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CHAPTER 59

COUNTIES

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SUBCHAPTER I

DEFINITIONS

59.001 Definitions. In this chapter, unless the context clearly indicates to the contrary:

(1) "Board" means the county board of supervisors.

(2) "Clerk" means the county clerk.

(2m) "Members−elect" means those members of the governing body of a county, city, village or town, at a particular time, who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation or removal from office.

(2r) "Municipal clerk" means the clerk of a municipality.

(3) "Municipality" means any city, village or town.

(3m) "Municipal treasurer" means the treasurer of a municipality.

(4) "Treasurer" means the county treasurer.

History: 1989 a. 260, 268; 1995 a. 201.

SUBCHAPTER II

LEGAL STATUS; ORGANIZATION

59.01 Body corporate; status. Each county in this state is a body corporate, authorized to sue and be sued, to acquire and

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hold, lease or rent real and personal estate for public uses or purposes, including lands acquired under ch. 75, to sell, lease and convey the same, including the authority to enter into leases or contracts with the state for a period of years for the uses and purposes specified in s. 23.09 (2) (d), to make such contracts and to do such other acts as are necessary and proper to the exercise of the powers and privileges granted and the performance of the legal duties charged upon it.

History: 1987 a. 378; 1995 a. 201.

Cross−reference: See ss. 75.35 and 75.69 for restrictions on the sale of tax deeded land.

Civil rights actions against municipalities are discussed. Starstead v. City of Superior, 533 F. Supp. 1365 (1982).

59.02 Powers, how exercised; quorum. (1) The powers of a county as a body corporate can only be exercised by the board, or in pursuance of a resolution adopted or ordinance enacted by the board.

(2) Ordinances may be enacted and resolutions may be adopted by a majority vote of a quorum or by such larger vote as may be required by law. Ordinances shall commence as follows: "The county board of supervisors of the county of .... does ordain as follows".

(3) A majority of the supervisors who are entitled to a seat on the board shall constitute a quorum. All questions shall be determined by a majority of the supervisors who are present unless otherwise provided.

History: 1977 c. 447; 1995 a. 201.

The county board's failure to use the prescribed language of sub. (2) did not invalidate an ordinance. Cross v. Soderbeck, 94 Wis. 2d 331, 288 N.W.2d 779 (1980).

A supervisor who is required to abstain is not "present" for calculating the number of votes required for passage. Ballenger v. Door County, 131 Wis. 2d 422, 388 N.W.2d 624 (Ct. App. 1986).

59.03 Home rule. (1) ADMINISTRATIVE HOME RULE. Every county may exercise any organizational or administrative power, subject only to the constitution and to any enactment of the legislature which is of statewide concern and which uniformly affects every county.

(2) CONSOLIDATION OF MUNICIPAL SERVICES, HOME RULE, METROPOLITAN DISTRICT. (a) Except as elsewhere specifically provided in these statutes, the board of any county is vested with all powers of a local, legislative and administrative character, including without limitation because of enumeration, the subject matter of water, sewers, streets and highways, fire, police, and health, and to carry out these powers in districts which it may create for different purposes, or throughout the county, and for such purposes to levy county taxes, to issue bonds, assessment certificates and improvement bonds, or any other evidence of indebtedness. The powers hereby conferred may be exercised by the board in any municipality, or part thereof located in the county upon the request of any such municipality, evidenced by a resolution adopted by a majority vote of the members−elect of its governing body, designating the particular function, duty or act, and the terms, if any, upon which the powers shall be exercised by the board or by a similar resolution adopted by direct legislation in the municipality in the manner provided in s. 9.20. The resolution shall further provide whether the authority or function is to be exercised exclusively by the county or jointly by the county and the municipality, and shall also find that the exercise of such power by the county would be in the public interest. Upon the receipt of the resolution, the board may, by a resolution adopted by a majority vote of its membership, elect to assume the exercise of the function, upon the terms and conditions set forth in the resolution presented by the municipality.

(b) The board of any county may, by a resolution adopted by a majority of its membership, propose to any of the municipalities located in the county that it offers to exercise such powers and functions therein in order to consolidate municipal services and functions in the county. Such resolution shall designate the particular function, duty or act and the terms and conditions, if any, upon which the board will perform the function, duty or act. The powers conferred in par. (a) and designated in such resolution may thereafter be exercised by the board in each municipality which accepts the proposal by the adoption of a resolution by a majority vote of the members−elect of its governing body or by direct legislation in the manner provided in s. 9.20.

(c) Whenever the request under par. (a) or acceptance under par. (b) of a municipality is by resolution of its governing board, the request or acceptance shall not go into effect until the expiration of 60 days from the adoption of the resolution or, in the case of county law enforcement services provided to a city as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20 for direct legislation on the request or acceptance is filed before the expiration of said 60 days, the resolution of the governing board is of no effect but the request or acceptance of such municipality shall be determined by direct legislation, except that no petition for direct legislation under s. 9.20 may be filed to approve or reject a contract entered into by a city and a county under s. 62.13 (2s).

(d) After and upon the adoption of resolutions by the board and subject to par. (c) by one or more municipalities either as provided in par. (a) or (b) the board shall have full power to legislate upon and administer the entire subject matter committed to it, and among other things, to determine, where not otherwise provided by law, the manner of exercising the power thus assumed.

(e) The municipality concerned may enter into necessary contracts with the county, and appropriate money to pay to the county the reasonable expenses incurred by it in rendering the services assumed. Such expenses may be certified, returned and paid as are other county charges, and in the case of services performed under a proposal for the consolidation thereof initiated by the board and made available to each municipality in the county on the same terms, the expenses thereof shall be certified, returned and paid as county charges; but in the event that every municipality in the county accepts the proposal of the board, the expenses thereof shall be paid by county taxes to be levied and collected as are other taxes for county purposes. The municipalities are vested with all necessary power to do the things herein required, and to do all things and to exercise or relinquish any of the powers herein provided or contemplated. The procedure provided in this subsection for the request or acceptance of the exercise of the powers conferred on the board in cities and villages is hereby prescribed as a special method of determining the local affairs and government of such cities and villages under article XI, section 3, of the constitution.

(f) The powers conferred by this subsection shall be in addition to all other grants of power and shall be limited only by express language.

History: 1995 a. 201 ss. 97, 99, 243; 2005 a. 40.

In a county that does not have a county executive or administrator, the personnel committee of the county board does not possess the statutory authority to remove the county social services director. The county board may not, under s. 59.025 [now s. 59.03 (1)], transfer the authority to appoint. 81 Atty. Gen. 145.

59.04 Construction of powers. To give counties the largest measure of self−government under the administrative home rule authority granted to counties in s. 59.03 (1), this chapter shall be liberally construed in favor of the rights, powers and privileges of counties to exercise any organizational or administrative power.

History: 1985 a. 29; 1995 a. 201 s. 98; Stats. 1995 s. 59.04.

59.05 County seat; change. (1) The county seat shall be fixed and designated by the board at the first regular meeting after the organization of any county; and no county seat shall be changed except as provided in this section.

(2) If a petition conforming to the requirements of s. 8.40 is filed with the board by at least two−fifths of the legal voters of any county, to be determined by the registration list for the last previous general election held in the county at the time of filing, the names of which voters shall appear on the registration list for such election, asking for a change of the county seat to some other place designated in the petition, the board shall submit the question of removal of the county seat to a vote of the qualified voters of the county. The board shall file the question as provided in s. 8.37.

The election shall be held only on the day of the general election, notice of the election shall be given and the election shall be conducted as in the case of the election of officers on that day, and the votes shall be canvassed, certified and returned in the same manner as other votes at that election. The question to be submitted shall be "Shall the county seat of .... county be removed to ....?".

(3) If a majority of the votes cast at the election are in favor of the proposed change, the chairperson of the board shall certify the same, with the attestation of the county clerk, to the governor, who shall issue a proclamation to that effect and publish it in the official state paper. From the date of publication the place designated shall be the county seat. The board may not again submit the question of removal within 5 years.

(4) Notwithstanding subs. (2) and (3), no election to change a county seat may be held for a period of 5 years after the year in which a courthouse or other county building costing $3,000 or more was built at the county seat and occupied for county purposes.

History: 1977 c. 427; 1983 a. 192, 484; 1989 a. 192; 1995 a. 201 s. 247; Stats. 1995 s. 59.05; 1997 a. 35; 1999 a. 182; 2003 a. 265.

When 40% of registered voters were denied ballots in an election to remove a county seat, the election was set aside even though the outcome probably was not affected. McNally v. Tollander, 100 Wis. 2d 490, 302 N.W.2d 440 (1981).

59.06 County property. (1) HOW HELD. County property shall be held by the clerk in the name of the county. All property, real or personal, conveyed to the county or to its inhabitants or to any person for the use of the county or its inhabitants is county property. Such conveyances have the same effect as if made directly to the county by name.

(2) EFFECT OF TRANSFER. All deeds, contracts and agreements made on behalf of the county under the directions of the board under s. 59.52 (6), when signed and acknowledged by the clerk and the county seal is attached, are valid and binding on the county to the extent of the terms of the instrument and the right, title and interest which the county has in the property.

History: 1995 a. 201 s. 402; Stats. 1995 s. 59.06.

Cross−reference: See ss. 75.35 and 75.69 for restrictions on the sale of tax deeded land.

59.07 Claims against counties; actions on. (1) No action may be brought or maintained against a county upon a claim or upon a cause of action unless the claimant complies with s. 893.80. This subsection does not apply to actions commenced under s. 19.37, 19.97 or 281.99.

(2) No action may be brought or maintained against a county, for disclosure of information that is received under s. 342.20 (3) and maintained under s. 342.20 (4) or that is received under s. 30.572 (4) and maintained under s. 30.572 (5).

History: 1977 c. 285; 1979 c. 323 s. 33; 1981 c. 20; 1991 a. 39; 1995 a. 158; 1995 a. 201 s. 426; Stats. 1995 s. 59.07; 1997 a. 27, 35.

59.08 Consolidation of counties; procedure; referendum. (1) Any 2 or more adjoining counties may consolidate into a single county by complying with the requirements and procedure herein specified.

(2) The boards of any 2 or more adjoining counties desiring to consolidate their respective counties into a single county may enter into a joint agreement for the consolidation of the counties, setting forth in the consolidation agreement all of the following:

(a) The names of the several counties which they propose to be consolidated.

(b) The name under which it is proposed to consolidate the counties, which name shall be such as to distinguish it from the name of any other county in Wisconsin, other than the consolidating counties.

(c) The property, real and personal, belonging to each county, and the current fair market value thereof.

(d) The indebtedness, bonded and otherwise, of each county.

(e) The proposed name and location of the county seat of the consolidated county.

(f) If the counties have different forms of county organization and government, the proposed form of county organization and government of the consolidated county.

(g) The terms of agreement.

(3) The board of each county may appoint an advisory committee composed of 3 persons to assist the board in the preparation of the agreement.

(4) The original of the consolidation agreement, together with a petition on behalf of the several boards, signed by the chairperson of each of the boards, asking that a referendum on the question of consolidation of the several counties be ordered, shall be filed with the clerk of the circuit court of one of the counties and a copy of the consolidation agreement and of the petition shall be filed with the clerk of the circuit court of each of the other counties.

(5) The qualified electors of each county involved in the consolidation proposal whose board has not taken the initiative under sub. (2) may, by filing with the board a petition conforming to the requirements of s. 8.40, signed by not less than 20% of the qualified electors of the county, based on the total vote cast for governor at the last general election, asking the board to effect a consolidation agreement with the county or counties named in the petition, and asking for a referendum on the question, require the board to so proceed. A copy of the petition of the electors shall also be filed with the clerk of the circuit court of the county. If the board is able within 6 months thereafter to effect the consolidation agreement, the procedure shall be the same as set forth in this section. If the board within that period of time is unable or for any reason fails to perfect the consolidation agreement, then the judge of the circuit court of the county shall appoint a committee of 5 representative citizens of the county, to act for and in lieu of the board in perfecting the consolidation agreement and in petitioning for a referendum.

(6) The board shall publish the consolidation agreement as a class 1 notice under ch. 985. The owner−editor or manager of each newspaper publishing the notice shall issue a certificate of the publication to the judge of the circuit court for each affected county, which shall be proof of publication.

(7) (a) When publication of the consolidation agreement in each of the counties included in the agreement is completed, the judges of the circuit courts of those counties shall, by order entered of record in each of the counties, require the clerks of each of the counties to submit the question of the consolidation of the counties to a vote of the qualified electors of the counties.

(b) The question of the consolidation of the counties shall be submitted to the voters at the next election to be held on the first Tuesday in April, or the next regular election, or at a special election to be held on the day fixed in the order issued under par. (a), which day shall be the same in each of the counties proposing to consolidate. A copy of the order shall be filed with the county clerk of each of the counties as provided in s. 8.37. If the question of consolidation is submitted at a special election, it shall be held not less than 70 days nor more than 88 days from the completion of the consolidation agreement, but not within 60 days of any spring or general election.

(8) The clerk shall notice such election as other elections. The ballots shall be provided by the clerk and shall be in substantially the following form:

OFFICIAL REFERENDUM BALLOT

If you desire to vote for the consolidation of .... (insert names of counties proposing to consolidate) counties under a consolidation agreement, make a cross (✗) in the square after the word "Yes", underneath the question; if you desire to vote against consolidation, make a cross (✗) in the square after the word "No", underneath the question.

Shall .... (here insert names of counties proposing to consolidate) counties consolidate under a consolidation agreement?

YES ☐ NO ☐

(9) The ballot shall have on the back or reverse side the endorsements provided by law for ballots for general elections

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and shall be marked by the elector and counted and canvassed as other ballots cast on questions in the county are counted and canvassed. The election shall be conducted by the same officers and in the same manner as are other elections in the county. The results of the election shall be certified to the judges of the circuit courts for the counties.

(10) If a majority of the votes cast in each county upon the question of consolidation are in favor of the consolidation of the counties, the judge of the circuit court shall enter that fact of record in each county. If in any one of the counties less than a majority of the votes cast upon the question of consolidation are in favor of the proposed consolidation, the consolidation shall be declared to have failed for all purposes. If a majority of the votes cast upon the question of consolidation in any county are opposed to consolidation, the question of consolidation shall not be again submitted to the electors of that county for a period of 2 years.

(11) At the next succeeding regular November election, held at least 60 days after the election at which consolidation is approved by the voters, there shall be elected for the consolidated county all county officers provided for by law and the officers shall be nominated as provided in ch. 6. Their terms shall begin on the first Monday of January next succeeding their election, at which time they shall replace all elective county officers of the counties that are consolidated into the consolidated county whose terms shall on that day terminate. All appointive county officers shall be appointed by the person, board or authority upon whom the power to appoint such officers in other counties is conferred. The terms of the officers shall commence on the first Monday of January next succeeding the first election of officers for the consolidated county, and shall continue, unless otherwise removed, until their successors have been appointed and qualified. The successors of all officers whose first election or appointment is provided for in this subsection shall thereafter be elected or appointed at the time, in the manner and for the terms provided by law.

