

## CHAPTER 43

## LIBRARIES

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**43.001 Legislative findings and declaration of policy.**

(1) The legislature recognizes:

- The importance of free access to knowledge, information and diversity of ideas by all residents of this state;
- The critical role played by public, school, special and academic libraries in providing that access;
- The major educational, cultural and economic asset that is represented in the collective knowledge and information resources of the state's libraries;
- The importance of public libraries to the democratic process; and
- That the most effective use of library resources in this state can occur only through interlibrary cooperation among all types of libraries.

(2) The legislature declares that it is the policy of this state to provide laws for the development and improvement of public libraries, school libraries and interlibrary cooperation among all types of libraries.

**History:** 1985 a. 177.

**43.01 Definitions.** In this chapter:

(1) "Department" means the department of education.

**NOTE:** Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) "Department" means the department of public instruction.

(2) "Division" means the division for libraries and community learning in the department.

(3) "Municipality" means a city, village, town, tribal government or tribal association, or a school district that maintained and operated a public library facility prior to December 17, 1971.

(4) "Network" means a formal arrangement between libraries or other informational service organizations whereby materials, information and services are exchanged and made available to potential users.

(5) "Public library system" means a system established as either a federated public library system under s. 43.19 or a consolidated public library system under s. 43.21.

(6) "Secretary" means the secretary of education.

**NOTE:** Sub. (6) is shown as repealed and recreated eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) "State superintendent" means the state superintendent of public instruction.

**History:** 1971 c. 152; 1977 c. 418; 1979 c. 347; 1983 a. 189; 1985 a. 177 ss. 4, 5; 1993 a. 335; 1995 a. 27 ss. 1967, 9145 (1).

**43.03 General duties of department.** The department shall:

**NOTE:** Section 43.03 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

**43.03 General duties of state superintendent.** The state superintendent shall:

(1) Promote, assist and plan the organization, development and improvement of school library media services to provide the resources needed for teaching and learning in the schools.

(2) Promote, assist, plan and coordinate the organization, development and improvement of public library services and public library systems to serve the needs of all citizens in the state.

(3) (a) Promote cooperation and resource sharing among public libraries, school libraries, other types of libraries and related agencies.

(b) Plan, coordinate, evaluate and set statewide priorities for the development of networks to enable library cooperation and resource sharing within this state and between this state and resource providers in other states.

(d) Submit to the council on library and network development a biennial report which describes the programs and policies carried out under pars. (a) and (b) in the preceding biennium and the programs and policies to be carried out under pars. (a) and (b) in the succeeding biennium.

(4) Plan and coordinate the provision of library services to groups with special needs, including institutional residents, the physically and mentally handicapped, the socially and economically disadvantaged and racial and ethnic minorities.

(5) Accept, on behalf of the state, grants from the federal government or any federal agency or gifts or grants from any other source to be used for the purposes designated under this chapter.

(6) Enter into an annual contract with the public library in a 1st class city for the provision of library services to physically handicapped persons, including the blind and visually handicapped, certified by competent authority as unable to read or use conventional printed materials as a result of physical limitations. For the purpose of this subsection, "competent authority" means any member of the medical or allied professions, and professional persons in the fields of public health, education, library service, rehabilitation, social work and public welfare.

(7) Contract for service with libraries and other resource providers in and outside of this state to serve as resources of specialized library materials and information not available in the reference and loan library under s. 43.05 (11).

(8) Establish procedures necessary for the internal administrative operation of the division.

(9) Develop and maintain a computer data base containing bibliographic and library holding information for all types of library materials owned by libraries throughout the state to serve

as a resource sharing tool and assist libraries in developing computerized bibliographic data bases.

(10) Disseminate information regarding appropriate continuing education activities available to librarians, library board members, library support staff and other related professionals.

History: 1979 c. 347; 1985 a. 177; 1995 a. 27.

**43.05 General duties of the division.** The division shall:

(1) Coordinate and conduct continuing education programs for librarians of school library media programs, public libraries, public library systems and institutional library programs.

(2) As it deems appropriate, assist libraries in the identification and recruitment of qualified personnel.

(3) Provide professional and technical advisory, consulting and informational services to assist:

(a) School districts establishing, maintaining or expanding school library media programs and facilities;

(b) Public libraries, municipalities establishing, maintaining or expanding public libraries, counties establishing, maintaining or expanding public library services, public library systems and their governing bodies;

(c) State agencies and officers; and

(d) Institutional library programs.

(4) Collect library statistics and conduct studies and surveys of library needs throughout the state and report and publish the findings. The research shall be coordinated with statewide library planning.

(5) Designate a librarian to serve as a coordinator of activities for state document depository libraries under ss. 35.81 to 35.835 and to fulfill its responsibilities under ss. 35.81 to 35.835.

(6) Recommend and distribute standards for school library programs and facilities to school library media programs, standards for public libraries to public library governing bodies and standards for institutional library programs to governing bodies and administrators of institutional library programs and to heads of departments, as defined under s. 15.01 (8), which administer institutional libraries.

(7) Establish standards for public library systems under s. 43.09 (2).

(8) Establish standards for and issue certificates to public librarians under s. 43.09 (1).

(9) Approve the establishment of public library systems under s. 43.13.

(10) Administer aids to public library systems under s. 43.24.

(11) Maintain a reference and loan library to supplement the collections of all types of libraries in this state by providing specialized materials not appropriately held and information sources not provided by local libraries or readily available from other area or state-level resource providers. The library shall provide specialized information services to state agency libraries and state employees, institution libraries, public library systems, public libraries, school libraries and other types of libraries according to policies developed by the division. Library and information services may include development of collections of specialized materials, interlibrary loan services, reference services, provision of data base search services and maintenance of a statewide data base of library materials. The library may contract with state agencies and libraries to provide library material cataloging and processing services.

(12) Assist the council on library and network development in the preparation of the descriptive and statistical report to be prepared by the council under s. 43.07 (5).

(13) Carry out such other programs and policies as directed by the department.

NOTE: Sub. (13) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(13) Carry out such other programs and policies as directed by the state superintendent.

History: 1979 c. 347; 1983 a. 189 s. 329 (27); 1985 a. 29, 177, 332; 1991 a. 285; 1995 a. 27.

**43.07 Council on library and network development.**

The department and the division shall seek the advice of and consult with the council on library and network development in performing their duties in regard to library service. The secretary or the administrator of the division shall attend every meeting of the council. The council may initiate consultations with the department and the division. The council shall:

NOTE: Section 43.07 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

**43.07 Council on library and network development.** The state superintendent and the division shall seek the advice of and consult with the council on library and network development in performing their duties in regard to library service. The state superintendent or the administrator of the division shall attend every meeting of the council. The council may initiate consultations with the department and the division. The council shall:

(1) Make recommendations to the division in regard to the development of standards for the certification of public librarians and standards for public library systems under s. 43.09.

(2) Advise the secretary in regard to the general policies and activities of the state's program for library development, interlibrary cooperation and network development.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) Advise the state superintendent in regard to the general policies and activities of the state's program for library development, interlibrary cooperation and network development.

(3) Advise the secretary in regard to the general policies and activities of the state's program for the development of school library media programs and facilities and the coordination of these programs with other library services.

