clerk and
7 the county treasurer. The official bond executed pursuant to s. 19.01, required of
8 municipal treasurers, shall extend to and include the liability incurred by any town,
9 city or village whose governing board shall adopt and certify to the county treasurer
10 an ordinance in accordance with this subsection.

11 **SECTION 26.** 74.45 (2) of the statutes is amended to read:

12 74.45 (2) ENDORSEMENT OF TAXATION DISTRICT TREASURER'S BOND. After the
13 taxation district treasurer has fulfilled the requirements for settlement with the
14 county under s. 74.25 or 74.30, the county treasurer if requested to do so, shall
15 endorse the bond of the taxation district treasurer executed under s. 70.67 (1) or (2)
16 as satisfied and paid. The endorsement fully discharges the taxation district
17 treasurer and his or her sureties from the obligations of the bond, unless the return
18 of the taxation district treasurer under s. 74.43 is false. If the return is false, the bond
19 continues in force and the taxation district treasurer and his or her sureties are
20 subject to action upon the bond for all deficiencies and damages resulting from the
21 false return.

22 **SECTION 27.** 75.07 (2) (c) of the statutes is amended to read:

23 75.07 (2) (c) Any county treasurer who shall wilfully refuse or neglect to
24 perform any duty required by this section or who shall keep back and not report any
25 unredeemed lands for the purpose of evading its provisions shall forfeit the full

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1 amount of the penalty of the treasurer's bond or official bond, one half of which, when
2 collected, shall be paid to the person prosecuting therefor and the residue into the
3 treasury of the state for the use of the school fund; provided further, that no county
4 treasurer shall be liable to any penalty for causing such publication to be made in a
5 weekly newspaper published in such county for the length of time hereinbefore
6 named prior to the date of the treasurer's notice, when by reason of accident or other
7 cause more than one week has intervened between the dates of the actual issue of
8 such newspaper to subscribers, if such delay at any one time shall not have exceeded
9 3 days; but every such newspaper, for the purpose of this section shall be deemed to
10 have been regularly published once in each week as hereinbefore provided.

11

(END)