(13) Upon the first Monday of January following the first election of county officers for the consolidated county, the several counties shall thereafter for all purposes be treated and considered as one county, under the name and upon the terms and conditions set forth in the consolidation agreement. All rights, privileges, and franchises of each of the several counties, and all records, books, and documents, and all property, real and personal, and all debts due on whatever account, as well as other things in action, belonging to each of the counties, shall be considered transferred to and vested in the consolidated county, without further act or deed. All property, all rights−of−way, and all and every other interest shall be as effectually the property of the consolidated county as they were of the several counties before the consolidation. The title to real estate, either by deed or otherwise, under the laws of this state vested in any of the counties, shall not be considered to revert or be in any way impaired by reason of this consolidation. The rights of creditors and all liens upon the property of any of the counties shall be preserved unimpaired, and the respective counties shall be considered to continue in existence to preserve the same and all debts, liabilities and duties of any of the counties shall attach to the consolidated county and be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it, unless by the terms of the agreement the outstanding bonded indebtedness of the counties shall not be transferred and attached to the consolidated county, but shall remain as obligations of the counties which for such purpose shall be considered to continue in existence.

(14) Suits may be brought and maintained against the consolidated county in any of the courts of this state in the same manner as against any other county. Any action or proceeding pending by or against any of the counties consolidated may be prosecuted to judgment as if the consolidation had not taken place, or the consolidated county may be substituted in its place. The towns, school districts, election districts and voting places in the consolidated county shall continue as in the several counties before consolidation, unless and until changed in accordance with law.

(15) Until changed by law, the same circuit courts shall continue, though it may result in the consolidated county being a part of 2 or more circuits. All such courts shall, however, be held at the place designated as the county seat of the consolidated county, and each such court and the judge of that court shall continue to have and exercise the same jurisdiction as the court or the judge had and exercised before the consolidation. If 2 or more judges have jurisdiction in any consolidated county they or a majority of them shall exercise the power to appoint officers and fill vacancies as is vested in judges of circuit courts of other counties.

(16) For the purpose of representation in congress and in the legislature the existing congressional, senatorial and assembly districts shall continue until changed in accordance with law. The consolidated county shall in all respects, except as otherwise provided in this section, be subject to all the obligations and liabilities imposed, and shall possess all the rights, powers and privileges vested by law in other counties.

(17) The provisions of this section shall be considered cumulative and the authority granted in this section to counties shall not be limited or made inoperative by any existing statute.

History: 1977 c. 449; 1979 c. 311; 1981 c. 377; 1983 a. 192; 1989 a. 56, 192; 1991 a. 316; 1993 a. 490; 1995 a. 16 ss. 1, 2; 1995 a. 201 ss. 480 to 483; Stats. 1995 s. 59.08; 1995 a. 225 ss. 175 to 179; 1997 a. 35; 1999 a. 182; 2001 a. 16; 2011 a. 75.

SUBCHAPTER III

COUNTY BOARD OF SUPERVISORS

59.10 Boards: composition; election; terms; compensation; compatibility. The boards of the several counties shall be composed of representatives from within the county who are elected and compensated as provided in this section. Each board shall act under sub. (2), (3) or (5), unless the board enacts an ordinance, by a majority vote of the entire membership, to act under sub. (1). If a board enacts such ordinance, a certified copy shall be filed with the secretary of state.

(1) SELF−ORGANIZED COUNTIES. (a) *Number of supervisors and apportionment of supervisory districts.* In each county with a population of at least 500,000, sub. (2) (a) and (b) applies. In counties with a population of less than 500,000 and more than one town, sub. (3) (a) to (c) applies. In counties with one town only, sub. (5) applies.

(b) *Terms.* The term of office of supervisors is 2 years. A board may determine whether the terms shall be concurrent or staggered. Supervisors shall be elected at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms and shall take office on the 3rd Tuesday in April following their election. If the board determines that supervisors shall serve staggered terms, the board shall, by ordinance, provide for a division of supervisors into 2 classes, one class to be elected for one−half of a full term and the other class for a full term and thereafter the supervisors shall be elected for a full term. The board shall publish the ordinance as a class 1 notice, under ch. 985, or as a notice, as described under s. 59.14 (1m) (b), before publication of the notice of the election at which supervisors are to be elected.

(c) *Compensation.* The method of compensation for supervisors shall be determined by the board.

(d) *Vacancies.* A board may determine the procedure for filling a vacancy.

(2) MILWAUKEE COUNTY. In each county with a population of at least 500,000:

(a) *Composition; supervisory districts.* Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of each decennial census, the board shall adopt and transmit to the governing body of each city and village wholly or partially con-

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tained within the county a tentative county supervisory district plan to be considered by the cities and villages when dividing into wards. The tentative plan shall specify the number of supervisors to be elected and shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population and consisting of contiguous whole wards or municipalities, except as authorized in sub. (3) (b) 2. Except as otherwise provided in this paragraph, the board shall develop and adopt the tentative plan in accordance with sub. (3) (b) 1. The tentative plan shall not include provision for division of any census block, as utilized by the U.S. bureau of the census in the most recent federal decennial census, unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall adopt a final plan by enacting an ordinance in accordance with sub. (3) (b) 2. to 4. Changes to the final plan shall be governed by par. (d) and sub. (3) (c).

(b) *Election; term.* Supervisors shall be elected for 4−year terms at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms, and shall take office on the 3rd Monday in April following their election.

(c) *Compensation.* Each supervisor shall be paid by the county an annual salary set by the board. The board may provide additional compensation for the chairperson. Section 66.0505 applies to this paragraph.

(d) *Changes during decade.* 1. 'Number of supervisors; redistricting.' The board may, not more than once prior to November 15, 2010, decrease the number of supervisors after the enactment of a supervisory district plan under par. (a). In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent countywide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous whole wards in existence at the time at which the amended redistricting plan is adopted, except as authorized in sub. (3) (b) 2. In the amended plan, the board shall adhere to the requirements under sub. (3) (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In the amended plan, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. The chairperson of the board shall file a certified copy of any amended plan adopted under this subdivision with the secretary of state.

2. 'Election; term.' Any amended plan enacted under subd. 1. becomes effective on the first November 15 following its enactment, and first applies to the spring election following the plan's effective date. Any amended plan enacted under subd. 1. shall remain in effect until the effective date of a redistricting plan subsequently enacted under par. (a). Supervisors elected from the districts created under subd. 1. shall serve for 4−year terms and shall take office on the 3rd Monday in April following their election.

(3) OTHER COUNTIES. (a) *Classification; maximum number of supervisors.* Counties with a population of less than 500,000 and more than one town are classified and entitled to a maximum number of supervisors as follows:

1. Counties with a population of less than 500,000 but at least 100,000 shall have no more than 47 supervisors.

2. Counties with a population of less than 100,000 but at least 50,000 shall have no more than 39 supervisors.

3. Counties with a population of less than 50,000 but at least 25,000 shall have no more than 31 supervisors.

4. Counties with a population of less than 25,000 and containing more than one town shall have no more than 21 supervisors.

5. If the population of any county is within 2% of the minimum population for the next most populous grouping under this paragraph, the board thereof, in establishing supervisory districts, may employ the maximum number for such districts set for such next most populous grouping.

(b) *Creation of supervisory districts.* 1. Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of each decennial census, each board shall propose a tentative county supervisory district plan setting forth the number of supervisory districts proposed by the board and tentative boundaries or a description of boundary requirements, hold a public hearing on the proposed plan and adopt a tentative plan. The proposed plan may be amended after the public hearing. The tentative plan shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population. The board shall solicit suggestions from municipalities concerning the development of an appropriate plan. Except as authorized in this subdivision, each district shall consist of whole wards or municipalities. Territory within each supervisory district to be created under the tentative plan shall be contiguous, except as authorized in subd. 2. In the tentative plan, the board shall, whenever possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. If the division of a municipality is sought by the board, the board shall provide with the plan a written statement to the municipality affected by each proposed division specifying the approximate location of the territory from which a ward is sought to be created for contiguity purposes and the approximate population of the ward proposed to effectuate the division. The tentative plan shall not include provision for division of any census block unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall transmit a copy of the tentative plan that is adopted to each municipal governing body in the county.

2. Within 60 days after every municipality in the county adjusts its wards under s. 5.15, the board shall hold a public hearing and shall then adopt a final supervisory district plan, numbering each district. Territory within each supervisory district created by the plan shall be contiguous, except that one or more wards located within a city or village which is wholly surrounded by another city or water, or both, may be combined with one or more noncontiguous wards, or one or more wards consisting of island territory as defined in s. 5.15 (2) (f) 3. may be combined with one or more noncontiguous wards within the same municipality, to form a supervisory district.

3. The populations of supervisory districts under the tentative plan shall be determined on the basis of the federal decennial census and any official corrections to the census issued on or before the date that the tentative plan is adopted to reflect the correct population of the county and municipalities and blocks within the county on April 1 of the year of the census. The populations of supervisory districts under the final plan shall be determined on the basis of the federal decennial census and any official corrections to the census to reflect the correct populations of the county and the municipalities and blocks within the county on April 1 of the year of the census, if the corrections as they affect any municipality are issued prior to division of the municipality into wards under s. 5.15, or if a municipality is not divided into wards, prior to adoption of the final plan.

4. The chairperson of the board shall file a certified copy of the final districting plan with the secretary of state. Unless otherwise ordered under sub. (6), a plan enacted and filed under this paragraph, together with any authorized amendment that is enacted and filed under this section, remains in effect until the plan is superseded by a subsequent plan enacted under this subsection and a certified copy of that plan is filed with the secretary of state.

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(c) 1. After the enactment of a plan of supervisory districts under par. (b), the board may amend the plan to reflect a municipal incorporation, annexation, detachment or consolidation. The number of supervisory districts in the county shall not be changed by any action under this subdivision.

2. Within 60 days after enactment or adoption of a revised division ordinance or resolution under s. 5.15 (4) (a), the board shall amend the county supervisory district plan under par. (b) to reflect any renumbering of the wards specified in the plan.

3. The districts under the amended plan shall be substantially equal in population according to the most recent countywide federal census and shall be in as compact a form as possible. The board shall adhere to the requirements of par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In the amended plan, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. An amended plan becomes effective on the first November 15 following its enactment.

4. The chairperson of the board shall file a certified copy of any amended plan under this paragraph with the secretary of state.

(cm) *Changes during decade; reduction in size.* 1. 'Number of supervisors; redistricting.' Except as provided in subd. 3., following the enactment of a decennial supervisory district plan under par. (b), the board may decrease the number of supervisors. In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent countywide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous whole wards in existence at the time at which the redistricting plan is adopted, except as authorized in par. (b) 1. In the redistricting plan, the board shall adhere to the requirements under par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In redistricting under this subdivision, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. No plan may be enacted under this subdivision during review of the sufficiency of a petition filed under subd. 2. nor after a referendum is scheduled on such a petition. However, if the electors of the county reject a change in the number of supervisory districts under subd. 2., the board may then take action under this subdivision except as provided in subd. 3. The county clerk shall file a certified copy of any redistricting plan enacted under this subdivision with the secretary of state.

2. 'Petition and referendum.' Except as provided in subd. 3., the electors of a county may, by petition and referendum, decrease the number of supervisors at any time after the first election is held following enactment of a decennial supervisory district plan under par. (b). A petition for a change in the number of supervisors may be filed with the county clerk. Prior to circulating a petition to decrease the number of supervisors in any county, a petitioner shall register with the county clerk, giving the petitioner's name and address and indicating the petitioner's intent to file such a petition. No signature on a petition is valid unless the signature is obtained within the 60−day period following such registration. The petition shall specify the proposed number of supervisors to be elected. Within 14 days after the last day for filing an original petition, any other petitioner may file an alternative petition with the county clerk proposing a different number of supervisors to be elected, and, if the petition is valid, the alternative proposed in the petition shall be submitted for approval at the same referendum. An alternative petition is subject to the same registration and signature requirements as an original petition. Each petition shall be in the form specified in s. 8.40 and shall contain a number of signatures of electors of the county equal to at least 25 percent of the total votes cast in the county for the office of supervisor at the most recent spring election preceding the date of filing. The county clerk shall promptly determine the sufficiency of a petition filed under this subdivision. Upon determination that a petition is sufficient, or if one or more valid alternative petitions are filed, upon determination that the petitions are sufficient, the county clerk shall call a referendum concurrently with the next spring or general election in the county that is held not earlier than 70 days after the determination is made. The question proposed at the referendum shall be: "Shall the board of supervisors of .... County be decreased from .... members to .... members?". If one or more alternative valid petitions are filed within 14 days after the last day that an original petition may be filed, the question relating to the number of supervisors shall appear separately. The first question shall be: "Shall the size of the county board of supervisors of .... County be decreased from its current membership of .... members?". Any subsequent question shall be: "If so, shall the size of the board be decreased to .... members?". Each elector may vote in the affirmative or negative on the first question and may then vote in the affirmative on one of the remaining questions. If the first question is not approved by a majority of the electors voting on the question, any subsequent question is of no effect. If the question is approved by a majority of the electors voting on the question, or, if more than one question is submitted, if the first question is approved by a majority of the electors voting on the question, the board shall enact an ordinance prescribing revised boundaries for the supervisory districts in the county. The ordinance shall be enacted in accordance with the approved question or, if more than one question is submitted, in accordance with the choice receiving a plurality of the votes cast. The districts are subject to the same requirements that apply to districts in any plan enacted by the board under subd. 1. If the board has determined under sub. (1) (b) to adopt staggered terms for the office of supervisor, the board may change the expiration date of the term of any supervisor to an earlier date than the date provided under current ordinance if required to implement the redistricting or to maintain classes of members. The county clerk shall file a certified copy of any redistricting plan enacted under this subdivision with the secretary of state.

3. 'Limitation.' If the number of supervisors in a county is decreased by the board or by petition under this paragraph, no further action may be taken by the board or by petition under this paragraph in that county until after enactment of the next decennial supervisory district plan by the board under par. (b).

4. 'Election; term.' Any redistricting plan enacted under subd. 1. takes effect on November 15 following its enactment and first applies to the election of supervisors at the next spring election following the effective date that immediately precedes the expiration of the terms of office of supervisors in the county. Any reduction in the number of supervisory districts under subd. 2. that is approved at a spring election shall be enacted in the form of a redistricting plan no later than November 15 following that election and shall first apply to the election of supervisors at the next spring election immediately preceding the expiration of the terms of office of supervisors in the county, and any reduction in the number of supervisory districts under subd. 2. that is approved at a general election shall be enacted in the form of a redistricting plan no later than the 2nd succeeding November 15 following that election and shall first apply to the election of supervisors at the next spring election following that November 15 immediately preceding the expiration of the terms of office of supervisors in the county. Any redistricting plan enacted under subd. 1. or 2. shall remain in effect until the effective date of any subsequent redistricting plan enacted under sub. (3) (c) or until the effective date of a redistricting plan subsequently enacted under par. (b). Supervisors elected from the districts created under subd. 1. or 2. shall serve for 2−year terms and shall take office on the 3rd Tuesday in April following their election.

(d) *Election and term of supervisors.* Supervisors are county officers, shall be elected for 2−year terms at the election to be held on the first Tuesday in April in even−numbered years and shall take office on the 3rd Tuesday in April of that year.