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) Advise the state superintendent in regard to the general policies and activities of the state's program for the development of school library media programs and facilities and the coordination of these programs with other library services.

(4) Hold a biennial meeting for the purpose of discussing the report submitted by the department under s. 43.03 (3) (d). Notice of the meeting shall be sent to public libraries, public library systems, school libraries and other types of libraries and related agencies. After the meeting, the council shall make recommendations to the department regarding the report and any other matter the council deems appropriate.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) Hold a biennial meeting for the purpose of discussing the report submitted by the state superintendent under s. 43.03 (3) (d). Notice of the meeting shall be sent to public libraries, public library systems, school libraries and other types of libraries and related agencies. After the meeting, the council shall make recommendations to the state superintendent regarding the report and any other matter the council deems appropriate.

(5) On or before July 1 of every odd-numbered year, transmit to the department a descriptive and statistical report on the condition and progress of library services in the state and recommendations on how library services in the state may be improved. The department shall include the report as an addendum to the department's biennial report under s. 15.04 (1) (d).

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) On or before July 1 of every odd-numbered year, transmit to the state superintendent a descriptive and statistical report on the condition and progress of library services in the state and recommendations on how library services in the state may be improved. The state superintendent shall include the report as an addendum to the department's biennial report under s. 15.04 (1) (d)

(6) Review that portion of the budget of the department relating to library service. Recommendations of the council in regard

to the budget shall accompany the department's budget request to the governor.

(7) Receive complaints, suggestions and inquiries regarding the programs and policies of the department relating to library and network development, inquire into such complaints, suggestions and inquiries, and advise the secretary and the division on any action to be taken.

NOTE: Sub. (7) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(7) Receive complaints, suggestions and inquiries regarding the programs and policies of the department relating to library and network development, inquire into such complaints, suggestions and inquiries, and advise the state superintendent and the division on any action to be taken.

History: 1979 c. 347; 1983 a. 524; 1985 a. 177; 1995 a. 27.

**43.09 Certificates and standards. (1) PUBLIC LIBRARIANS.** The division shall issue certificates to public librarians and promulgate, under ch. 227, necessary standards for public librarians. The qualifications for public librarians shall be based on education, professional training and experience. Certificates already granted prior to December 17, 1971, shall remain in effect.

(2) PUBLIC LIBRARY SYSTEMS. The division, by rule, shall promulgate necessary standards for public library systems. Such rules shall be consistent with s. 43.15 and shall be established in accordance with ch. 227, except that the division shall hold a public hearing prior to adoption of any proposed rule. In addition to the notice required under s. 227.17, the division shall endeavor to notify each public library of such public hearings. Standards for public library systems shall be based on the population served, adequacy of the buildings and physical facilities, the qualifications and number of personnel, book resources and other library materials, financial support and such other standards as the division finds necessary to ensure adequate library service.

History: 1971 c. 152; 1979 c. 347; 1985 a. 177; 1985 a. 182 s. 57.

**43.11 County library planning committees. (1) CREATION.** Any county board may appoint a county library planning committee under this section. If a county board, in a county where all public library service is administered or coordinated by an existing library board, determines to appoint a committee under this section, the existing library board shall serve as the county library planning committee. The county board shall notify the division immediately upon appointment of the committee.

(2) ORGANIZATION. (a) The county library planning committee shall be composed of not less than 7 nor more than 15 members. The residence of members shall reflect the population distribution within the county. The membership shall include representatives of existing public libraries in the county. One member only shall be a member of the county board. Appointments shall be for 3 years or until the committee's final report is accepted by the county board and the division, whichever occurs first.

(b) Annually, the committee shall select a chairperson, vice chairperson and secretary from its membership. The committee shall meet at least once every 3 months and more often on the call of the chairperson or a majority of its members.

(3) DUTIES. (a) The committee shall investigate the potential of a public library system in the county and adjacent counties, and prepare a plan for the organization of a county or multicounty system. It shall conduct public hearings to which representatives of all libraries in the county shall be invited and shall cooperate with similar committees of adjoining counties for the purpose of planning multicounty public library systems.

(b) The committee's final report, including a plan for initial and long-range services and copies of any written agreements necessary to implement the proposed system, shall be filed with the county board and submitted to the division. Plans for multicounty systems shall include a method for allocating system board membership among the member counties.

(c) The plan of library service for a county, whether for a single county or a multicounty system, shall provide for library services

to residents of those municipalities in the county not maintaining a public library under this chapter. The services shall include full access to public libraries in the county participating in the public library system and may include books-by-mail service, bookmobile service, the establishment of additional libraries or other services deemed appropriate by the committee. Services may be provided by contracting with existing public libraries in the county or in adjacent counties or with the public library system or by creating a county library organization under this chapter. The plan of library service for a county may provide for improving public library service countywide and in municipalities that have libraries. The plan shall specify the method and level of funding to be provided by the county to implement the services described in the plan and shall describe the services to be provided by the public library system and the allocation of state and county aid to fund those services.

(4) DISSOLUTION. The committee shall be dissolved either after 3 years or when its final report has been accepted both by the division and the county board, whichever occurs first.

History: 1971 c. 152; 1981 c. 20; 1985 a. 29, 177; 1993 a. 184.

**43.13 Division review. (1)** (a) No public library system may be established without the approval of the division. In reviewing final reports submitted by county library planning committees, the division shall consider, in addition to the standards set forth in s. 43.15, the proposed system territory, organization and financing, initial and long-range plans for library services, the role of existing multi-jurisdictional service programs in the territory and plans for cooperation with adjoining systems and with other kinds of libraries in the territory.

(b) If the division approves a final report, it shall report such approval to the appropriate county boards and county library planning committees. Upon acceptance by the county boards, the division shall certify to the appropriate county boards the establishment of the public library system proposed by the report, specifying the effective date of the establishment of the system.

(2) A public library system board may submit to the division a plan for the alteration in the territory included within the system or for a change in system organization from a federated to a consolidated system or vice versa. If the change proposed by the plan is approved, the division shall certify such fact to the system board, specifying the effective date of the change.

(3) The effective date of the establishment of a system under sub. (1) or of a change under sub. (2) shall be January 1 of the year specified by the division, except that the effective date of the establishment of a system approved prior to March 1, 1972, may be either January 1 or March 1, 1972.

(4) Any decision by the division under this section may be appealed to the department.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) Any decision by the division under this section may be appealed to the state superintendent.

History: 1971 c. 152; 1995 a. 27.

**43.15 Standards for public library systems.** A public library system shall not be established unless it meets the requirements under this section.

(1) POPULATION. The territory within the system shall:

(a) Contain at least one public library established under s. 43.52 in a city which, at the time of the system's establishment, has a population of more than 30,000. Any contractual arrangement existing on December 17, 1971, among a number of units of government whose territory consists of at least 3,500 square miles, and under which a multi-jurisdictional library service program is operated, which meets the requirements of this section other than the requirement for a city having a population of 30,000 or more shall be deemed to meet such requirement.

(b) Have, at the time of its establishment, a population of 85,000 or more. Temporary certification shall be given to those

systems which the 1970 census shows to have a population of at least 80,000. After January 1, 1981, no new system may be established, nor may a system be continued under temporary certification, containing territory having a total population of less than 85,000.

**(2) FINANCIAL SUPPORT.** (a) Each county proposed to be included within a system shall demonstrate, to the satisfaction of the division, its ability to provide adequate funding to implement the plan submitted under s. 43.11 (3) and the report submitted under s. 43.13 (1).

(b) The county shall maintain its support for library services at a level not lower than the average of the previous 3 years.

(c) If a city, village, town or school district that contributed to the county tax in the previous year is granted an exemption from the county tax under s. 43.64 (2) for the current year, the 3-year average under par. (b) shall be calculated as follows:

1. Subtract the previous year's equalized valuation of that portion of the city, village, town or school district that is located in the county from the previous year's equalized valuation of the county.

2. Divide the remainder under subd. 1. by the previous year's equalized valuation of the county.

3. Multiply the quotient under subd. 2. by the county's average support for library services for the previous 3 years.

(d) For the year following a year for which an exemption is granted under s. 43.64 (2), the product calculated under par. (c) 3. shall be the amount used as the annual county support level for the 2 preceding years for the purpose of calculating the 3-year average under par. (b). For the 2nd year following a year for which an exemption is granted under s. 43.64 (2), the product calculated under par. (c) 3. shall be the amount used as the annual county support level for the 2nd year preceding the year for which the exception is granted for the purpose of calculating the 3-year average under par. (b).

(e) The division shall adjust the 3-year average requirement under par. (b) in any year, as necessary, to reflect the cost savings resulting from the consolidation or sharing of library services if the county does all of the following:

1. Demonstrates, to the satisfaction of the division, that the county's support for library services is or will be lower than otherwise required by par. (b) because library services supported by the county have been or will be consolidated or shared.

2. Submits a plan demonstrating, to the satisfaction of the division, that services to library patrons following the consolidation or sharing of services will be at least substantially equivalent to the services available to patrons before the consolidation or sharing.

**(3) TERRITORY INCLUDED.** (a) A consolidated system shall consist of one county only. A federated system shall consist of one or more counties.

(b) No more than one system may be established within a single county. If the territory of a municipality lies in 2 or more counties which are not in the same public library system, the municipal library board or, if no such board exists, the municipal governing body shall determine the system in which the municipality will participate.

**(4) METHOD OF ORGANIZATION.** (a) A public library system may be organized as a single-county federated public library system, a multicounty federated public library system or a single-county consolidated public library system. A single-county public library system, whether federated or consolidated, may become part of a multicounty federated public library system by written agreement of the county board.

(b) A county may participate in a federated public library system if it does all of the following:

1. Adopts and maintains the plan of library service submitted and approved under ss. 43.11 (3) and 43.13 (1).

2. Provides the financial support for library services required under sub. (2).

3. Enters into a written agreement with the public library system board to participate in the system and its activities and to furnish library services to residents of those municipalities in the county not maintaining a public library.

(c) A municipal, county or joint public library may participate in a public library system if it meets all of the following requirements:

1. Is established under this chapter.

2. Is located in a county that participates in a public library system.

3. Is authorized by its municipal governing body or county board to participate in the public library system.

4. Enters into a written agreement with the public library system board to participate in the system and its activities, to participate in interlibrary loan of materials with other system libraries and to provide, to any resident of the system area, the same library services, on the same terms, that are provided to the residents of the municipality or county that established the member library. This subdivision does not prohibit a municipal, county or joint public library from giving preference to its residents in library group programs held for children or adults if the library limits the number of persons who may participate in the group program.

5. Receives funding from the municipal or county governing body at a level that is not lower than the average of such funding received for the previous 3 years.

6. Employs a head librarian holding current public library certification from the department of education.

**NOTE:** Subd. 6. is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

6. Employs a head librarian holding current public library certification from the department of public instruction.

(d) A county may establish a consolidated public library system in which the included county and its underlying communities form a single system. The county may, for such purposes, take over and acquire any library property by consent of the authority controlling that property.

(e) The division shall adjust the 3-year average requirement under par. (c) 5. in any year, as necessary, to reflect the cost savings resulting from the consolidation or sharing of library services if the municipal governing body or county board does all of the following:

1. Demonstrates, to the satisfaction of the division, that the funding provided by the municipality or county for library services is or will be lower than otherwise required by par. (c) 5. because library services for which the funding is appropriated have been or will be consolidated or shared.

2. Submits a plan demonstrating, to the satisfaction of the division, that services to library patrons following the consolidation or sharing of services will be at least substantially equivalent to the services available to patrons before the consolidation or sharing.

**History:** 1971 c. 152; 1981 c. 197; 1985 a. 29, 177; 1987 a. 399; 1989 a. 286; 1991 a. 269; 1995 a. 27 s. 9145 (1); 1995 a. 270.

A county having a population in excess of 85,000 and which does not presently operate and maintain a library but which contains a city of over 30,000 operating a library, can establish a single-county federated library system. Secs. 43.15 (4) (a) and 43.19. 63 Atty. Gen. 142.

**43.16 Resource libraries. (1)** (a) Each public library system shall have at least one system resource library. Annually, prior to the expiration of its agreement with its existing system resource library, the public library system board shall negotiate with the member public library with the largest annual operating budget of all member libraries to serve as a system resource library in the following year. If the board and the proposed resource library are unable to reach an agreement for the following year before the expiration date of any existing agreements with

resource libraries, the existing agreements shall be extended for one year or until an agreement is reached with that proposed resource library, whichever occurs earlier. The division shall notify the public library system board, the existing resource libraries and the proposed resource library of the extension and, during the period of extension, shall attempt to mediate an agreement between the public library system board and the proposed resource library. If the division determines that the public library system board and the proposed system resource library are unable to reach an agreement before the end of the one-year period, the division shall propose an alternative agreement, which shall be binding if it is acceptable to the proposed system resource library. If the alternative agreement is unacceptable to the proposed system resource library, the board shall negotiate with the member public library with the next largest annual operating budget of all member public libraries to serve as a system resource library in the following year.

(am) An existing contract may be extended under par. (a) only if it was entered into on or after May 8, 1990.

(b) The procedure under par. (a) shall be repeated with member public libraries in decreasing order of the size of their annual operating budgets until an agreement is reached with a member public library to serve as a system resource library. Except as provided in par. (a), no agreement may extend beyond December 31 of any year.

(2) If the member public library selected to serve as a system resource library under sub. (1) fails to meet all of the following requirements, the system board shall enter into a supplementary contract with the academic library with the largest operating budget of all academic libraries in the system area, or with a resource library in an adjacent system, that meets all of the following requirements:

- (a) The library has a collection of at least 100,000 volumes.
- (b) The library is open to the public at least 50 hours each week.
- (c) The library employs at least one full-time, permanent referential librarian with a master's degree in library science.

**History:** 1989 a. 286.

#### 43.17 Public library systems; general provisions.

(1) **BOARD TERMS.** Every public library system shall be governed by a board appointed under s. 43.19 or 43.21. No person employed by a public library that is a member of a public library system may be appointed to the public library system board. Upon the initial establishment of a board, the members shall be divided as nearly as possible into 3 equal groups to serve for terms expiring on January 1 of the 2nd, 3rd and 4th years, respectively, following their appointment. Thereafter, regular terms shall be for 3 years and shall commence on January 1. Vacancies shall be filled for the unexpired term in the same manner as regular appointments are made.