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(e) *Vacancies.* If a vacancy occurs on the board, the board chairperson, with the approval of the board, shall appoint a person who is a qualified elector and resident of the supervisory district to fill the vacancy. The successor shall serve for the unexpired portion of the term to which the person is appointed, unless the board orders a special election to fill the vacancy, in which case the person appointed shall serve until his or her successor is elected and qualified. The board may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to fill the vacancy. If the board orders a special election during the period beginning on June 1 and ending on November 30 of any year, the special election shall be held concurrently with the succeeding spring election. If the board orders a special election during the period beginning on December 1 and ending on May 31 of the succeeding year, the special election shall be held on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

(f) *Compensation.* Each supervisor shall be paid a per diem by the county for each day that he or she attends a meeting of the board. Any board may, at its annual meeting, by a two−thirds vote of all the members, fix the compensation of the board members to be next elected. Any board may also provide additional compensation for the chairperson.

(g) *Mileage.* Each supervisor shall, for each day that he or she attends a meeting of the board, receive mileage for each mile traveled in going to and returning from the meetings by the most usual traveled route at the rate established by the board under s. 59.22 as the standard mileage allowance for all county employees and officers.

(h) *Limitation on compensation.* Except for services as a member of a committee as provided in s. 59.13 no supervisor shall be paid for more days' attendance on the board in any year than is set out in this schedule: in counties having a population of less than 25,000, 20 days; at least 25,000 but less than 100,000, 25 days; at least 100,000 but less than 500,000, 30 days.

(i) *Alternative compensation.* As an alternative method of compensation, in counties having a population of less than 500,000, including counties containing only one town, the board may at its annual meeting, by a two−thirds vote of the members entitled to a seat, fix the compensation of the supervisors to be next elected at an annual salary for all services for the county including all committee services, except the per diem allowance for services in acquiring highway rights−of−way set forth in s. 84.09 (4). The board may, in like manner, allow additional salary for the members of the highway committee and for the chairperson of the board. In addition to the salary, the supervisors shall receive mileage as provided in par. (g) for each day's attendance at board meetings or for attendance at not to exceed 2 committee meetings in any one day.

(j) *Supplementary compensation.* The board, in establishing an annual salary, may enact an ordinance providing for a per diem for all committee meetings attended in excess of 40 committee and board meetings.

(4) COMPATIBILITY. No county officer or employee is eligible for election or appointment to the office of supervisor, but a supervisor may also be a member of a committee, board or commission appointed by the county executive or county administrator or appointed or created by the county board, a town board, a mosquito control district, the common council of his or her city, the board of trustees of his or her village or the board of trustees of a county institution appointed under s. 46.18.

(5) COUNTIES HAVING ONLY ONE TOWN. In all counties containing one town only, the board shall consist of the members of the town board and one supervisor from every village. A supervisor from a village shall be elected at the time the other village officers are elected. A majority of the members shall constitute a quorum of the county board. Each supervisor shall receive compensation and mileage as provided in sub. (3) (f) and (g). The chairperson of the board elected under s. 59.12 (1) may be, but need not be, the same person who is elected chairperson of the town board under s. 60.21 (3) (a).

(6) ENFORCEMENT OF DIVISION REQUIREMENT. If a county fails to comply with sub. (2) (a) or (3) (b), any municipality located in whole or in part within the county or any elector of the county may submit to the circuit court for the county within 14 days from the expiration of either 60−day period under sub. (2) (a) or (3) (b) a proposed tentative supervisory district plan or a final plan for creation of supervisory districts in compliance with this section. If the court finds that the existing division of the county into supervisory districts fails to comply with this section, it shall review the plan submitted by the petitioner and after reasonable notice to the county may promulgate the plan, or any other plan in compliance with this section, and the plan shall be in effect until superseded by a plan adopted by the board in compliance with this section.

History: 1971 c. 134, 211, 304; 1973 c. 118 ss. 2 to 4, 7; 1973 c. 334 s. 57; 1973 c. 336; 1975 c. 93 s. 113; 1975 c. 116, 200; 1977 c. 427; 1979 c. 34, 89, 122, 260; 1981 c. 4, 390; 1983 a. 29; 1983 a. 192 ss. 115, 303 (1), (2); 1983 a. 484; 1983 a. 532 s. 36; 1985 a. 29, 304; 1989 a. 56 s. 258; 1991 a. 5, 316; 1993 a. 490; 1995 a. 16 s. 2; 1995 a. 201 s. 100; Stats. 1995 s. 59.10; 1997 a. 35; 1999 a. 150 s. 672; 2001 a. 107; 2003 a. 32; 2005 a. 100, 235, 248; 2007 a. 72, 97; 2011 a. 39, 75.

Cross−reference: See s. 17.21 (5) for provision as to filling vacancies on county boards in counties over 500,000.

Cross−reference: See s. 59.20 (1) for county supervisor residency requirements.

Cross−reference: See s. 66.0505 for restrictions on changes in compensation of county board members.

City and county apportionment is discussed. City of Janesville v. Rock County, 107 Wis. 2d 187, 319 N.W.2d 891 (Ct. App. 1982).

The trial court properly voided a city's supervisory district plan and adopted the county's plan even though the county did not adopt the plan within 60 days of receiving census data as required by sub. (3). County of La Crosse v. City of La Crosse, 108 Wis. 2d 560, 322 N.W.2d 531 (Ct. App. 1982).

Sub. (3) (a) does not establish a separate minimum for each class of county. The constitutionality of sub. (3) (a) is discussed. 60 Atty. Gen. 327.

A vacancy on a county board due to resignation may be filled by appointment by the county board chairperson when the board is not in session. 61 Atty. Gen. 1.

An incumbent county supervisor must resign before the county board may consider his or her appointment as highway commissioner. 61 Atty. Gen. 424.

A county board supervisor risks violations of s. 946.13 if he is appointed as counsel for indigent defendants. 62 Atty. Gen. 62, 118.

Under sub. (3) (c) alteration of county supervisory district boundaries between decennial censuses is authorized only when ward boundaries originally relied upon in reapportioning the county have been subsequently altered by incorporation, annexation, detachment, or consolidation. 63 Atty. Gen. 544.

Section 59.06 (2) (intro.) [now 59.13 (2) (intro.)] does not prohibit payment of additional mileage under s. 59.03 (3) (g) [now 59.10 (3) (g)]. 68 Atty. Gen. 73.

State law does not prohibit either discontinuation of all health insurance for county supervisors in self−organized counties during supervisors' terms of office or modest but involuntary increases in health insurance premiums for county supervisors in self−organized counties during supervisors' terms of office. OAG 5−11.

59.11 Meetings; adjournment; absentees. (1) (a) Every board shall hold an annual meeting on the Tuesday after the 2nd Monday of November in each year for the purpose of transacting business. Any board may establish by rule an earlier date during October or November for the annual meeting and may by rule establish regular meeting dates throughout the year at which to transact general business. When the day of the meeting falls on November 11, the meeting shall be held on the next succeeding day.

(b) The annual meeting may be adjourned by the clerk, upon the written request of a majority of the supervisors, to a day designated in the request, but not less than one week nor more than 3 weeks from the Tuesday after the 2nd Monday of November. Upon such an adjournment being made, the clerk shall give each supervisor written notice of the time and place to which the annual meeting has been adjourned.

(c) The board, except in counties with a population of 500,000 or more, shall meet on the 3rd Tuesday of each April to organize and transact business. At this meeting the board may transact any business permitted at the annual meeting, including the appointment of all county commissions and committees. The meeting may be adjourned in the same manner as the annual meeting.

(2) A special meeting of the board shall be held:

(a) Upon a written request of a majority of the supervisors delivered to the clerk, specifying the time and place of the meeting. The time shall not be less than 48 hours from the delivery of

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the request. Upon receiving the request the clerk shall immediately mail to each supervisor notice of the time and place of the meeting. Any special meeting may be adjourned by a vote of a majority of all the supervisors. The board by ordinance may establish a separate procedure for convening the board in a "declared emergency" as defined by county ordinance.

(b) For the purposes and in the manner prescribed in s. 31.06, with the right to adjourn the special meeting from time to time by a vote of a majority of all the supervisors entitled to a seat. The clerk shall mail written notice of the special meeting, specifying the time, place and purpose of the meeting, to each supervisor not less than 2 weeks before the day set for the meeting.

(3) All meetings shall be held in the county at places that are designated by the board. The board shall give adequate public notice of the time, place and purpose of each meeting.

(4) The board shall sit with open doors, and all persons conducting themselves in an orderly manner may attend. If any supervisor misses or leaves a meeting of the board without good cause or without being first excused by the board, the chairperson may issue a warrant requiring the sheriff or some constable immediately to arrest and bring the supervisor before the board. The expenses of the arrest shall be deducted from the pay of the member unless otherwise directed by the board. The board may punish its members for infraction of its rules by imposing the penalty provided in the rules.

(5) The board may appropriate funds to broadcast by radio or television, or to tape and rebroadcast, any meeting of the board held under this section.

History: 1971 c. 68, 307; 1975 c. 41, 109; 1983 a. 192; 1995 a. 201 ss. 105, 233; Stats. 1995 s. 59.11.

A county clerk can adjourn a regular meeting of the county board when requested by majority of the elected members of the board. 61 Atty. Gen. 352.

59.12 Chairperson; vice chairperson; powers and duties. (1) The board, at the first meeting after each regular election at which members are elected for full terms, shall elect a member chairperson. The chairperson shall perform all duties required of the chairperson until the board elects a successor. The chairperson may administer oaths to persons required to be sworn concerning any matter submitted to the board or a committee of the board or connected with their powers or duties. The chairperson shall countersign all ordinances of the board, and shall preside at meetings when present. When directed by ordinance the chairperson shall countersign all county orders, transact all necessary board business with local and county officers, expedite all measures resolved upon by the board and take care that all federal, state and local laws, rules and regulations pertaining to county government are enforced.

(2) The board at the time of the election of the chairperson shall also elect a member vice chairperson, for the same term, who in case of the absence or disability of the chairperson shall perform the chairperson's duties. The board at the time of the election of the chairperson may also elect a member 2nd vice chairperson, for the same term, who in case of the absence or disability of the chairperson and vice chairperson shall perform the duties of the chairperson. The board may provide for the payment of additional compensation to the vice chairpersons.

(3) In case of the absence of a chairperson for any meeting the members present shall choose another member to be temporary chairperson.

History: 1977 c. 259; 1983 a. 192 ss. 120, 303 (1); 1985 a. 29; 1995 a. 201 s. 106; Stats. 1995 s. 59.12.

A county board cannot adopt a resolution that infringes on the power of a succeeding board to elect its chairperson and vice chairperson. 61 Atty. Gen. 108.

Removal of the chairperson of a county board may be at the will of a simple majority of the board under this section. Section 17.10 is inapplicable. Nothing in this section requires the county board to have any particular reason for removing its chairperson. An incumbent chairperson may be removed at will by the county board simply by voting to elect someone else to that position. OAG 1−07.

59.13 Committees; appointment; compensation. (1) The board may, by resolution designating the purposes and prescribing the duties thereof and manner of reporting, authorize their chairperson to appoint before June 1 in any year committees from the members of the board, and the committees so appointed shall perform the duties and report as prescribed in the resolution.

(2) Except as provided under sub. (3), committee members shall receive such compensation for their services as the board allows, not exceeding the per diem and mileage allowed to members of the board and the committee members shall receive such compensation, mileage and reimbursement for other expenses as the board allows for their attendance at any school, institute or meeting which the board directs them to attend. No supervisor shall be allowed pay for committee service while the board is in session, nor for mileage except in connection with services performed within the time limited under this subsection. The number of days for which compensation and mileage may be paid a committee member in any year, except members of committees appointed to have charge of the erection of any county building, and except as otherwise provided by law, are limited as follows:

(a) In counties containing less than 25,000 population, to 20 days, not more than 10 of which shall be for services on any one committee, except that the board may increase the number of committee meetings under par. (b) and similarly fix the compensation of the members for the additional meetings.

(b) In counties with a population of 25,000 or more, to 30 days for services on committees, except that the board may, by a two−thirds vote of the members present, increase the number of days for which compensation and mileage may be paid in any year and fix the compensation for each additional day.

(3) A supervisor in a county with a population of 500,000 or more may not accept any compensation in addition to his or her regular salary for serving as a member of any committee, board or commission appointed by the county board or by the county executive.

History: 1983 a. 192 s. 303 (1); 1985 a. 29; 1995 a. 201 s. 107; Stats. 1995 s. 59.13.

A county board may not delegate appointment of committee members to a committee of the board. 61 Atty. Gen. 214.

Section 59.06 (2) (intro.) [now 59.13 (2) (intro.)] does not prohibit payment of additional mileage under s. 59.03 (3) (g) [now 59.10 (3) (g)]. 68 Atty. Gen. 73.

County board resolutions creating special or standing committees under this section or creating rules of procedure relative to executive matters or the administration of law are subject to veto in counties under 500,000. 68 Atty. Gen. 182.

A county board's power to delegate authority concerning property transactions to its committees is discussed. 74 Atty. Gen. 227.

Except in self−organized counties under s. 59.03 (1) [now s. 59.10 (1)], a county board may not establish multiple per diem compensation for attendance at more than one committee meeting on the same day on days when the county board is not in session. 79 Atty. Gen. 122.

59.14 Publication of ordinances and proceedings. (1) Whenever a board enacts an ordinance under this chapter the clerk shall immediately publish the ordinance either in its entirety, as a class 1 notice, under ch. 985, or as a notice, as described under sub. (1m) (b); and the clerk shall procure and distribute copies of the ordinance to the several town clerks, who shall file it in their respective offices.

(1m) (a) In this subsection, "summary" means a brief, precise, and plain−language description that can be easily understood.

(b) A notice of an ordinance that may be published under this subsection shall be published as a class 1 notice under ch. 985 and shall contain at least all of the following:

1. The number and title of the ordinance.

2. The date of enactment.

3. A summary of the subject matter and main points of the ordinance.

4. Information as to where the full text of the ordinance may be obtained, including the phone number of the county clerk, a street address where the full text of the ordinance may be viewed, and a Web site, if any, at which the ordinance may be accessed.

(2) The board shall, by ordinance or resolution, provide for publication in one or more newspapers in the county as a class 1 notice, under ch. 985, a certified copy of all its proceedings had

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at any meeting, regular or special; said publication to be completed within 60 days after the adjournment of each session.

(3) The board may at any meeting, regular or special, provide by resolution for the publication in pamphlet form by the lowest and best bidder therefor, of a sufficient and designated number of copies of its duly certified proceedings, for general distribution.

(4) The board may order public notices relating to tax redemption and other affairs of the county to be published in a newspaper printed in any other than the English language, to be designated in such order, whenever the board considers it necessary for the better information of the inhabitants of the county, and it shall appear from the last previous census that one−fourth or more of the adult population of the county is of a nationality not speaking the English language, and that there shall have been a newspaper published in the county continuously for one year or more in the language spoken by that nationality; but all of the notices shall also be published in a newspaper published in the English language as provided by law. The compensation for all of the publications shall be paid by the county ordering the publications, and shall be the same as that prescribed by law for publication in the English language; and no extra charge shall be allowed for translation in any case. No irregularity, mistake or informality in any such publication shall affect the validity or regularity of any tax redemptions or other legal proceedings.

History: 1987 a. 378; 1995 a. 201 s. 244; Stats. 1995 s. 59.14; 2007 a. 72.

Sub. (1) is discussed in reference to the effect of the failure to distribute and the requirements of distribution and publication. 62 Atty. Gen. 81.