(2) **BOARD ORGANIZATION AND MEETINGS.** As soon as practicable after the initial establishment of a system, and thereafter in January of each year, the board shall organize by the election, from among its members, of a president and such other officers as it deems necessary. The board shall meet at least once every 2 months.

(3) **FISCAL YEAR.** The fiscal year of each federated public library system whose territory lies within 2 or more counties shall be the calendar year.

(4) **SYSTEM ADMINISTRATION.** Notwithstanding ss. 59.17 (2) (br) and 59.18 (2) (b), responsibility for administration of a public library system shall vest in a head librarian who shall be appointed by and directly responsible to the public library system board.

(5) **ANNUAL REPORT.** Annually, at the time required by the division, each public library system shall report to the division on its operations, expenditures and territory served during the preceding year, shall submit a plan describing the program for library

service to be carried out in the subsequent year and shall furnish such other information as the division requires.

(6) **COOPERATIVE SERVICES.** A public library system may contract with another such system, or with other libraries, library organizations or resource centers within this state or in adjacent states, to provide or receive library services.

(7) **EXISTING EMPLOYEES.** No person employed by a participating public library at the time of the establishment of a public library system shall lose, because of such establishment, any salary, fringe benefit or other employment rights in existence at that time.

(8) **RETIREMENT.** If any employe of a participating employer under the Wisconsin retirement system becomes, by virtue of the establishment of a public library system, an employe of that library system, the library system shall become a participating employer under the Wisconsin retirement system.

(9) **CONTRACTS, BIDDING AND BORROWING.** (a) All contracts for public construction, the estimated cost of which exceeds \$5,000, made by a federated public library system whose territory lies within 2 or more counties or by a federated public library system whose territory lies within a single county with a population of at least 500,000 shall be let by the public library system board to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For purposes of this section, the system board possesses the powers conferred by s. 62.15 on the board of public works and the common council. All contracts made under this section shall be made in the name of the federated public library system and shall be executed by the system board president and such other board officer as the system board designates.

(b) A public library system board of a multicounty library system may borrow money to accomplish any of its purposes, but the outstanding amount of such loans at any time may not exceed an amount equal to the system board's receipts for the prior fiscal year.

(10) **BORROWERS' CARDS.** Except as provided in sub. (11), all public libraries in a public library system shall honor the valid borrowers' cards of a public library in an adjacent public library system, other than the Milwaukee county federated library system. The requirement under this subsection does not apply to the Milwaukee county federated library system.

(11) **COST OF LENDING SERVICES.** (a) In this subsection, "loan" means a unit of service that involves the checking out of a single item from a library to an individual for use outside the library for a specific period of time.

(b) A public library in a public library system may refuse to honor valid borrowers' cards of a public library in an adjacent public library system if the total amount of the reimbursement received by the public library for the preceding year from that adjacent public library system, and from counties and municipalities that are located in that adjacent public library system, is less than the adjusted cost incurred for that year by the public library in honoring these cards.

(c) For purposes of par. (b), the adjusted cost shall be calculated by determining the actual cost for each loan incurred by the public library honoring the cards for a given year in the manner provided by the rules promulgated by the department under s. 43.24 (2) (n) and multiplying that amount by the remainder calculated by subtracting 500 from the total number of loans made in that year by the public library to borrowers from the adjacent public library system. For purposes of this paragraph, a renewal of a loan constitutes a separate loan.

(d) Any reimbursement made by a county under par. (b) may not result in a reduction in the level of support for public library services provided by that county to residents of that county.

(e) If a public library in a given public library system refuses to honor the valid borrowers' cards from an adjacent public library system, annual meetings shall be held between representatives of

the affected public library systems to discuss the resulting lack of services to the affected borrowers and the costs of providing such services. The affected public library systems shall provide the division with written minutes of these meetings.

**History:** 1971 c. 152; 1981 c. 96; 1985 a. 29, 176, 177; 1985 a. 332 s. 253; 1989 a. 286; 1991 a. 272; 1993 a. 383; 1995 a. 201.

**43.18 Withdrawal, abolition and expulsion. (1) WITHDRAWAL.** Not less than 3 years after affiliating with a public library system, a participating municipality or a county may withdraw from the system by adoption of a resolution by a two-thirds vote of its governing body under pars. (a) and (b), if the resolution is adopted at least 6 months prior to the close of the system's fiscal year. The resolution shall become effective at the close of the system's fiscal year.

(a) With the approval of the governing body of each participating municipality in the county, a county may withdraw from a federated public library system whose territory lies within 2 or more counties.

(b) A participating municipality may withdraw from a federated public library system.

(c) In this subsection, "participating municipality" means a municipality that operates a public library and is a member of a public library system.

**(2) ABOLITION.** A county may abolish a public library system whose territory lies only within that county, except that a county containing a 1st class city may abolish such a public library system only with the consent of the municipalities within the system.

**(2m) EXPULSION.** With the approval of the division, a public library system may expel, or reduce aids or services to, a municipality or county that fails to meet the requirements under s. 43.15 (2) or (4).

**(3) PROCEDURE.** (a) Prior to taking any action to abolish or withdraw under this section, the county board or other municipal governing body shall hold a public hearing on the proposed action and shall publish a class 1 notice, under ch. 985, of the hearing. Notice of the hearing also shall be given by registered mail not less than 30 days prior to the hearing to the governing body of every other municipality and county participating in the public library system, to the public library system board and to the division.

(b) A municipality or county withdrawing or expelled under this section from a public library system is responsible for its allocated share of the outstanding liabilities of the system on the effective date of its withdrawal or expulsion.

(c) Upon taking final action under this section to withdraw from or abolish a public library system, the county board or other municipal governing body shall give notice, by registered mail, of the action taken to the governing body of every other municipality and county participating in the public library system, to the public library system board and to the division.

(d) Prior to expelling a municipality or county from a public library system, the system board shall notify the municipality or county and the division, by registered mail, of the reason for the action under consideration and shall hold a public hearing concerning the action. The system board shall file a plan for alteration of the system territory under s. 43.13 (2) by November 15 of the year preceding the year in which the expulsion will take effect under s. 43.13 (3) and the division shall adjust state aid under s. 43.24 accordingly.

(e) A municipality or county that has withdrawn or that has been expelled from a public library system may participate in a public library system only by fulfilling the requirements for initial participation.

**History:** 1971 c. 152; 1981 c. 197; 1985 a. 29.

**43.19 Federated public library systems. (1)** (a) In a federated public library system whose territory lies within a single county, the system board shall consist of 7 members appointed by the county board. At least 3 members of the system board, at the time of their appointment, shall be active voting members of

library boards governing public libraries of participating municipalities, and at least one of these shall be a member of the library board governing the resource library. At least one but not more than 2 members of the county board shall be members of the system board at any one time.

(b) In a federated public library system whose territory lies within 2 or more counties, the system board shall consist of at least 15 and not more than 20 members appointed by the county boards, acting jointly. Appointments shall be in proportion to population as nearly as practical, but each county shall be represented by at least one member on the system board. Each county board may appoint one county board member to the system board. The public library board governing the designated resource library shall have at least one member on the system board. The remaining system board members shall include such representatives of the library boards governing public libraries of participating municipalities and counties and public members appointed from the counties at large as the county board determines.

**(2)** (a) Except as otherwise provided in this paragraph, a federated public library system whose territory lies within a single county shall be deemed an agency of the county and a federated public library system whose territory lies within 2 or more counties shall be deemed a joint agency of those counties. A federated public library system whose territory lies within 2 or more counties constitutes a separate legal entity for the purposes of having the exclusive custody and control of all system funds, holding title to and disposing of property, constructing, enlarging and improving buildings, making contracts and suing and being sued. A federated public library system whose territory lies within a single county with a population of 500,000 or more constitutes a separate legal entity solely for the purposes of having the exclusive custody and control of all system funds, making contracts and providing benefits to its employees under ch. 40.

(b) A federated public library system board shall have the powers of a public library board under s. 43.58 with respect to system-wide functions and services. The local library boards shall retain responsibility for their public libraries in all other areas.

**History:** 1971 c. 152; 1985 a. 177; 1993 a. 383.

Federated library systems discussed. 73 Atty. Gen. 60.

**43.21 Consolidated public library systems. (1)** In a consolidated public library system, the system board shall consist of 7 or 9 members appointed by the county board. In the initial appointment of a system board, at least 3 members of the system board, at the time of their appointment, shall be active voting members of library boards governing public libraries consolidated into the system. At least one but not more than 2 members of the county board shall be members of the system board at any one time.

**(2)** (a) A consolidated public library system shall be deemed an agency of the county by which created.

(b) A consolidated public library system board shall have the powers of a library board under ss. 43.58 and 43.60 and shall be responsible for the total program of public library service for the system territory.

**(3)** If it is consistent with the terms thereof, a gift, bequest or endowment to a public library becoming part of a consolidated public library system may be taken over by the system board. The system board shall maintain the gift, bequest or endowment for the benefit of the library to which it was given.

**History:** 1971 c. 152; 1985 a. 177 ss. 23, 71; 1993 a. 241.

**43.24 State aid. (1)** Each public library system shall be paid state aid for the operation and maintenance of the system. The amount paid to each system shall be determined as follows:

(a) The total of the following shall be calculated for each system:

2. For each square mile of territory within a system, \$7 in the 1993–94 fiscal year and \$8 in each fiscal year thereafter in a single-county system, and \$19 in the 1993–94 fiscal year and \$20

in each fiscal year thereafter in a system containing 2 or more counties.

3. An amount equal to 4% of the total operating expenditures for public library services in territory within the system from local and county sources in the calendar year ending in the fiscal year immediately preceding the fiscal year for which aids are to be paid.

(b) 1. The total amount calculated for all systems in the state, as determined under par. (a), shall be subtracted from the amount remaining for public library systems in the appropriation under s. 20.255 (3) (e) after such aids have been calculated.

2. The result obtained under subd. 1. shall be divided by the total number of persons residing in territory within all systems in the state.

3. The quotient under subd. 2. shall be multiplied by the number of persons residing in each system.

(c) The amounts determined under pars. (a) and (b) shall be paid to each system.

(2) For a public library system to qualify for and maintain its eligibility for state aid under this section it shall ensure that all of the following are provided:

(a) Interlibrary loan of materials among all participating public libraries, as evidenced by agreements with those libraries.

(b) Backup reference and interlibrary loan services from the system resource library, including the development of and access to specialized collections, as evidenced by a written agreement with that library.

(c) The establishment of agreements to provide, to any resident of the system area, the same library services, on the same terms, that are provided to the residents of the municipality or county that established the member library, except for the group program preference authorized under s. 43.15 (4) (c) 4.

(d) Referral or routing of reference and interlibrary loan requests from libraries within the system to libraries within and outside the system, as evidenced by a plan and service program.

(e) In-service training for participating public library personnel within the system as evidenced by a plan and a service program.

(f) Rapid and regular delivery and communication systems for participating public libraries as evidenced by a written plan and service program.

(g) Service agreements with all adjacent library systems as evidenced by the agreements.

(h) Professional consultant services to participating public libraries and counties as evidenced by a written plan and a service program.

(j) Continuous planning with the division and with participating public libraries and counties in the area in regard to developing the library materials collection to meet the service needs as evidenced by a written collection development plan.

(k) Continuous planning with the division and with participating public libraries and counties in the areas in regard to providing service to users with special needs and the coordination and implementation of a plan of service as evidenced by the written plan and documentation of its implementation.

(L) Cooperation and continuous planning with other types of libraries in the system area, which results in agreements with those libraries for the appropriate sharing of library resources to benefit the clientele of all libraries in the system area and a written plan for furthering cooperative activities among all types of libraries.

(m) Continuous planning with the division and with participating public libraries and counties in the area in regard to the library automation and technical services as evidenced by a written plan.

(n) That, if the system reimburses a participating public library for the costs of providing interlibrary borrowing services to an individual who holds a valid borrower's card of another participating public library, the reimbursement shall not exceed the

actual costs incurred by the public library in providing such services. The department shall promulgate rules for determining actual costs for the purposes of this paragraph.

(3) Annually, the division shall review the reports and proposed service plans submitted by the public library systems under s. 43.17 (5) for conformity with this chapter and such rules and standards as are applicable. Upon approval, the division shall certify to the department of administration an estimated amount to which each system is entitled under this section. Annually on or before December 1 of the year immediately preceding the year for which aids are to be paid, the department of administration shall pay each system 75% of the certified estimated amount from the appropriation under s. 20.255 (3) (e). The division shall, on or before the following April 30, certify to the department of administration the actual amount to which the system is entitled under this section. On or before July 1, the department of administration shall pay each system the difference between the amount paid on December 1 of the prior year and the certified actual amount of aid to which the system is entitled from the appropriation under s. 20.255 (3) (e). The division may reduce state aid payments when any system or any participant thereof fails to meet the requirements of sub. (2). Beginning September 1, 1991, the division may reduce state aid payments to any system if the system or any participant in the system fails to meet the requirements of s. 43.15 (4).

(3m) If the appropriation under s. 20.255 (3) (e) in any one year is insufficient to pay the full amount under sub. (1), state aid payments shall be prorated among the library systems entitled to such aid.

(4) The division shall assure through an annual audit and adjustment of aids, as necessary, that no more than 20% of the funds received by systems are used for administrative purposes.

(5) Any interest earned from the investment of state aid paid to each public library system under sub. (3) shall be allocated to the library system receiving the aid payments.

**History:** 1971 c. 152; 1971 c. 211 s. 126; 1971 c. 336; 1973 c. 243 s. 82; 1977 c. 29; 1979 c. 34, 347; 1981 c. 20; 1983 a. 27 s. 2202 (42); 1985 a. 29, 177; 1989 a. 21, 286; 1991 a. 272; 1993 a. 16, 490; 1995 a. 27, 225.

#### 43.27 Distribution of materials from reference and loan collection to public library systems.

The division may disperse to public library systems, without charge, materials from the collection of the reference and loan library that the division determines are not appropriately held in the collection of the reference and loan library.