Codification and publication of ordinances is discussed. 70 Atty. Gen. 124.

A county with a population of less that 250,000 is not required to designate an official newspaper. A county is not required to seek bids for the publication of legal notices. Even if a county does not competitively bid the publication of its own proceedings as provided in sub. (3), it may print its own proceedings or post them on its web site. A county may not, in lieu of publication in a printed newspaper or posting on a physical bulletin board, post its legal notices on its official web site. OAG 2−08.

59.15 Neglect of duty. Any supervisor who refuses or neglects to perform any of the duties which are required of the supervisor by law as a member of the board, without just cause therefor, shall for each such refusal or neglect forfeit not less than $50 nor more than $200.

History: 1991 a. 316; 1995 a. 201 s. 246; Stats. 1995 s. 59.15; 1995 a. 225 s. 136; 1997 a. 35.

A county board may provide for a penalty in the nature of a forfeiture for the violation of a code of ethics ordinance but may not bar violators from running for office. A violation is not a neglect of duties under s. 59.15 or ipso facto cause for removal under s. 17.09 (1). 66 Atty. Gen. 148. See also 67 Atty. Gen. 164.

SUBCHAPTER IV

COUNTY OFFICERS

59.17 County executive. (1) ELECTION AND TERM OF OFFICE. (a) In each county with a population of 500,000 or more, a county executive shall be elected for a 4−year term at the election to be held on the first Tuesday in April of each year in which county supervisors are elected, and shall take office on the first Monday in May following the election. The county executive shall be elected from residents of the county at large by a majority vote of all qualified electors in the county voting in the election. In any county which attains a population of 500,000 or more, the first election under this paragraph shall be held on the first Tuesday in April in the year following the official announcement of the federal census.

(b) Counties with a population of less than 500,000 may by resolution of the board or by petition and referendum create the office of county executive or abolish it by petition and referendum. If the office of county executive is abolished, the person serving in the office shall complete the term to which elected. The county executive shall be elected the same as a county executive is elected under par. (a) for a term of 4 years commencing with the first spring election occurring at least 120 days after the creation of the office and shall take office on the 3rd Tuesday in April of that year. Such petition and election shall follow the procedure provided in s. 9.20 (1) to (6), except that in case of conflict this subsection shall control.

(2) DUTIES AND POWERS. The county executive shall be the chief executive officer of the county. The county executive shall take care that every county ordinance and state or federal law is observed, enforced and administered within his or her county if the ordinance or law is subject to enforcement by the county executive or any person supervised by the county executive. The duties and powers of the county executive shall be, without limitation because of enumeration, to:

(a) Coordinate and direct all administrative and management functions of the county government not otherwise vested by law in other elected officers.

(b) In any county with a population of 500,000 or more, appoint and supervise the heads of all departments except where the statutes provide that the appointment shall be made by a board or commission or by other elected officers. Notwithstanding any statutory provision that a board or commission or the county board or county board chairperson appoint a department head, except ss. 17.21 and 59.47 (3), the county executive shall appoint and supervise the department head. Notwithstanding any statutory provision that a board or commission supervise the administration of a department, the department head shall supervise the administration of the department and the board or commission shall perform any advisory or policy−making function authorized by statute. Any appointment by the county executive under this paragraph requires the confirmation of the county board unless the county board, by ordinance, elects to waive confirmation. Any department head appointed by a county executive under this subsection may be removed at the pleasure of the county executive.

(bm) 1. In any county with a population of 500,000 or more, appoint the following persons:

a. The director of parks, recreation and culture under s. 27.03 (2).

b. The director of the county department of human services under s. 46.21 (1m) (a).

c. The director of the county department of administration under s. 59.52 (1) (a).

d. The director of personnel of the county civil service commission under s. 63.02 (2).

e. The director of transportation under s. 83.01 (1).

2. Each appointment under subd. 1. is subject to the confirmation of the county board and is in the unclassified service, serving at the pleasure of the county executive and holding office until a new appointment is made by the county executive and confirmed by the board. No prior appointee may serve longer than 6 months after the term for which he or she was appointed and confirmed expires, unless reappointed and reconfirmed. The term of each appointment is 4 years or less.

(br) In any county with a population of less than 500,000, appoint and supervise the heads of all county departments except those elected by the people and except where the statutes provide that the appointment shall be made by other elected officers. Notwithstanding any statutory provision that a board or commission or the county board or county board chairperson appoint a department head, except s. 17.21, the county executive shall appoint and supervise the department head. Notwithstanding any statutory provision that a board or commission supervise the administration of a department, the department head shall supervise the administration of the department and the board or commission shall perform any advisory or policy−making function authorized by statute. An appointment by the county executive under this subsection requires the confirmation of the board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. Any department head appointed by a county executive under this subsection may be removed at the pleasure of the county executive unless the department head is appointed under a civil service

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system competitive examination procedure established under s. 59.52 (8) or ch. 63.

(c) Appoint the members of all boards and commissions where appointments are required and where the statutes provide that the appointments are made by the county board or by the chairperson of the county board. All appointments to boards and commissions by the county executive are subject to confirmation by the county board.

(3) ADMINISTRATIVE SECRETARIES TO COUNTY EXECUTIVE; STAFF. The county executive may appoint administrative secretaries using hiring procedures which shall be exempt from county civil service competitive examination procedures and such additional staff assistants as the board provides.

(4) COMPENSATION OF COUNTY EXECUTIVE, DEPUTY, AND STAFF ASSISTANTS. The board shall fix the compensation of the county executive, the county executive's administrative secretary and the county executive's staff assistants, provided that the salary of the county executive shall be established at least 90 days prior to any election held to fill the office.

(5) MESSAGE TO THE BOARD; SUBMISSION OF ANNUAL BUDGET. The county executive shall annually, and otherwise as may be necessary, communicate to the board the condition of the county, and shall recommend such matters to the board for its consideration as he or she considers expedient. Notwithstanding any other provision of the law, he or she shall be responsible for the submission of the annual budget to the board and may exercise the power to veto any increases or decreases in the budget under sub. (6).

(6) COUNTY EXECUTIVE TO APPROVE OR VETO RESOLUTIONS OR ORDINANCES; PROCEEDINGS ON VETO. Every resolution adopted or ordinance enacted by the board shall, before it becomes effective, be presented to the county executive. If the county executive approves, the county executive shall sign it; if not, the county executive shall return it with his or her objections, which objections shall be entered at large upon the journal and the board shall proceed to reconsider the matter. Appropriations may be approved in whole or in part by the county executive and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for in other resolutions or ordinances. If, after such reconsideration, two−thirds of the members−elect of the board agree to adopt the resolution or enact the ordinance or the part of the resolution or ordinance objected to, it shall become effective on the date prescribed but not earlier than the date of passage following reconsideration. In all such cases, the votes of the members of the board shall be determined by ayes and nays and the names of the members voting for or against the resolution or ordinance or the part thereof objected to shall be entered on the journal. If any resolution or ordinance is not returned by the county executive to the board at its first meeting occurring not less than 6 days, Sundays excepted, after it has been presented to the county executive, it shall become effective unless the board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without the county executive's approval.

(7) REMOVAL FROM OFFICE; VACANCY, HOW FILLED. The county executive may be removed from office by the governor for cause under s. 17.16. A vacancy in the office of county executive shall be filled temporarily, within 30 days of the date of the vacancy, by appointment by the chairperson of the board, subject to confirmation by the board, from among electors of the county. Within 7 days following the occurrence of the vacancy, the clerk shall order a special election to be held under s. 8.50 to fill the vacancy. If the vacancy occurs after October 31 but not later than 49 days before the day of the spring primary, the special election shall be held concurrently with the spring primary and election.

(8) SUCCESSION IN OFFICE. (a) In the event of the inability of the county executive to serve because of mental or physical disease, the powers and duties of the office shall devolve upon the chairperson of the board until such time as the disability shall cease.

(b) In the event that a vacancy in the office of county executive occurs, the chairperson of the board shall immediately succeed to the office and assume the duties and responsibilities thereof until the board has confirmed an appointment to the office under sub. (7).

History: 1975 c. 264; 1977 c. 257, 259; 1979 c. 260; 1981 c. 217, 314, 329; 1981 c. 391 s. 210; 1983 a. 148; 1983 a. 192 ss. 116, 303 (2); 1983 a. 239, 484; 1985 a. 29 ss. 1150 to 1158, 1160, 3200 (56), 3202 (56); 1985 a. 135 s. 85; 1985 a. 176; 1989 a. 273; 1991 a. 269, 274, 316; 1995 a. 16 s. 2; 1995 a. 201 s. 101; Stats. 1995 s. 59.17.

A county executive's partial−veto power is similar to the governor's power. 73 Atty. Gen. 92.

The powers of an elected county executive are discussed. 77 Atty. Gen. 113.

A county board may adopt an ordinance creating the office of county executive and make the ordinance contingent upon approval in a countywide referendum. The office of county executive is created at the time the results of the referendum become final. The first election for the office occurs at least 120 days after the creation becomes effective. The county executive takes office on the 3rd Tuesday in April of the election year. 78 Atty. Gen. 227.

The veto of an appropriation under sub. (5) does not restore the appropriation to its level in the county executive's proposed budget. 80 Atty. Gen. 214.

Section 33.28 (2) (a) provides that the county representative upon a public inland lake protection and rehabilitation board is to be a person appointed by the county board. By operation of sub. (2) (c), the power of appointing the county representative to a public inland lake protection and rehabilitation district is therefore transferred from the county board to the county executive once the office of county executive is created, subject to confirmation by the board. OAG 2−09.

59.18 County administrator. (1) APPOINTMENT. Counties having a population of less than 500,000 may by resolution of the board or by petition and referendum create the office of county administrator. The county administrator shall be appointed by majority vote of the board. Such petition and election shall follow the procedure provided in s. 9.20 (1) to (6). If any member of the board is appointed as county administrator, his or her status as a member of the board is thereby terminated, except that in the case of a vacancy in the office of county administrator by reason of removal, resignation or other cause, the board may appoint any member of the board as acting county administrator to serve for a period of 15 days while the board is considering the selection of a county administrator.

(2) DUTIES AND POWERS. The county administrator shall be the chief administrative officer of the county. The county administrator shall take care that every county ordinance and state or federal law is observed, enforced and administered within his or her county if the ordinance or law is subject to enforcement by the county administrator or any other person supervised by the county administrator. The duties and powers of the county administrator shall be, without limitation because of enumeration, to:

(a) Coordinate and direct all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

(b) Appoint and supervise the heads of all departments of the county except those elected by the people and except where the statutes provide that the appointment shall be made by elected officers; but the county administrator shall also appoint and supervise all department heads where the law provides that the appointment shall be made by a board or commission, by the chairperson of the county board or by the county board. Notwithstanding any statutory provision that a board or commission supervise the administration of a department, the department head shall supervise the administration of the department and the board or commission shall perform any advisory or policy−making function authorized by statute. Any appointment by the county administrator under this paragraph requires the confirmation of the county board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. Any department head appointed by a county administrator under this paragraph may be removed at the pleasure of the county administrator unless the department head is appointed under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63.

(c) Appoint the members of all boards and commissions where the statutes provide that such appointment shall be made by the county board or by the chairperson of the county board. All

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appointments to boards and commissions by the county administrator shall be subject to the confirmation of the county board.

(3) ADMINISTRATIVE SECRETARY TO COUNTY ADMINISTRATOR; STAFF. The county administrator may appoint an administrative secretary, and additional staff assistants, as necessary.

(4) COMPENSATION OF COUNTY ADMINISTRATOR AND STAFF. The board shall fix the compensation of the county administrator, the county administrator's administrative secretary and the county administrator's staff assistants.

(5) MESSAGE TO THE BOARD; SUBMISSION OF ANNUAL BUDGET. The county administrator shall annually, and otherwise as necessary, communicate to the board the condition of the county, and recommend such matters to the board for its consideration as the county administrator considers expedient. Notwithstanding any other provision of the law, the county administrator shall be responsible for the submission of the annual budget to the board.

(6) QUALIFICATIONS FOR APPOINTMENT. The county administrator shall be appointed solely on merit. In appointing the county administrator, the board shall give due regard to training, experience, administrative ability and general qualifications and fitness for performing the duties of the office, and no person shall be eligible to the office of county administrator, who is not by training, experience, ability and efficiency qualified and generally fit to perform the duties of such office. No weight or consideration shall be given by the board to residence, to nationality, or to political or religious affiliations.

(7) REMOVAL. The board may remove the county administrator at any time that the county administrator's conduct of the county administration becomes unsatisfactory, and engage a successor. The action of the board in removing the county administrator shall be final.

(8) VACANCY, HOW FILLED. A vacancy in the office of the county administrator by reason of removal, resignation or other cause, shall be filled by appointment by majority vote of the board.

History: 1983 a. 192 ss. 118, 303 (2); 1985 a. 29, 176; 1989 a. 273; 1991 a. 316; 1995 a. 201 s. 102; Stats. 1995 s. 59.18.

A county board can abolish the office of county administrator by majority vote. 61 Atty. Gen. 322.

Sub. (2) (b) transfers the authority to supervise the administration of county departments from boards and commissions to department heads appointed by the county administrator. Sub. (2) therefore entirely negates s. 59.70 (2) insofar as it provides that the board may "employ" a system manager. In a county with a county administrator, the solid waste management board is purely an advisory body to the county administrator and to the county board and a policy−making body for the solid waste management department as a whole. OAG 1−12.

59.19 Administrative coordinator. In any county which has not created the office of county executive or county administrator, the board shall designate, no later than January 1, 1987, an elected or appointed official to serve as administrative coordinator of the county. The administrative coordinator shall be responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

History: 1985 a. 29; 1995 a. 201 s. 103; Stats. s. 59.19.

A sitting member of a county board must resign the office of supervisor before being appointed to the permanent position of county administrative coordinator under this section. OAG 1−11.

59.20 County offices and officers. (1) ELIGIBILITY FOR COUNTY OFFICE. No person may file nomination papers as a candidate for, have his or her name placed on a ballot for election to, or hold a county elective office who is not an elector of the county. No person may file nomination papers as a candidate for, have his or her name placed on a ballot for election to, or hold the office of county supervisor who is not an elector of the supervisory district from which he or she is chosen.

(2) COUNTY OFFICERS; TERMS. (a) Beginning in 2008 and quadrennially thereafter, a register of deeds, county clerk, and county treasurer shall be chosen at the general election by the electors of each county for the term of 4 years. Except as provided in this paragraph, beginning in 2008 and quadrennially thereafter, a surveyor shall be chosen at the general election by the electors of each county in which the office of surveyor is filled by election, for the term of 4 years. No surveyor shall be elected in counties having a population of 500,000 or more. The regular term of office of each register of deeds, county clerk, county treasurer, and county surveyor shall commence on the first Monday of January next succeeding his or her election and shall continue 4 years and until his or her successor qualifies.

(am) Beginning in 2012 and quadrennially thereafter, a comptroller shall be chosen at the spring election by the electors of each county having a population of 750,000 or more for the term of 4 years. The regular term of office of each comptroller shall commence on the 3rd Tuesday in April next succeeding his or her election and shall continue 4 years and until his or her successor qualifies.