**History:** 1979 c. 347; 1993 a. 335.

#### 43.30 Public library records. (1) Records of any library

which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library's documents or other materials, resources or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records or to libraries as authorized under subs. (2) and (3).

(2) A library supported in whole or in part by public funds may disclose an individual's identity to another library for the purpose of borrowing materials for the individual only if the library to which the individual's identity is being disclosed meets at least one of the following requirements:

(a) The library is supported in whole or in part by public funds.  
 (b) The library has a written policy prohibiting the disclosure of the identity of the individual except as authorized under sub. (3).

(c) The library agrees not to disclose the identity of the individual except as authorized under sub. (3).

(3) A library to which an individual's identity is disclosed under sub. (2) and that is not supported in whole or in part by public funds may disclose that individual's identity to another library for the purpose of borrowing materials for that individual only if

the library to which the identity is being disclosed meets at least one of the requirements specified under sub. (2) (a) to (c).

**History:** 1981 c. 335; 1991 a. 269.

**43.52 Municipal libraries. (1)** Any municipality may establish, equip and maintain a public library, and may annually levy a tax or appropriate money to provide a library fund, to be used exclusively to maintain the public library. The municipality may enact and enforce police regulations to govern the use, management and preservation of the public library. Any municipality desiring to establish a new public library shall obtain a written opinion by the division regarding the feasibility and desirability of establishing the public library before final action is taken. The division shall render its opinion within 30 days of the time the request is received.

**(1m)** On and after April 10, 1986, any town desiring to establish a new public library or participate in a joint library under s. 43.53 shall in addition to the requirement under sub. (1) obtain the approval of the county library board, if one exists, and the county board of supervisors before final action is taken. The county library board and the county board of supervisors shall render decisions within 90 days of the request being received.

**(2)** Every public library shall be free for the use of the inhabitants of the municipality by which it is established and maintained, subject to such reasonable regulations as the library board prescribes in order to render its use most beneficial to the greatest number. The library board may exclude from the use of the public library all persons who wilfully violate such regulations.

**(3)** Any municipality may purchase or acquire one or more sites, erect one or more buildings and equip the same for a public library or any library already established; or may adopt, take over and acquire any library already established, by consent of the authorities controlling the same.

**(4)** A municipal library may contract with library organizations within this state or in adjacent states to provide or receive library services.

**History:** 1971 c. 152 s. 16; 1977 c. 418; 1985 a. 177 ss. 26 to 28, 47; 1989 a. 286.

Library can charge user fees for any services that fall outside of a library's inherent information-providing functions; core "library services" must be provided free of charge to the inhabitants of the municipality. 73 Atty. Gen. 86.

Municipal libraries may not charge fee for lending video cassettes which are part of reasonable permanent collection but may charge for lending additional copies. Municipal libraries may not charge fee for online searching of bibliographic or informational databases. 78 Atty. Gen. 163.

**43.53 Joint libraries. (1)** Joint libraries may be created by any 2 or more municipalities or by a county and one or more municipalities located in whole or in part in the county, by appropriate agreement of their governing bodies. Section 43.52 applies to joint libraries.

**(2)** Joint library agreements under sub. (1) shall contain provisions necessary to establish a library board under s. 43.54, perform the duties under s. 43.58 and own and operate the physical facilities.

**(3)** A joint library may not be established unless it includes at least one municipality with a public library established before May 8, 1990.

**History:** 1971 c. 152 s. 19; Stats. 1971 s. 43.56; 1985 a. 177 ss. 33, 34; Stats. 1985 s. 43.53; 1989 a. 286; 1995 a. 270.

**43.54 Municipal library board composition. (1)** (a) Each public library established under s. 43.52 shall be administered by a library board composed in each city of the 2nd or 3rd class or school district of 9 members, in each city of the 4th class of 7 members and in each village, town, tribal government or tribal association of 5 members. Two additional members may be appointed to a library board for a village, town, tribal government or tribal association so that the board has 7 members. Members shall be residents of the municipality, except that not more than 2 members may be residents of towns adjacent to the municipality. Members shall be appointed by the mayor, village president, town chairperson, tribal chairperson or school board chairperson,

respectively, with the approval of the municipal governing body. Up to 2 additional members may be appointed under s. 43.60 (3).

**(am)** Each public library established in a 1st class city shall be administered by a library board consisting of the president of the board of school directors or his or her designee, the superintendent of schools or his or her designee, a member of the county board of supervisors who resides in the county but outside the city, 3 alderpersons and 6 public members. The county board member shall be appointed by the county executive or county administrator and confirmed by the county board for a 4-year term commencing on May 1. The 3 alderpersons shall be appointed by the mayor on the 3rd Tuesday in April from among those alderpersons serving 4-year terms and shall serve on the library board during their aldermanic terms. The 6 public members shall be residents of the city. Five of the public members shall be appointed by the mayor on the 3rd Tuesday in April to staggered 4-year terms. One of the public members appointed by the mayor under this paragraph shall be designated by the mayor as his or her representative on the board. One public member shall be appointed by the president of the common council on the 3rd Tuesday in April for a 4-year term. The public member appointed by the president of the common council under this paragraph shall be designated by the president of the common council as his or her representative on the board.

**(b)** Upon their first appointment, the members shall be divided as nearly as practicable into 3 equal groups to serve for 2-, 3- and 4-year terms, respectively. Thereafter, each regular appointment shall be for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

**(c)** The appointing authority shall appoint as one of the members a school district administrator, or the administrator's representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall at any one time be a member of the library board.

**(d)** No compensation shall be paid to the members of a library board for their services, except as follows:

1. Members may be reimbursed for their actual and necessary expenses incurred in performing duties outside the municipality if so authorized by the library board.

2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the library board and the municipal governing body.

**(e)** A majority of the membership of a library board constitutes a quorum, but any such board may, by regulation, provide that 3 or more members thereof shall constitute a quorum. For library boards organized under par. (am), 7 members constitute a quorum.

**(1m)** (a) Boards appointed for joint libraries under s. 43.53 shall:

1. Consist of 7 to 11 members and be representative of the populations of the participating municipalities.

2. Be appointed by the head of the municipal governing body of each participating municipality and county board chairperson of the participating county.

**(b)** Subsections (1) (b) to (e) and (2) apply to joint library boards.

**(2)** As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 30 days after the time designated in this section for the beginning of terms, the members of the library board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

**(3)** In any city of the 2nd or 3rd class, the common council may, by a two-thirds vote, provide for the reduction of the number of appointive members of the library board to 7. Thereupon, whenever a term expires or a vacancy occurs, no appointment shall be made until the number of such members has been so reduced, whereupon the remaining members shall be by lot divided by the common council into 3 classes, 3 to serve for 3

years, 2 to serve for 2 years and 2 to serve for one year, respectively, from the date of such completed reduction, and thereafter each regular appointment shall be for a term of 3 years, from the succeeding July 1.

**History:** 1971 c. 152 ss. 19, 20; 1977 c. 418; 1981 c. 197; 1983 a. 27, 192, 214, 538; 1985 a. 177; 1987 a. 286; 1991 a. 269, 316; 1993 a. 184.

**43.57 Consolidated county libraries and county library services. (1)** CONSOLIDATED COUNTY LIBRARIES. (a) A county board may establish and maintain a consolidated public library for the county, and may for such purpose adopt, take over and acquire any libraries already established, by consent of the authorities controlling those libraries.

(b) If it is consistent with the terms thereof, a gift, bequest or endowment to a public library becoming a part of a consolidated county library may be taken over by the county library board. The county library board shall maintain the gift, bequest or endowment for the benefit of the library to which it was given.

(c) A consolidated county library may become part of a federated multicounty system organized under s. 43.19.

(d) A consolidated county library may contract with library organizations within this state or in adjacent states to provide or receive library services.

**(2)** JOINT LIBRARIES. A county board may authorize the formation of a joint library under s. 43.53 and may participate in a joint library board under s. 43.54.

**(3)** COUNTY LIBRARY SERVICES. A county board may establish and maintain a county library service to serve the residents of the county who do not live in municipalities that have established libraries under s. 43.52 or 43.53 or to improve the library services of municipal libraries established under s. 43.52 or 43.53. The county library service may operate a library or library service program or may contract with library organizations within this state or in adjacent states for services.

**(4)** BOARD APPOINTMENT. (a) In a county with a consolidated county library under sub. (1), the county board chairperson shall, with the approval of the county board, appoint a 7–member or 9–member county library board.

(b) In a county operating a county library service under sub. (3), the county board chairperson shall, with the approval of the county board, appoint a 7–member library board.

(c) Boards appointed under pars. (a) and (b) shall include at least one school district administrator of a school district located in whole or in part in the county, or that school district administrator's designee, and one or 2 county board supervisors. Boards appointed under par. (b) shall include, in addition, representatives of existing library boards under s. 43.54 and persons residing in municipalities not served by libraries.

(d) Boards appointed under pars. (a) and (b) have the powers and duties of a library board under s. 43.58.

**(5)** TERMS OF OFFICE, COMPENSATION, OFFICERS, DUTIES. (a) Upon the initial establishment of a board under sub. (4) (a) or (b), the members shall be divided as nearly as practicable in 3 equal groups to serve for 2–, 3– and 4–year terms, respectively, following their appointment. Thereafter, terms shall be for 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

(b) No compensation shall be paid to the members of a board under sub. (4) (a) or (b) for their services, except as follows:

1. Members may be reimbursed for their actual and necessary expenses incurred in performing their duties if so authorized by the board.

2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the board and the county board.

(c) A majority of the membership of a board under sub. (4) (a) or (b) constitutes a quorum, but any such board may, by resolution, provide that 3 or more members constitute a quorum.

(d) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 30 days after the beginning of terms, the members of the board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

(e) Section 43.52 (2) applies to consolidated county libraries and county library services.

(f) A library organized under this section may participate in a public library system subject to s. 43.15.

**(6)** GIFTS AND GRANTS. Any county may receive, by bequest or gift, property for the purpose of establishing a public library for the county and may enter into an agreement to maintain a public library in consideration thereof, and shall be bound to faithfully perform such agreement. In such case the library board appointed under s. 43.57 (4) or, in the absence of a library board, the county board may properly administer the same.

**History:** 1971 c. 152 s. 25; Stats. 1971 s. 43.57; 1981 c. 282 s. 47; 1985 a. 177 ss. 35 to 41, 51; 1989 a. 286; 1993 a. 241; 1995 a. 354.

**43.58 Powers and duties. (1)** The library board shall have exclusive control of the expenditure of all moneys collected, donated or appropriated for the library fund, and of the purchase of a site and the erection of the library building whenever authorized. The library board also shall have exclusive charge, control and custody of all lands, buildings, money or other property devised, bequeathed, given or granted to, or otherwise acquired or leased by, the municipality for library purposes.

**(2)** The library board shall audit and approve all vouchers for the expenditures of the public library and forward the vouchers or schedules covering the same, setting forth the names of claimants, the amounts of each claim and the purpose for which expended, to the appropriate municipal or county financial officer or, in the case of a school district, the school district clerk, with a statement thereon, signed by the library board secretary or other designee of the library board, that the expenditure has been incurred and that the library board has audited and approved the bill. The municipal, county or school district governing body shall then pay the bill as others are paid.

**(3)** Any person having a claim or demand against the municipality or county growing out of any act or omission of the library board shall file with the library board a written statement thereof. If the claim or demand or any part thereof is disallowed, the claimant may bring an action against the municipality or county.

**(4)** Notwithstanding ss. 59.17 (2) (br) and 59.18 (2) (b), the library board shall supervise the administration of the public library and shall appoint a librarian, who shall appoint such other assistants and employes as the library board deems necessary, and prescribe their duties and compensation.

**(5)** The library board may employ competent persons to deliver lectures upon scientific, literary, historical or educational subjects; and may cooperate with the university of Wisconsin system, technical college district boards, the historical society, the department, cooperative educational service agencies, school boards and other educational institutions to secure such lectures or to foster and encourage by other means the wider use of books and other resource, reference and educational materials upon scientific, historical, economic, literary, educational and other useful subjects.

**(6)** (a) Within 30 days after the conclusion of the fiscal year of the municipality or county in which the public library is located, the library board shall make a report to the division and to its governing body. The report shall state the condition of the library board's trust and the various sums of money received for the use of the public library during the year, specifying separately the amounts received from appropriations, from the income of trust funds, from rentals and other revenues of the public library and from other sources. The report shall state separately the condition of the permanent trust funds in the library board's control, shall state in detail the disbursements on account of the public library

during that fiscal year and shall contain an estimate of the needs of the public library for the next succeeding fiscal year.

(b) The report to the division shall include data concerning library materials, facilities, personnel, operations and such other information as the division requests.

(7) The library board may receive, manage and dispose of gifts and donations as follows:

(a) All persons wishing to make donations of property for the benefit of a public library may vest the title thereto in the library board, to be held and controlled by the board, when accepted, according to the terms of the deed of gift, devise or bequest. As to such property the board shall be deemed special trustees.

(b) If a gift, bequest, devise or endowment is made to any public library, the library board thereof may pay or transfer the gift, bequest, devise or endowment, or the proceeds thereof, to the treasurer of the municipality or county in which the public library is situated, may entrust any funds therefrom to a public depository under ch. 34 or may pay or transfer that gift, bequest, devise or endowment to any member of the library board to be selected by the library board and thereafter to be known as financial secretary. If the library board pays or transfers that gift, bequest, devise or endowment to the financial secretary, the financial secretary may retain, expend, invest and reinvest that gift, bequest, devise or endowment as permitted under s. 112.10. The financial secretary shall hold office only during membership on the library board and shall be elected annually at the same time and in the same manner as the other officers of the library board.

(c) If any such treasurer or financial secretary holds any property belonging to the public library, the library board shall require a bond from the treasurer or financial secretary to the library board in such sum, not less than the amount of such property so held by him or her, and with such sureties as the library board requires. The bond shall be conditioned in substantially the same form as the ordinary bond required from the treasurer of the municipality or county, with the necessary changes.