(b) Beginning in 2006 and quadrennially thereafter, a sheriff shall be chosen at the general election by the electors of each county for the term of 4 years. Except as provided in this paragraph, beginning in 2006 and quadrennially thereafter, a coroner shall be chosen at the general election by the electors of each county in which there is a coroner, for the term of 4 years. No coroner shall be elected in counties having a population of 500,000 or more or in counties in which a medical examiner system is instituted. The regular term of office of each sheriff and coroner shall commence on the first Monday in January next succeeding his or her election and shall continue 4 years and until his or her successor qualifies.

(bm) Beginning in 2006 and quadrennially thereafter, a clerk of circuit court shall be chosen at the general election for the term of 4 years by the electors of each county, subject to removal as provided by law. The regular term of office of each clerk of circuit court shall commence on the first Monday of January next succeeding his or her election and shall continue 4 years and until his or her successor qualifies.

(c) In counties that elect a surveyor, the surveyor shall be a registered land surveyor. In lieu of electing a surveyor in any county having a population of less than 500,000, the board may, by resolution, designate that the duties under ss. 59.45 (1) and 59.74 (2) be performed by any registered land surveyor employed by the county.

(d) Except as provided in par. (b), in any county containing one town only, the county board may, by resolution, designate any county office a part−time position, combine 2 or more county offices, and, if concurred in by the town board, combine the offices of county clerk and town clerk and any other county and town offices, provided that the offices combined are not incompatible and the combination is not expressly forbidden by law. If the town board so concurs, the election may be for the combined office and no separate election for the town office shall be held until after the county board has by resolution decided to abandon the combination and the town board has concurred by resolution.

(3) OFFICES WHERE KEPT; WHEN OPEN. (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer, comptroller, register of probate, clerk and county surveyor shall keep his or her office at the county seat in the offices provided by the county or by special provision of law; or if there is none, then at such place as the board directs. The board may also require any elective or appointive county official to keep his or her office at the county seat in an office to be provided by the county. All such officers shall keep their offices open during the usual business hours of any day except Sunday, as the board directs. With proper care, the officers shall open to the examination of any person all books and papers required to be kept in his or her office and permit any person so examining to take notes and copies of such books, records, papers or minutes therefrom except as authorized in par. (c) and ss. 19.36 (10) to (12) and 19.59 (3) (d) or under ch. 69.

(b) If any officer described in par. (a) neglects or refuses to comply with any of the provisions of this subsection, the officer shall forfeit $5 for each day that the noncompliance continues. Actions for the collection of a forfeiture under this paragraph may be brought upon the complaint of the district attorney of the proper county or of any party aggrieved by the officer's refusal or neglect.

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(c) Any board may, by ordinance, provide that the cutoff reception time for the filing and recording of documents shall be advanced by one hour in any official business day during which time the register of deeds office is open to the public, in order to complete the processing, recording, and indexing to conform to the day of reception. Any register of deeds may provide in his or her notice under s. 19.34 (1) that requests for inspection or copying of the records of his or her office may be made only during a specified period of not less than 35 hours per week. For all other purposes, the register of deeds office shall remain open to the public during usual business hours.

(d) Any register of deeds who in good faith makes an erroneous determination as to the accessibility of a portion of a record, to members of the public under s. 19.36 (6), is not subject to any penalty for denial of access to the record under s. 19.37 (4).

History: 1995 a. 201 ss. 248, 249, 251, 268; 1995 a. 225 s. 145; 1997 a. 35; 2003 a. 47, 321, 322; 2005 a. 41; 2007 a. 158; 2011 a. 62.

NOTE: 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

Section 59.14, [now 59.20 (3)] is a legislative declaration granting those persons who come under its coverage an absolute right of inspection subject only to reasonable administrative regulations. State ex rel. Bilder v. Town of Delavan, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

A newspaper had the right to intervene to protect its right to examine sealed court files. State ex rel. Bilder v. Town of Delavan, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

Courts must apply the open records balancing test to questions involving disclosure of court records. Under the test, the party seeking nondisclosure must show that public interests favoring secrecy outweigh those favoring disclosure. C. L. v. Edson, 140 Wis. 2d 168, 409 N.W.2d 417 (Ct. App. 1987).

The appointment of a county surveyor under this section is constitutional. Ripley v. Brown, 143 Wis. 2d 686, 422 N.W.2d 608 (1988).

"Books and papers required to be kept" are not all those that the custodian is obliged merely to retain or preserve; rather they are only those that the custodian is obliged to maintain or engender. The requester has the burden of showing the authority requiring that the record be maintained or engendered. State ex rel. Schultz v. Bruendl, 168 Wis. 2d 101, 483 N.W.2d 238 (Ct. App. 1992).

To overcome the legislatively mandated policy favoring open records and to persuade the circuit court to exercise its inherent authority, the party seeking to close court records bears the burden of demonstrating, with particularity, that the administration of justice requires that the records be closed. Once documents are filed in the court they become a judicial record subject to the access accorded such records. Even the possibility that the parties may attempt to rescind a settlement agreement if the record is unsealed does not outweigh the public's right to inspect public documents. There are no requirements of a showing of harm to the public or that the inquiry must have indicia of public concern. Krier v. EOG Environmental, Inc. 2005 WI App 256, 288 Wis. 2d 623, 707 N.W.2d 915, 04−2670.

After a transcript of a court proceedings is filed with the clerk of court, any person may examine or copy the transcript. 68 Atty. Gen. 313.

A sheriff's criminal investigation files are not covered by a blanket exemption from the public records law. Denial of access may be justified on a case−by−case basis. 77 Atty. Gen. 42.

59.21 Official oaths and bonds. (1) Each county officer named in this chapter, except county supervisors, shall execute and file an official bond and take and file the official oath within 20 days after receiving official notice of election or appointment, or if not officially notified, within 20 days after the commencement of the term for which the officer is elected or appointed, or the board may provide a schedule or blanket bond that includes any or all of these officials, except county supervisors, and a blanket bond may also include members of a county veterans service commission under s. 45.81 (1) and a county veterans service officer under s. 45.81 (2). Every county supervisor shall take and file the official oath within 20 days after receiving official notice of election or appointment, or if not officially notified, within 20 days after the commencement of the term for which he or she is elected or appointed. Every deputy appointed by any such officer shall take and file the official oath and if the deputy neglects to do so, he or she shall forfeit $100. If the board does not provide a schedule or blanket bond, the official bonds shall be in sums and with sureties, as follows:

(a) Clerk, not less than $2,000.

(b) Treasurer, if the bond is furnished by individual sureties, not less than the amount nor exceeding twice the amount of all taxes directed by the board to be levied therein and to be received by the treasurer during the ensuing year, with 3 or more sureties; or, if the bond is furnished by a surety company in an amount not less than 10% of all taxes directed by the board to be levied therein, and to be received by the treasurer during the ensuing year, or $500,000, whichever is smaller.

(c) Sheriff, not less than $5,000 nor more than $25,000, with not less than 3 sureties.

(d) Coroner, not less than $500 nor more than $10,000, with not less than 2 sureties.

(e) Clerk of the circuit court, not less than $5,000, with 2 or more sureties.

(g) Register of deeds, in counties containing less than 150,000 population, $3,000, with 2 or more sureties. In counties containing 150,000 or more population, not less than $3,000, with 2 or more sureties, conditioned for the accuracy of the register's work and the faithful, correct and impartial performance of the register's duties, and in addition thereto a bond of not less than $10,000, with 2 or more sureties, conditioned for the faithful accounting for and paying over to the treasurer all moneys which may come into the register's hands as register of deeds, or into the hands of the register's deputy or assistants.

(h) Surveyor, $5,000.

(i) County abstractor, $5,000, with 2 or more sureties.

(j) Comptroller, not less than $5,000 nor more than $20,000 with not less than 3 sureties.

(2) Each official bond described in sub. (1) shall be in a sum fixed by law; or if not fixed by law, in a sum fixed by resolution of the board, within the limitations prescribed by law, if any, at the annual meeting in November prior to the commencement of the term of office of the particular officer. Both the bond and the sufficiency of the sureties thereto shall be approved by a committee consisting of the chairperson and not less than 2 other members of the board who shall report in writing their action on all bonds.

(3) Each bond described in sub. (1) shall be guaranteed by the number of personal sureties prescribed by law, or if not prescribed, by the number fixed by the board within the limitations, if any, prescribed by law, or by a surety company as provided by s. 632.17 (2). In the case of the clerk, treasurer and county abstractor the board may by resolution require them to furnish bonds guaranteed by surety companies and direct that the premiums be paid as provided in s. 19.01 (8).

(4) If it considers the bond of any officer insufficient, the board may by resolution require the officer to furnish additional bond in a sum to be named in the resolution, not exceeding $10,000 for the register of deeds of any county with a population of less than 150,000, and not exceeding the maximum sum, if any, fixed by law for additional bonds for other officers.

History: 1975 c. 152, 199; 1975 c. 375 s. 44; 1983 a. 192 s. 303 (1); 1989 a. 31; 1991 a. 316; 1995 a. 201 s. 250; Stats. 1995 s. 59.21; 1995 a. 225 ss. 137 to 144; 1997 a. 35; 2003 a. 204; 2011 a. 62, 96.

Cross−reference: See s. 59.38 (3) for provision for a bond by the medical examiner.

59.22 Compensation, fees, salaries and traveling expenses of officials and employees. (1) ELECTIVE OFFICIALS. (a) 1. The board shall, before the earliest time for filing nomination papers for any elective office to be voted on in the county, other than supervisors and circuit judges, which officer is paid in whole or part from the county treasury, establish the total annual compensation for services to be paid to the officer exclusive of reimbursements for expenses out−of−pocket provided for in sub. (3). Except as provided in subd. 2., the annual compensation may be established by resolution or ordinance, on a basis of straight salary, fees, or part salary and part fees, and if the compensation established is a salary, or part salary and part fees, it shall be in lieu of all fees, including per diem and other forms of compensation for services rendered, except those specifically reserved to the officer in the resolution or ordinance. The compensation established shall not be increased nor diminished during the officer's term and shall remain for ensuing terms unless changed by the board. Court fees shall not be used for compensation for county officers.

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2. The board shall establish the annual compensation of the sheriff as straight salary. No portion of that salary may include or be based on retention of fees by the sheriff. No portion of that salary may be based on providing food to prisoners under s. 302.37 (1). This subdivision does not prohibit the reimbursement of a sheriff for actual and necessary expenses.

(b) Any officer authorized or required to collect fees appertaining to his or her office shall keep a complete record of all fees received in the form prescribed by the board and shall file a record of the total annual receipts in the clerk's office within 20 days of the close of the calendar year or at such other times as the board requires. Any officer on a salary basis or part fees and part salary shall collect all fees authorized by law appertaining to his or her office and shall remit all fees not specifically reserved to the officer by enumeration in the compensation established by the board under par. (a) to the treasurer at the end of each month unless a shorter period for remittance is otherwise provided.

(2) APPOINTIVE OFFICIALS; DEPUTY OFFICERS; AND EMPLOYEES. (a) Except for elective offices included under sub. (1), supervisors and circuit judges, the board has the powers set forth in this subsection, sub. (3) and s. 59.03 (1) as to any office, department, board, commission, committee, position or employee in county service created under any statute, the salary or compensation for which is paid in whole or in part by the county, and the jurisdiction and duties of which lie within the county or any portion thereof and the powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

(c) 1. Except as provided in subd. 2. and par. (d), the board may do any of the following:

a. Provide, fix or change the salary or compensation of any office, board, commission, committee, position, employee or deputies to elective officers that is subject to sub. (1) without regard to the tenure of the incumbent.

b. Establish the number of employees in any department or office including deputies to elective officers.

c. Establish regulations of employment for any person paid from the county treasury.

2. No action of the board may be contrary to or in derogation of the rules of the department of children and families under s. 49.78 (4) to (7) relating to employees administering old−age assistance, aid to families with dependent children, aid to the blind, or aid to totally and permanently disabled persons or ss. 63.01 to 63.17.

(d) The board or any board, commission, committee or agency to which the board or statutes has delegated the authority to manage and control any institution or department of the county government may contract for the services of employees, setting up the hours, wages, duties and terms of employment for periods not to exceed 2 years.

(e) The board may provide and appropriate money for an employee awards program to encourage and to reward unusual and meritorious suggestions and accomplishments by county employees.

(3) REIMBURSEMENT FOR EXPENSE. The board may provide for reimbursement to any elective officer, deputy officer, appointive officer or employee for any out−of−pocket expense incurred in the discharge of that person's duty in addition to that person's salary or compensation, including without limitation because of enumeration, traveling expenses, tuition costs incurred in attending courses of instruction clearly related to that person's employment, and the board may establish standard allowances for mileage, room and meals, the purposes for which allowances may be made, and determine the reasonableness and necessity for such reimbursements, and also establish in advance a fair rate of compensation to be paid to the sheriff for the board and care of prisoners in the county jail at county expense.

(3a) COMMISSION ON AGING. The board may provide for the payment of expenses and a per diem to persons appointed to a county commission on aging under s. 59.53 (11).

(4) INTERPRETATION. In the event of conflict between this section and any other statute, this section to the extent of the conflict shall prevail.

History: 1973 c. 118; 1977 c. 372; 1981 c. 317; 1987 a. 181; 1989 a. 48, 107; 1991 a. 316; 1995 a. 27 ss. 3287, 9126 (19); 1995 a. 201 ss. 257 to 260; Stats. 1995 s. 59.22; 1995 a. 225 s. 146; 1997 a. 35; 1999 a. 83; 2003 a. 33; 2007 a. 20.

A county ordinance implementing a collective bargaining agreement providing for the payment to county employees, upon their leaving government employment, compensation for accumulated sick leave, earned both before and after the effective date of the ordinance, is valid. 59 Atty. Gen. 209.

A county board may not adopt a step−salary plan for elective offices related to experience of the officeholder as compensation is for the office, not the officer, and the officer is entitled to the compensation as an incident of the office. 61 Atty. Gen. 165, 403.

When it is the duty of a county traffic officer to testify or assist in the prosecution of county traffic offenses, the officer is not entitled to witness fees but may be paid additional compensation if a court appearance takes place outside regular working hours. 62 Atty. Gen. 93.

A county board may not deny a salary to an elected official during a period of sickness. A board does not have power to establish sick leave and vacation benefits for elected county officials. 65 Atty. Gen. 62.

The authority to establish salaries for the staff employed by a county's 51.42/51.437 board lies with that board, subject to the general budgetary control of the county board. 65 Atty. Gen. 105.

Discretionary authority to grant increases to elected county officials based upon performance or length of service may not be delegated to a committee of the county board because the board itself lacks the authority to establish such a compensation scheme. 80 Atty. Gen. 258.

59.23 Clerk. (1) DEPUTIES; SALARIES; VACANCIES. (a) Every clerk shall appoint in writing one or more deputies and file the appointment in the clerk's office. The deputy or deputies shall aid in the performance of the duties of the clerk under the clerk's direction, and in case of the absence or disability of the clerk or of a vacancy in the clerk's office, unless another is appointed therefor as provided in par. (c), shall perform all of the duties of the clerk during the absence or until the vacancy is filled. The board may, at any meeting, provide a salary for the deputy or deputies.

(b) In each county having a population exceeding 150,000 according to the last state or national census, the clerk may also appoint the number of assistants that the board authorizes and prescribes, and the assistants shall receive salaries that the board provides and fixes.