(d) The treasurer or financial secretary shall make an annual report to the library board showing in detail the amount, investment, income and disbursements from the trust funds in his or her charge. Such report shall also be appended to the annual report of the library board under s. 43.58 (6).

(e) In the case of a gift for a library building, the library board of the municipality shall have the exclusive right to select and contract for the purchase of a site.

**History:** 1971 c. 152 ss. 10, 20; 1977 c. 26, 418; 1985 a. 176; 1985 a. 177 ss. 42, 43, 48 to 50, 52; 1985 a. 225, 332; 1987 a. 252; 1993 a. 399; 1995 a. 201, 264.

City or village governing body can change composition of its municipal library board and can limit powers of board. 70 Atty. Gen. 54.

**43.60 Library extension and interchange.** (1) The library board of any municipality or county may, by contract or upon such conditions and regulations as it prescribes, extend the use of the public library to nonresidents of the municipality, or exchange books and other library materials either permanently or temporarily with any other library.

(2) (a) The library board of any municipality located in whole or in part in a county that is not a member of a public library system may, by agreement with any other municipality or county provide for the loaning of books and other library materials from its public library, singly or in traveling libraries, to the residents of the other municipality or county. The other municipality or county may levy a tax and appropriate money annually to meet its obligations under the agreement.

(b) The library board of any municipality located in whole or in part in a county that is a member of a public library system may, by agreement with the county, the county library board or the public library system board acting on behalf of the county, provide for the loaning of books and other library materials from its public library, singly or in traveling libraries, to the residents of the county. The county may levy a tax and appropriate money annu-

ally to meet its obligations under the agreement, as provided under s. 43.64.

(3) Whenever the annual sum appropriated by the other municipality or county under sub. (2) equals or exceeds one-sixth of the annual sum appropriated to the public library by any municipality in which the public library is located during the preceding fiscal year, the mayor, village president, town or county chairperson or tribal chairman of the other municipality or county, with the approval of the governing body thereof, may appoint from among the residents of the municipality or county an additional member of the library board of the public library and, when such sum equals or exceeds one-third of the annual sum appropriated to the public library by any municipality in which the public library is located, 2 additional members, for a term of 3 years from the July 1 next succeeding such appointment, and thereafter for terms of 3 years. Whenever the appropriation made is less than the one-third specified, the office of one such additional member of the board and, if less than the one-sixth specified, the office of both shall be vacant from the July 1 next thereafter.

**History:** 1971 c. 152 s. 23; Stats. 1971 s. 43.60; 1981 c. 197; 1985 a. 177; 1989 a. 56; 1991 a. 269.

**43.64 County tax.** (1) The county board of a county expending money for public library service to its inhabitants may levy a tax to provide funds for such service and shall include any amount of tax under this subsection in the amount of taxes determined to be levied under s. 70.62 (1).

(2) Any city, town, village or school district in a county levying a tax for public library service under sub. (1) shall, upon written application to the county board of the county, be exempted from the tax levy, if the city, town, village or school district making the application appropriates and expends for a library fund during the year for which the county tax levy is made a sum at least equal to the city's, town's, village's or school district's share of the sum levied by the county board for public library service under sub. (1) in the prior year. In this subsection, "library fund" means the funds raised by the city, town, village or school district by tax levy or appropriation under s. 43.52 (1).

(3) Each city, town, village or school district participating in a joint library under s. 43.53 shall be treated individually in determining its eligibility for tax exemption under sub. (2).

**History:** 1971 c. 152 s. 16; 1977 c. 418; 1981 c. 20; 1983 a. 27; 1985 a. 177. Facilities necessary to exempt a municipality from the county tax discussed. 60 Atty. Gen. 389.

A town, city or village which does not maintain a public library, but which makes contributions to a nearby public library, cannot be exempted from the county library tax levy under (2). 65 Atty. Gen. 182.

To qualify for exemption under (2), municipality or school district must have expended for its own "library fund" during year in which county tax levy is made sum at least equal to sum it would have to pay for county tax levy made during that year to fund county budget for ensuing year. 72 Atty. Gen. 49.

Scope of exemption under (2) discussed. 72 Atty. Gen. 190.

**43.70 Common school fund.** (1) No later than October 15 of each year, each school district administrator shall certify to the department, on forms provided by the department, a report of the total number of children between the ages of 4 and 20 years residing in the school district on the preceding June 30. The number may be estimated by using statistically significant sampling techniques that have been approved by the department.

(2) Annually, within 40 days after December 1, the department shall ascertain the aggregate amount of all moneys received as income in the common school fund prior to that December 1 and shall apportion such amount to the school districts in proportion to the number of children resident therein between the ages of 4 and 20 years, as shown by the census report certified under sub. (1).

(3) Immediately upon making such apportionment, the department shall certify to the department of administration the amount that each school district is entitled to receive under this section and shall notify each school district administrator of the amount so certified for his or her school district. Within 15 days

after receiving such certification, the department of administration shall issue its warrants upon which the state treasurer shall pay the amount apportioned forthwith to the proper school district treasurer. All moneys apportioned from the common school fund shall be expended for the purchase of library books and other instructional materials for school libraries, but not for public library facilities operated by school districts under s. 43.52, in accordance with rules promulgated by the department. Appropriate records of such purchases shall be kept and necessary reports thereon shall be made to the department.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

**43.70 Common school fund.** (1) No later than October 15 of each year, each school district administrator shall certify to the state superintendent, on forms provided by the state superintendent, a report of the total number of children between the ages of 4 and 20 years residing in the school district on the preceding June 30. The number may be estimated by using statistically significant sampling techniques that have been approved by the state superintendent.

(2) Annually, within 40 days after December 1, the state superintendent shall ascertain the aggregate amount of all moneys received as income in the common school fund prior to that December 1 and shall apportion such amount to the school districts in proportion to the number of children resident therein between the ages of 4 and 20 years, as shown by the census report certified under sub. (1).

(3) Immediately upon making such apportionment, the state superintendent shall certify to the department of administration the amount that each school district is entitled to receive under this section and shall notify each school district administrator of the amount so certified for his or her school district.

Within 15 days after receiving such certification, the department of administration shall issue its warrants upon which the state treasurer shall pay the amount apportioned forthwith to the proper school district treasurer. All moneys apportioned from the common school fund shall be expended for the purchase of library books and other instructional materials for school libraries, but not for public library facilities operated by school districts under s. 43.52, in accordance with rules promulgated by the state superintendent. Appropriate records of such purchases shall be kept and necessary reports thereon shall be made to the state superintendent.

History: 1971 c. 152 s. 12; 1977 c. 418; 1985 a. 332 s. 251 (6); 1989 a. 31, 359; 1995 a. 27.

**43.72 Library exchanges.** (1) School library books and other instructional material belonging to one school district may be loaned to another school district for use in any school library of that school district.

(2) Any public library board and school board may make such exchanges and loans of books and other instructional material as are agreed upon for the purpose of increasing the efficiency of both libraries and ensuring the best service to the schools and all citizens.

(3) Any school district that borrows materials through a public library system shall reciprocate by sharing with other participating libraries materials that are not in immediate or constant demand by the school library's primary clientele, as determined by the school district.

History: 1971 c. 152 s. 14; Stats. 1971 s. 43.72; 1985 a. 177.