(c) If a clerk is incapable of discharging the duties of office the board may appoint an acting clerk, who shall serve until the disability is removed. If the board is not in session at the time of the incapacity, the chairperson of the board may appoint an acting clerk, whose term shall not extend beyond the next regular or special meeting of the board. A person appointed as acting clerk or appointed to fill a vacancy in the office of clerk, upon giving an official bond with sureties as required of a clerk, shall perform all of the duties of the office; and thereupon the powers and duties of the deputy of the last clerk shall cease.

(2) DUTIES. The clerk shall:

(a) *Board proceedings.* Act as clerk of the board at all of the meetings thereof; keep and record in a book therefor true minutes of all the proceedings of the board; make regular entries of the board's resolutions and decisions upon all questions; record the vote of each supervisor on any question submitted to the board, if required by any member present; and perform all duties prescribed by law or required by the board in connection with its meetings and transactions.

(b) *Recording of proceedings.* Record at length in a book therefor every resolution adopted, order passed and ordinance enacted by the board.

(c) *Orders for payment.* Sign all orders for the payment of money directed by the board to be issued, and keep in a book therefor a true and correct account thereof, and of the name of the person to whom each order is issued; but he or she shall not sign or issue any county order except upon a recorded vote or resolution of the board authorizing the same; and shall not sign or issue any

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such order for the payment of the services of any clerk of court, district attorney or sheriff until the person claiming the order files an affidavit stating that he or she has paid into the county treasury all moneys due the county and personally collected or received in an official capacity; and shall not sign or issue any order for the payment of money for any purpose in excess of the funds appropriated for such purpose unless first authorized by a resolution adopted by the county board under s. 65.90 (5).

(d) *Accounts.* File and preserve in the clerk's office all accounts acted upon by the board, and endorse its action thereon, designating specifically upon every account the amount allowed, if any, and the particular items or charges for which allowed, and such as were disallowed, if any.

(e) *Reports of receipts and disbursements.* Record in a book therefor the reports of the treasurer of the receipts and disbursements of the county.

(f) *Recording receipts and disbursements.* Keep a true and accurate account in a book therefor of all money which comes into the clerk's hands by virtue of the clerk's office, specifying the date of every receipt or payment, the person from or to whom the receipt or payment was received or paid, and the purpose of each particular receipt or disbursement, and keep the book at all times open to the inspection of the county board or any member of the board.

(g) *Payments to treasurer.* Keep in the manner prescribed in par. (f) a separate account of all moneys paid the treasurer by the clerk.

(h) *Books of account.* Keep all of the accounts of the county and all books of account as the board directs. Books of account shall be maintained on a calendar year basis, which shall be the fiscal year in every county.

(j) *School taxes, records to department of public instruction.* Transmit to the department of public instruction on the last Monday in December in each year certified copies of all resolutions adopted and proceedings of the board passed or had during the preceding year relating to the raising of any money for school purposes, and report the amount to be raised in each town in the county.

(k) *Villages, towns; change of name.* Immediately transmit to the secretary of state, after the name of any town or village is changed or a new town is organized or the boundaries of any town are altered by the board, a certified copy of the ordinance enacted therefor, indicating such change or changes.

(L) *Duplicate receipts.* Make out and deliver to the treasurer duplicate receipts of all money received by the clerk as clerk, and countersign and file in the clerk's office the duplicate receipts delivered to the clerk by the treasurer of money received by the treasurer.

(m) *Certified copies; oaths and bonds; signatures.* 1. Make and deliver to any person, for a fee that is set by the board under s. 19.35 (3), a certified copy or transcript of any book, record, account, file or paper in his or her office or any certificate which by law is declared to be evidence.

2. Except as otherwise provided, receive and file the official oaths and bonds of all county officers and upon request shall certify under the clerk's signature and seal the official capacity and authority of any county officer so filing and charge therefor the statutory fee. Upon the commencement of each term every clerk shall file the clerk's signature and the impression of the clerk's official seal in the office of the secretary of state.

(n) *Taxes; election duties.* Perform all duties that are imposed on the clerk in relation to the assessment and collection of taxes, and to the preparation and distribution of ballots and the canvass and return of votes at general, judicial and special elections.

(o) *Report, receipts and disbursements to board.* Make a full report to the board, at the annual meeting or at any other regular meeting of the board when so stipulated by the board, in writing, verified by the clerk's oath, of all money received and disbursed by the clerk, and separately of all fees received by the clerk; and settle with the board the clerk's official accounts and produce to the board all books, accounts and vouchers relating to the same.

(p) *Proceedings to historical society.* Forward to the historical society, postpaid, within 30 days after their publication a copy of the proceedings of the board, and of all printed reports made under authority of such board or by the authority of other county officers.

(q) *County highway commissioner; notify of election.* Except in counties having a population of 150,000 or more, notify a county commissioner of highways of the commissioner's election within 10 days thereafter.

(r) *County tax for road and bridge fund.* Except in counties having a population of 150,000 or more, notify the proper town officers of the levy and rate of any tax for the county road and bridge fund.

(s) *List of municipal officers.* Annually, on the first Tuesday of June, transmit to the secretary of state a typewritten or printed list showing the name and post−office address of the chairperson, mayor, president, clerk, treasurer and assessor of each municipality within the county. Such lists shall be placed on file for the information of the public.

(t) *General.* Perform all other duties required of the clerk by law.

History: 1995 a. 201 ss. 261, 263, 264, 275; 1995 a. 225 ss. 147 to 150; 1997 a. 27; 1999 a. 9.

Under s. 59.17 (8) [now s. 59.23 (2) (h)], the clerk keeps only those accounts designated by the board. Harbick v. Marinette County, 138 Wis. 2d 172, 405 N.W.2d 724 (Ct. App. 1987).

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. Oneida County v. WERC, 2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00−0466.

Statutory powers of the county clerk with respect to budgeting and record keeping cannot be transferred by the county board to a new position of finance officer. 63 Atty. Gen. 196.

A county board can only grant powers of indirect supervision to a finance director with respect to the accounting or bookkeeping duties of a county clerk. 65 Atty. Gen. 132.

59.24 Clerks of counties containing state institutions to make claims in certain cases. The clerk of any county that is entitled to reimbursement under s. 16.51 (7) shall make a certified claim against the state, without direction from the board, in all cases in which the reimbursement is directed in s. 16.51 (7), upon forms prescribed by the department of administration. The forms shall contain information required by the clerk and shall be filed annually with the department of corrections on or before June 1. If the claims are approved by the department of corrections, they shall be certified to the department of administration and paid from the appropriation made by s. 20.410 (1) (c), if the claim is for reimbursement of expenses involving a prisoner in a state prison named in s. 302.01, or from the appropriation under s. 20.410 (3) (c), if the claim is for reimbursement of expenses involving a juvenile in a juvenile correctional facility, as defined in s. 938.02 (10p).

History: 1989 a. 31, 359; 1995 a. 27, 77; 1995 a. 201 s. 265; Stats. 1995 s. 59.24; 1997 a. 35; 2005 a. 344.

59.25 Treasurer. (1) ELIGIBILITY. No person holding the office of sheriff, undersheriff, circuit judge, district attorney, clerk of the circuit court, clerk or member of the board shall be eligible to the office of treasurer or deputy treasurer.

(2) DEPUTIES; OATH; SALARY; TEMPORARY VACANCY. (a) The treasurer shall appoint one deputy to aid the treasurer, under the treasurer's direction, in the discharge of the duties of the office of treasurer. A deputy appointed under this paragraph may be removed only for just cause. The appointment shall be in writing and shall be filed and recorded in the treasurer's office. Such deputy, in the absence of the treasurer from the treasurer's office or in case of a vacancy in said office or any disability of the treasurer to perform the duties of the office of treasurer, unless another is appointed therefor as provided in par. (b), shall perform all of the duties of the office of treasurer until such vacancy is filled or such

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disability is removed. The person so appointed shall take and file the official oath. The person shall file his or her appointment with the clerk. The board may, at its annual meeting or at any special meeting, provide a salary for the deputy.

(b) If any treasurer is incapable of discharging the duties of the office of treasurer, the board may, if it sees fit, appoint a person treasurer who shall serve until such disability is removed. A person so appointed or appointed to fill a vacancy in the office of treasurer, upon giving an official bond with like sureties as are required of such treasurer, shall perform all the duties of such office, and thereupon the powers and duties of any deputy performing the duties of the last treasurer shall cease.

(3) DUTIES. The treasurer shall do all of the following:

(a) 1. Receive all moneys from all sources belonging to the county, and all other moneys which by statute or county ordinance are directed to be paid to the treasurer, and, except in counties having a population of 500,000 or more, in the case of the payment of delinquent property taxes or the redemption of land subject to a tax certificate, make out and deliver to the clerk duplicate receipts therefor, and file in the treasurer's office the duplicate receipts delivered to the treasurer by the clerk for money received by the clerk.

2. In counties having a population of 500,000 or more, file a duplicate receipt in the treasurer's office.

(b) Pay out all moneys belonging to the county only on the order of the board, signed by the clerk and countersigned by the chairperson, except when special provision for the payment thereof is otherwise made by law; and, except in counties having a population of 500,000 or more, pay out all moneys belonging to the county road and bridge fund on the written order of the county commissioner of highways, signed by the clerk and countersigned by the chairperson of the board.

(c) Pay all county orders described in par. (b) in the order of time in which they are presented for payment; but where 2 or more are presented at the same time, give precedence to the order of the oldest date, but the treasurer shall receive of municipal treasurers all county orders issued in the county, which the municipal treasurers may present in payment of county taxes, to the amount of the county taxes actually collected by any municipal treasurer in the year for which the orders are offered in payment, which amount shall be determined by the affidavit of the municipal treasurer.

(d) Keep a true and correct account of the receipt and expenditure of all moneys which come into the treasurer's hands by virtue of the treasurer's office in books kept therefor, specifying the date of every receipt or payment, the person from or to whom the same was received or paid, and the purpose of each particular receipt or payment; keep also in like manner a separate account of all fees received, a separate account of all moneys received for taxes, and a separate account of money received upon redemption of lands from sales thereof for nonpayment of taxes, further specifying in the 2 last accounts the description of the property on account of which such money was paid, which books shall be open at all times to the inspection of the board or any member thereof and to all county and state officers; make in writing a fully itemized statement and report, verified by the treasurer's oath, to the board on the first day of the annual board meeting and at such other times as the board directs, of all moneys of whatever nature received and disbursed by the county treasurer; exhibit the treasurer's vouchers therefor to be audited and allowed, and settle with the board the treasurer's accounts as treasurer; and exhibit to the board all moneys in the custody or control of the treasurer as treasurer, and, if required, make oath that such moneys are the funds of the county.

(e) Annually by March 15, furnish to the department of revenue the completed tax roll settlement sheets prescribed under s. 70.09 (3).

(f) 1. Except as provided in subd. 2., transmit to the secretary of administration at the time required by law to pay the state taxes a particular statement, certified by the county treasurer's personal signature affixed or attached thereto, of all moneys received by him or her during the preceding year and which are payable to the secretary of administration for licenses, fines, forfeitures, or on any other account, and at the same time pay to the secretary of administration the amount thereof after deducting the legal fees.

2. For all court imposed fines and forfeitures, plus costs, fees, and surcharges imposed under ch. 814, required by law to be deposited in the state treasury, transmit to the secretary of administration a statement of all moneys required by law to be paid on the actions entered during the preceding month on or before the first day of the next succeeding month, certified by the county treasurer's personal signature affixed or attached thereto, and at the same time pay to the secretary of administration the amount of the money transmitted.

(g) Deposit all moneys for jail assessments received under s. 302.46 (1) in a county jail fund and make payments from the fund for purposes of s. 302.46 (2) on order of the board under par. (b).

(h) Cause to be insured, when directed by the board, at the expense of the county, the county buildings or any of them in the name of the county; and, in case of loss, demand and receive the money due on account of such insurance for the use of the county; and all such money shall be applied to rebuilding or repairing such county buildings.

(i) Make annually, on the 3rd Monday of March, a certified statement, and forward the statement to each municipal clerk in the county, showing the amount of money paid from the county treasury during the year next preceding to each municipal treasurer in the county. The statement shall specify the date of each payment, the amount thereof and the account upon which the payment was made. It shall be unlawful for any county treasurer to pay to the treasurer of any town any money in the hands of the county treasurer belonging to the town from the 3rd Monday of March until 10 days after the annual town meeting except upon the written order of the town board.

(j) Retain 10% for fees in receiving and paying into the state treasury all money received by the treasurer for the state for fines and forfeitures, except that 50% of the state forfeitures and fines under chs. 341 to 347, 349, and 351 shall be retained as fees, and retain the other fees for receiving and paying money into the state treasury that are prescribed by law.

(k) Forward 40% of the state forfeitures and fines under ch. 348 to the secretary of administration for deposit in the transportation fund under s. 25.40 (1) (ig).

(L) Forward all money received under s. 66.0114 (3) (c) to the secretary of administration for deposit in the transportation fund under s. 25.40 (1) (ig).

(m) Forward 50% of the fees received under s. 351.07 (1g) to the secretary of administration for deposit in the transportation fund under s. 25.40 (1) (im).

(n) Make and deliver to any person, for a fee that is set by the board under s. 19.35 (3), a certified copy or transcript of any book, record, account, file or paper in his or her office or any certificate which by law is declared to be evidence.

(o) On the first day of each month pay into the county treasury the fees received by the treasurer.

(p) Pay to the secretary of administration on his or her order the state percentage of fees received from the clerk of the circuit court under s. 59.40 (2) (m) and if any such moneys remain in his or her hands when he or she is required to pay the state percentage of fees, pay such moneys therewith to the secretary of administration.

(q) Perform all other duties required of the treasurer by law.

(rm) If the treasurer's county receives national forest income, distribute the income to the towns in the county in which national forest lands are situated, with each town to receive such proportion of the income as the area of national forest lands in the town bears to the area of the national forest lands in the entire county.

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Fifty percent of the amount received by any town shall be expended by the town exclusively for the benefit of roads therein.

(s) Exercise any investment authority delegated to the treasurer by the board under s. 59.62.

(t) Notify municipalities of payments made under ss. 74.29 and 79.10 in respect to property tax levies originally certified to the municipality for collection.

History: 1995 a. 201 ss. 266, 267, 269, 270, 284; 1995 a. 225 ss. 151 to 153; 1995 a. 227 s. 202; 1995 a. 269 s. 2; 1995 a. 408 s. 1; 1995 a. 448 s. 60; 1997 a. 27, 35, 135, 211, 237, 248; 1999 a. 9, 32, 74; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2001 a. 56, 105; 2003 a. 33, 139, 326.

Section 59.20 (8) [now s. 59.25 (3) (j)], as to retention of 50% of traffic fines and forfeitures is valid. State ex rel. Commissioners of Public Lands v. Anderson, 56 Wis. 2d 666, 203 N.W.2d 84 (1973).

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. Oneida County v. WERC, 2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00−0466.

The entire amount of bail forfeited under s. 969.13 (4) is to be retained by the county treasurer and no part is to be paid to the state treasurer. 62 Atty. Gen. 247.

Section 59.20 (13) [now 59.25 (3) (rm)] refers to national forest, which are monies received under Title 16 of the United Sates Code, and does not control the distribution of monies received from the federal government under Title 31. 67 Atty. Gen. 277.

A county that has received payments from the federal government under Title 31 of the United States Code cannot distribute those payments to the towns in which national forest lands are located. 68 Atty. Gen. 23.

59.255 Comptroller. (1) ELIGIBILITY. (a) No person may hold the office of comptroller unless he or she is either a certified public accountant, licensed or certified under ch. 442, or has a master's degree or a doctorate degree in accounting or finance from a regionally accredited, nonprofit, post−secondary educational institution.

(b) No person holding the office of sheriff, undersheriff, circuit judge, district attorney, clerk of the circuit court, clerk, or member of the board shall be eligible to hold the office of comptroller or deputy comptroller.

(c) This section applies only to a county with a population of 750,000 or more.

(2) DUTIES AND RESPONSIBILITIES. (a) The comptroller is the chief financial officer of the county, and the administrator of the county's financial affairs. The comptroller shall oversee all of the county's debt.

(b) The comptroller shall appoint one deputy to aid the comptroller, under the comptroller's direction, in the discharge of the duties of the office of comptroller. A deputy appointed under this paragraph may be removed only for just cause. The appointment shall be in writing and shall be filed and recorded in the comptroller's office. Such deputy, in the absence of the comptroller from the comptroller's office or in case of a vacancy in said office or any disability of the comptroller to perform the duties of the office of comptroller, unless another is appointed therefor as provided in par. (c), shall perform all of the duties of the office of comptroller until such vacancy is filled or such disability is removed. The person so appointed shall take and file the official oath. The person shall file his or her appointment with the clerk. The board may, at its annual meeting or at any special meeting, provide a salary for the deputy.

(c) If any comptroller is incapable of discharging the duties of the office of comptroller, the county executive shall appoint a person, subject to confirmation by the board, comptroller who shall serve until such disability is removed. A person so appointed or appointed to fill a vacancy in the office of comptroller, upon giving an official bond with like sureties as are required of such comptroller, shall perform all the duties of such office, and thereupon the powers and duties of any deputy performing the duties of the last comptroller shall cease.

(d) Each month, at the board's first meeting, the comptroller shall report to the board and the county executive, in writing, the condition of the county's outstanding contracts and of each of the county's funds and the claims payable from the funds. The comptroller shall also file with the county executive and the board each year on or before October 1 a certified and detailed statement of the receipts and disbursements on account of each fund of the county during the preceding fiscal year, specifying the source of each receipt and the object of each disbursement, and also an estimate of the receipts and disbursements for the current fiscal year.

(e) The comptroller shall countersign all contracts with the county if he or she determines that the county has, or will have, the necessary funds to pay the liability that the county may incur under the contract. No contract is valid until so countersigned.

(f) At least monthly the comptroller shall examine the treasurer's accounts as reported and as kept, and shall report to the county executive and board as to their correctness and as to any violation by the treasurer of the treasurer's duty in the manner of keeping accounts or disbursing moneys.

(g) Whenever requested to do so by the county executive or board, the comptroller shall provide an independent fiscal analysis of any matter affecting the county, and shall provide the county executive and board with a fiscal note for all proposed legislation.

(h) Annually, the comptroller shall prepare a written 5−year financial condition forecast for the county, which shall be distributed to the county executive and the board.

(i) The comptroller shall perform all audit functions related to county government. The comptroller shall also have the duties and all the powers and responsibilities conferred upon the clerk as auditor under s. 59.47 (1), and shall perform any additional duties and shall have any additional powers as are imposed and conferred upon him or her from time to time by resolution adopted by the board. Audit functions under this paragraph shall be performed in accordance with governmental auditing standards issued by the comptroller general of the United States and generally accepted auditing standards.

(j) The comptroller shall administer and oversee all shared services contracts.

(k) The comptroller may in writing, filed in the office of the clerk, appoint a deputy who shall act under the comptroller's direction and in the comptroller's absence or disability, or in case of a vacancy shall perform the comptroller's duties. The deputy shall receive such compensation as the board provides. The acts of a deputy shall be covered by official bond as the board directs.

History: 2011 a. 62; s. 35.17 correction in (2) (d).

59.26 Sheriff; undersheriff; deputies. (1) Within 10 days after entering upon the duties of the office of sheriff, the sheriff shall appoint some proper person, who is a resident of the county, undersheriff. However, in counties with a population of 500,000 or more the appointment of an undersheriff is optional. In counties where the sheriff's department is under civil service, the sheriff, in conformity with county ordinance, may, at the request of the affected deputy, grant a leave of absence to a deputy sheriff who the sheriff has appointed undersheriff, or to any other position in the sheriff's department, upon the deputy's acceptance of the appointment. Any deputy in a county under civil service granted leave of absence under this subsection upon completion of the appointive position shall immediately be returned to the position of deputy sheriff and shall continue therein without loss of any rights under the civil service law. The sheriff, however, may not grant such leave of absence to a deputy sheriff until the sheriff first secures the consent of the board by resolution duly adopted by the board. Within 10 days after entering upon the duties of the office of sheriff, the sheriff shall also appoint, subject to sub. (10), deputy sheriffs for the county as follows:

(a) One for each city and village in the county that has 1,000 or more inhabitants.

(b) One for each assembly district in the county, except the district in which the undersheriff resides, which contains a village having less than 1,000 inhabitants and does not contain a city or village having more than 1,000 inhabitants.

(c) Each deputy shall reside in the city or village for which the deputy is appointed, or, if appointed for an assembly district, shall reside in the village in such district.

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(2) Subject to sub. (10), the sheriff may appoint as many other deputies as the sheriff considers proper.

(3) Subject to sub. (10), the sheriff may fill vacancies in the office of any such appointee, and he or she may appoint a person to take the place of any undersheriff or deputy who becomes incapable of executing the duties of that office.

(4) A person who is appointed undersheriff or deputy for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the sheriff.

(4m) (a) The sheriff or undersheriff may depute in writing security officers employed by the department of military affairs, subject to the approval of the adjutant general or his or her designee, for the purpose of conducting routine external security checks around military installations in this state. The sheriff or undersheriff shall specify in writing the jurisdiction of an officer deputed under this paragraph. In this paragraph, "external security checks" means a security check of areas immediately adjacent to a military installation, or of critical concern to the installation's commander as determined by the commander, for the sole purpose of protecting the installation's state and federal personnel, assets, and equipment.

(b) The provisions of sub. (8) (b) do not apply to an individual deputed under par. (a), and such a person shall serve at the pleasure of the deputing authority.

(c) An individual deputed under par. (a) remains a state employee for all purposes.

(5) The sheriff or the undersheriff may also depute in writing other persons to perform particular acts.

(6) Every appointment of an undersheriff or deputy, except deputations to perform a particular act, and every revocation of such appointment shall be in writing and be filed and recorded in the office of the clerk of the circuit court.

(7) In case of a vacancy in the office of sheriff, the undersheriff shall in all things and with like liabilities and penalties execute the duties of the office of sheriff until the vacancy is filled as provided by law.

(8) (a) In any county with a population of less than 500,000, the board, by ordinance, may fix the number of deputy sheriffs to be appointed in that county at not less than that number required by sub. (1) (a) and (b) and may set the salary of those deputies. Subject to sub. (10), the board may provide by ordinance that deputy sheriff positions be filled by appointment by the sheriff from a list of all persons with the 3 highest scores for each position based on a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the office of state employment relations at the option of the board and it shall so provide by ordinance. The division of merit recruitment and selection in the office of state employment relations shall, upon request of the board, conduct such examination according to the methods used in examinations for the state civil service and shall certify an eligible list of the names of all persons with the 3 highest scores on that examination for each position to the sheriff of that county who shall, subject to sub. (10), make an appointment from that list to fill the position within 10 days after he or she receives the eligible list. The county for which such examination is conducted shall pay the cost of that examination. If a civil service commission is decided upon for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision governing minimum compensation of the commissioners. The ordinance or an amending ordinance may provide for employee grievance procedures and disciplinary actions, for hours of work, for tours of duty according to seniority and for other administrative regulations. Any board provision consistent with this paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy sheriff position by promotion, the sheriff shall, subject to sub. (10), make the appointment to the position from a list of 3 deputy sheriffs who receive the highest scores in a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the office of state employment relations at the option of the board and it shall so provide by ordinance.

(b) 1. The persons appointed shall hold the office of deputy sheriff on good behavior. In any county operating under this subsection, but not under s. 59.52 (8), whenever the sheriff or undersheriff or a majority of the members of a civil service commission for the selection of deputy sheriffs believes that a deputy has acted so as to show the deputy to be incompetent to perform the duties of deputy sheriff or to have merited suspension, demotion or dismissal, the sheriff, undersheriff or civil service commission shall report in writing to the grievance committee setting forth specifically the complaint against the deputy, and, when the party filing the complaint is a sheriff or undersheriff, may suspend or demote the officer at the time such complaint is filed. The grievance committee shall be appointed in the same manner and at the same time as standing committees of the board are appointed. The committee may be made up of members of the board or other electors of the county, or both. Such members shall be paid in the same manner as members of other board committees.

2. The grievance committee shall immediately notify the accused officer of the filing of the charges and on request furnish the accused officer with a copy of the same.

3. The grievance committee shall, if the officer requests a hearing, appoint a time and place for the hearing of the charges, the time to be within 3 weeks after the filing of such request for a hearing and the committee shall notify the sheriff or undersheriff or the members of the civil service commission, whichever filed the complaint with the committee, and the accused of the time and place of such hearing. If the accused officer makes no request to the grievance committee, then the committee may take whatever action it considers justifiable on the basis of the charges filed and shall issue an order in writing as provided in subd. 5. The committee may take testimony at the hearing, and any testimony taken shall be transcribed. The chairperson of the committee shall issue subpoenas for the attendance of such witnesses as may be requested by the accused.

4. At the hearing the chairperson of the committee may maintain order and enforce obedience to the chairperson's lawful requirements. If a person at the hearing acts in a disorderly manner and persists after notice from the chairperson, the chairperson may order the person to leave the hearing. If the order is refused the chairperson may order the sheriff or other person to take the disorderly person into custody until the hearing is adjourned for that day.

5. At the termination of the hearing the grievance committee shall determine in writing whether or not the charge is well−founded and shall take such action by way of suspension, demotion, discharge or reinstatement as it considers requisite and proper under the circumstances and file the same with the secretary of the committee.

5m. No deputy may be suspended, demoted or discharged by the grievance committee under subd. 3. or 5., based on charges filed by the sheriff, undersheriff or a majority of the members of the civil service commission for the selection of deputies unless the committee determines whether there is just cause, as described in this subdivision, to sustain the charges. In making its determination, the committee shall apply the following standards, to the extent applicable:

a. Whether the deputy could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.

b. Whether the rule or order that the deputy allegedly violated is reasonable.

c. Whether the sheriff, before filing the charge against the deputy, made a reasonable effort to discover whether the deputy did in fact violate a rule or order.

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d. Whether the effort described under subd. 5m. c. was fair and objective.

e. Whether the sheriff discovered substantial evidence that the deputy violated the rule or order as described in the charges filed against the deputy.

f. Whether the sheriff is applying the rule or order fairly and without discrimination to the deputy.

g. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the deputy's record of service with the sheriff's department.

6. The accused may appeal from the order to the circuit court by serving written notice of the appeal on the secretary of the committee within 10 days after the order is filed. Within 5 days after receiving written notice of the appeal, the board shall certify to the clerk of the circuit court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall upon application of the accused or of the board fix a date of trial, which shall not be later than 15 days after such application except by agreement. The trial shall be by the court and upon the return of the board, except that the court may require further return or the taking and return of further evidence by the board. The question to be determined by the court shall be: "Upon the evidence is there just cause, as described under subd. 5m., to sustain the charges against the accused?" No costs shall be allowed either party and the clerk's fees shall be paid by the county. If the order of the committee is reversed, the accused shall be forthwith reinstated and entitled to pay as though in continuous service. If the order of the committee is sustained it shall be final and conclusive.

(c) The board of any county enacting the ordinance provided for in this subsection may provide that any deputy sheriff acting as such at the time of the enactment shall be eligible to such appointment without examination.

(cm) Any board may by a majority vote establish, by ordinance in connection with the enactment of an ordinance providing for civil service selection and tenure of deputy sheriffs under pars. (a) and (b) or by amendment to such an ordinance previously enacted, a traffic division of the sheriff's department and fix the number of deputy sheriffs as traffic patrolmen and other employees in said division in which case s. 83.016 shall become inoperative as to that county. The board in such ordinance shall further provide that the personnel in such traffic division of the sheriff's department shall be appointed and hold their positions in the manner and under the conditions set forth in pars. (a) and (b). The board may also provide that traffic patrolmen who have been appointed under s. 83.016 and who are employed by the county at the time of the enactment of the ordinance under this subsection establishing a traffic division in the sheriff's department and providing civil service therefor shall be appointed to positions in such traffic division without examination.

(d) Enactment of the ordinances provided for by this subsection shall not preclude the board from thereafter amending or repealing such ordinances, but such amendment or repeal shall not be effective unless voted by the affirmative vote of three−fourths of the members−elect of such board. The civil service provisions of this section shall apply only to such deputies or traffic patrolmen who are regularly employed by the county or sheriff and shall not apply to honorary deputies. Notwithstanding the provisions of this subsection the board may enact a civil service ordinance for county employees under s. 59.52 (8) which civil service ordinance may include deputy sheriffs or traffic patrolmen, or both.

(9) (a) A deputy sheriff in any county may not be suspended or dismissed under sub. (8) or s. 59.52 (8) or 63.10 without pay or benefits, for any action taken that is within the scope of the deputy's employment, until the matter that is the subject of the suspension or dismissal is disposed of by the grievance committee or civil service commission or the time for appeal of that matter passes without an appeal being made.

(b) An ordinance of any county or a collective bargaining agreement may not diminish or abridge a right of a deputy sheriff that is granted under par. (a). An ordinance of such a county or a collective bargaining agreement may supplement and expand such a right in a manner that is not inconsistent with par. (a).

(c) If the matter that is the subject of the suspension or dismissal is decided adversely to the deputy sheriff by the grievance committee or the civil service commission, the time for appeal passes without an appeal being made or the deputy's appeal to the circuit court is decided adversely to the deputy, all pay and benefits received by the deputy sheriff between the time of his or her suspension or dismissal and the latest of an adverse ruling by the committee, the commission or the court or the time for appeal passes shall be returned to the county.

(10) (a) Notwithstanding the provisions in subs. (1) (intro.), (2), (3), and (8) (a), and subject to par. (b), if a county provides law enforcement services to a city or village under ss. 59.03 (2) (e) and 62.13 (2s) and if the sheriff appoints additional deputies under sub. (2) to provide the services, the sheriff shall, to the greatest extent possible, fill the additional deputy positions from the ranks of former police officers who lost their positions when their department was abolished under s. 62.13 (2s) (a). With regard to each contract that is entered into under s. 59.03 (2) (e), this provision does not apply on or after the first day of the 25th month beginning after the contract takes effect in the county.

(b) Paragraph (a) applies only to the extent that it is not inconsistent with any collective bargaining agreement that is in effect between a county and its employees.

History: 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107; 2003 a. 33 ss. 1523, 9160; 2005 a. 40; 2009 a. 154.

Upon reinstatement of an unreasonably suspended deputy sheriff, the amount of pay due is to be reduced by amounts earned in other employment during the period of suspension. Klingler & Schilling v. Baird, 56 Wis. 2d 460, 202 N.W.2d 31 (1972).

The burden of establishing a lack of reasonable and diligent efforts by suspended deputy sheriffs to seek other employment and the availability of employment is on the employer. Schilling & Klingler v. Baird, 65 Wis. 2d 394, 222 N.W.2d 666 (1974).

A sheriff's assignment of a deputy to an undercover drug investigation falls within the constitutionally protected powers of the sheriff and could not be limited by a collective bargaining agreement. Manitowoc Co. v. Local 986B, 168 Wis. 2d 819, 484 N.W.2d 534 (1992).

Under s. 59.21 [now s. 59.26] (8) (b) deputies have civil service protections and tenure beyond their initial term of appointment under sub. (4) and also have protections under collective bargaining agreements not in conflict with the statutes. Heitkemper v. Wirsing, 194 Wis. 2d 182, 533 N.W.2d 770 (1995). See also Brown County Sheriff Dept. v. Employees Ass'n, 194 Wis. 2d 266, 533 N.W.2d 766 (1995).

Section 165.85 (4) (b) governs the terms of employment of a probationary sheriff's deputy so that the discipline procedures under s. 59.21 (8) (b) (now s. 59.26 (8) (b)) do not apply and an applicable collective bargaining agreement controls. Hussey v. Outagamie County, 201 Wis. 2d 14, 548 N.W.2d 848 (Ct. App. 1996), 95−2948.

The court of appeals lacks jurisdiction to hear an appeal of a circuit court order under sub. (8) (b) 6. In Re Discipline of Bier, 220 Wis. 2d 175, 582 N.W.2d 742 (Ct. App. 1998), 97−1621.

Under the Wisconsin constitution, the sheriff has certain powers and prerogatives derived from the common law that cannot be limited by collective bargaining agreements. If a duty is one of those immemorial principal and important duties that characterized the office of sheriff at common law, the sheriff may choose the ways and means of performing the duty and cannot be limited by a collective bargaining agreement. Internal management and administrative duties fall within the "mundane and commonplace" duties not preserved at common law. Dunn County v. Wisconsin Employment Relations Commission, 2006 WI App 120, 293 Wis. 2d 637, 718 N.W.2d 138, 05−1917.

A collective bargaining agreement provision confining the powers of deputies serving as court security officers to the county judicial center and giving the clerk of courts priority over the sheriff in the scheduling, directing, and supervision of those deputies interferes with the sheriff's duty of attendance on the court, which is a duty preserved for the sheriff by the constitution. Dunn County v. Wisconsin Employment Relations Commission, 2006 WI App 120, 293 Wis. 2d 637, 718 N.W.2d 138, 05−1917.

The power to hire does not give character and distinction to the office of sheriff; it is not a power peculiar to the office. Certain duties of the sheriff at common law that are peculiar to the office and that characterize and distinguish the office are constitutionally protected from legislative interference, but the constitution does not prohibit all legislative change in the powers and duties of a sheriff as they existed at common law. Internal management and administrative duties that neither give character nor distinction to the office fall within the mundane and common administrative duties that may be regulated by the legislature. Hiring and firing personnel to provide food to inmates is subject to legislative regulation, including collective bargaining under s. 111.70. Kocken v. Wisconsin Council 40 AFSCME, 2007 WI 72, 301 Wis. 2d 266, 732 N.W.2d 828, 05−2742.

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The assignment of deputies to transport federal and state prisoners to and from a county jail pursuant to a contract for the rental of bed space is not a constitutionally protected duty of the sheriff's office and is thus subject to the restrictions of a collective bargaining agreement. Ozaukee County v. Labor Association of Wisconsin, 2008 WI App 174, 315 Wis. 2d 102, 763 N.W.2d 140, 07−1615.

A sheriff may not be restricted in whom he or she assigns to carry out his or her constitutional duties if he or she is performing immemorial, principal, and important duties characterized as belonging to the sheriff at common law. Attending on the courts is one of the duties preserved for the sheriff by the constitution. When a sheriff effects the delivery of prisoners pursuant to court−issued writs, the sheriff is attending on the court and can contract with a private entity for the transportation of prisoners, rather than utilizing deputies employed by the sheriffs department. Brown County Sheriffs Dept. Non−Supervisory Labor Association v. Brown County, 2009 WI App 75, 318 Wis. 2d 774, 767 N.W.2d 600, 08−2069.

When a county has a civil service plan for deputy sheriffs, transfers may result in promotion, and such vacancies should be filled by examination and certification of 3 eligibles to the sheriff for appointment. 61 Atty. Gen. 10.

In counties where deputy sheriffs are under civil service under s. 59.21 (8) [now 59.26 (8)], the county board may provide job classifications for deputy sheriff positions that would form the basis of selection of competent personnel who could, on appointment by the sheriff, be assigned to perform duties on a felony squad on a countywide basis. By reason of s. 59.24 (1) [now s. 59.28 (1)], or by means of a posse comitatus, the sheriff could on a case−by−case basis assert leadership, direction, and control over the investigation of a crime in an area that has a police department, and it is the duty of local police to cooperate. 61 Atty. Gen. 79.

Section 63.065 is incorporated by reference into s. 59.21 [now s. 59.26] (8) (a). 68 Atty. Gen. 124.

This section does not affect a sheriff's power to call a posse comitatus. 68 Atty. Gen. 334.

In counties that have imposed no local residency requirement, only deputy sheriffs or undersheriffs appointed under s. 59.21 [now s. 59.26] (1) are required to be county residents at the time of initial employment. 80 Atty. Gen. 119.

A sheriff represents the county when enforcing the law. Sovereign immunity for state officials under the 11th amendment to the U.S. constitution does not apply. Abraham v. Piechowski, 13 F. Supp. 2d 870 (1998).

59.27 Sheriff; duties. The sheriff of a county shall do all of the following:

(1) Take the charge and custody of the jail maintained by the county and the persons in the jail, and keep the persons in the jail personally or by a deputy or jailer.

(2) Keep a true and exact register of all prisoners committed to any jail under the sheriff's charge, in a book for that purpose, which shall contain the names of all persons who are committed to any such jail, their residence, the time when committed and cause of commitment, and the authority by which they were committed; and if for a criminal offense, a description of the person; and when any prisoner is liberated, state the time when and the authority by which the prisoner was liberated; and if any person escapes, state the particulars of the time and manner of such escape.

(3) Attend upon the circuit court held in the sheriff's county during its session, and at the request of the court file with the clerk thereof a list of deputies for attendance on the court. The court may by special order authorize additional deputies to attend when the court is engaged in the trial of any person charged with a crime. Except as otherwise provided in this section, the board shall establish the rate of compensation and the level of services to be provided. The sheriff or one or more deputies shall attend the court of appeals when it is in session in the sheriff's county. The state shall reimburse the county from the appropriation under s. 20.660 (1) for the actual salary paid to the sheriff or deputies for the service provided for the court of appeals.

(4) Personally, or by the undersheriff or deputies, serve or execute all processes, writs, precepts and orders issued or made by lawful authority and delivered to the sheriff.

(5) Deliver on demand to the sheriff's successor in office, when the sheriff's successor has qualified according to law, the jail and other property of the county and all prisoners in the jail, and all books, records, writs, processes, orders and other papers belonging to the sheriff's office and in the possession of the sheriff, undersheriff, jailer or deputies, except as provided in s. 59.33, and upon the delivery of these items the successor in office shall execute a receipt to the sheriff therefor.

(6) In counties having a population of 300,000 or more, assign one deputy, to be mutually agreed upon by the sheriff and the district attorney, to the office of the district attorney.

(7) Perform all other duties required of the sheriff by law.

(8) The sheriff is authorized to destroy all sheriff's dockets, daily jail records and cash books dated prior to 1901. It shall be the duty of the sheriff to retain and safely keep all such records for a period of 8 years, or a shorter period authorized by the public records board under s. 16.61 (3) (b), after which the records may be destroyed.

(9) When the sheriff is required to serve or execute a summons, order or judgment, or to do any other act, the sheriff shall be bound to do so in like manner as upon process issued to the sheriff, and shall be equally liable in all respects for neglect of duty; and if the sheriff is a party the coroner shall perform the service and all statutes relating to sheriffs shall apply to coroners where the sheriff is a party.

(10) To enforce in the county all general orders of the department of safety and professional services relating to the sale, transportation and storage of explosives.

(11) Conduct operations within the county and, when the board so provides, in waters of which the county has jurisdiction under s. 2.04 for the rescue of human beings and for the recovery of human bodies.

(12) Before conducting a sale of foreclosed property, contact the clerk of the federal bankruptcy court to determine whether the court has granted a stay of relief on that property.

(13) Enforce all city, or village, ordinances in a city, or village, in which the sheriff provides law enforcement services under a contract described under s. 62.13 (2s) (a).

History: 1973 c. 157; 1977 c. 203, 418, 449; 1989 a. 248; 1991 a. 316; 1995 a. 27 ss. 3288, 3289, 9116 (5); 1995 a. 201 ss. 276 to 281; Stats. 1995 s. 59.27; 1995 a. 225 s. 156; 1997 a. 27, 35; 2005 a. 40; 2011 a. 32.

Sheriffs' powers and duties are discussed. Professional Police Association v. Dane County, 106 Wis. 2d 303, 316 N.W.2d 656 (1982).

A sheriff's assignment of a deputy to an undercover drug investigation falls within the constitutionally protected powers of the sheriff and could not be limited by a collective bargaining agreement. Manitowoc Co. v. Local 986B, 168 Wis. 2d 819, 484 N.W.2d 534 (1992).

Under the Wisconsin constitution, the sheriff has certain powers and prerogatives derived from the common law that cannot be limited by collective bargaining agreements. If a duty is one of those immemorial principal and important duties that characterized the office of sheriff at common law, the sheriff may choose the ways and means of performing the duty and cannot be limited by a collective bargaining agreement. Internal management and administrative duties fall within the "mundane and commonplace" duties not preserved at common law. Dunn County v. Wisconsin Employment Relations Commission, 2006 WI App 120, 293 Wis. 2d 637, 718 N.W.2d 138, 05−1917.

A collective bargaining agreement provision confining the powers of deputies serving as court security officers to the county judicial center and giving the clerk of courts priority over the sheriff in the scheduling, directing, and supervision of those deputies interferes with the sheriff's duty of attendance on the court, which is a duty preserved for the sheriff by the constitution. Dunn County v. Wisconsin Employment Relations Commission, 2006 WI App 120, 293 Wis. 2d 637, 718 N.W.2d 138, 05−1917.

The power to hire does not give character and distinction to the office of sheriff; it is not a power peculiar to the office. Certain duties of the sheriff at common law that are peculiar to the office and that characterize and distinguish the office are constitutionally protected from legislative interference, but the constitution does not prohibit all legislative change in the powers and duties of a sheriff as they existed at common law. Internal management and administrative duties that neither give character nor distinction to the office fall within the mundane and common administrative duties that may be regulated by the legislature. Hiring and firing personnel to provide food to inmates is subject to legislative regulation, including collective bargaining under s. 111.70. Kocken v. Wisconsin Council 40 AFSCME, 2007 WI 72, 301 Wis. 2d 266, 732 N.W.2d 828, 05−2742.

The assignment of deputies to transport federal and state prisoners to and from a county jail pursuant to a contract for the rental of bed space is not a constitutionally protected duty of the sheriff's office and is thus subject to the restrictions of a collective bargaining agreement. Ozaukee County v. Labor Association of Wisconsin, 2008 WI App 174, 315 Wis. 2d 102, 763 N.W.2d 140, 07−1615.

A sheriff may not be restricted in whom he or she assigns to carry out his or her constitutional duties if he or she is performing immemorial, principal, and important duties characterized as belonging to the sheriff at common law. Attending on the courts is one of the duties preserved for the sheriff by the constitution. When a sheriff effects the delivery of prisoners pursuant to court−issued writs, the sheriff is attending on the court and can contract with a private entity for the transportation of prisoners, rather than utilizing deputies employed by the sheriffs department. Brown County Sheriffs Dept. Non−Supervisory Labor Association v. Brown County, 2009 WI App 75, 318 Wis. 2d 774, 767 N.W.2d 600, 08−2069.

Staffing an x−ray and metal detector security screening station is not one of those "certain immemorial, principal, and important duties of the sheriff at common law that are peculiar to the office of sheriff" and is not part of the sheriff's constitutionally protected powers that cannot be limited by a collective bargaining agreement. Washington County v. Washington County Deputy Sheriff's Association, 2009 WI App 116, 320 Wis. 2d 570, 772 N.W.2d 697, 08−1210.

The transport of individuals in conjunction with the service or execution of all processes, writs, precepts and orders constitute immemorial, principal and important duties that characterize and distinguish the office of sheriff and fall within the sher-

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iff's constitutional powers, rights, and duties. As such, the sheriff has the constitutional authority to determine how to carry out those duties and can elect to privatize those duties. That sub. (4) specifically directs that the sheriff must act personally or by means of his undersheriff or deputies is not persuasive. The simple fact that the legislature codified a duty and responsibility of the sheriff, like providing food for jail inmates, does not strip sheriffs of any constitutional protections they may have regarding this duty. Milwaukee Deputy Sheriff's Association v. Clarke, 2009 WI App 123, 320 Wis. 2d 486, 772 N.W.2d 216, 08−2290.

A sheriff has authority to aid in a rescue on ice on Lake Michigan. 60 Atty. Gen. 62.

Neither a sheriff nor a deputy can solicit or receive compensation not provided by law for official duties, but a deputy, while off duty, can be employed as a private security officer. 61 Atty. Gen. 256.

Neither the sheriff nor the county board may "privatize" the jailer function under sub. (1). 77 Atty. Gen. 94.

Neither a county nor a county sheriff possesses statutory authority to use county funds to establish a revolving bail fund for the purpose of making loans to persons allowing them to post bail for certain kinds of offenses for which they are booked into the county jail. OAG 1−09.

59.28 Peace maintenance; powers and duties of peace officers, cooperation. (1) Sheriffs and their undersheriffs and deputies shall keep and preserve the peace in their respective counties and quiet and suppress all affrays, routs, riots, unlawful assemblies and insurrections; for which purpose, and for the service of processes in civil or criminal cases and in the apprehending or securing any person for felony or breach of the peace they and every coroner and constable may call to their aid such persons or power of their county as they consider necessary.

(2) County law enforcement agencies may request the assistance of law enforcement personnel or may assist other law enforcement agencies as provided in ss. 66.0313 and 66.0513.

History: 1995 a. 201 s. 282; Stats. 1995 s. 59.28; 1999 a. 150 s. 672.

Suppression of evidence is not required when a law enforcement officer obtains evidence outside of his or her jurisdiction. Any jurisdictional transgression violates the appropriate jurisdiction's authority not the defendant's rights. State v. Mieritz, 193 Wis. 2d 571, 534 N.W.2d 632 (Ct. App. 1995).

A state traffic patrol officer should not, except in extreme emergencies, be impressed into service as part of a posse comitatus under sub. (1). If so impressed, the officer is entitled to worker's compensation, if injured, from the county or municipality but would not be entitled to regular pay from the state and probably would not be entitled to worker's compensation from the state. 62 Atty. Gen. 38.

The statutes do not permit the creation of a separate regional law enforcement agency, and neither the sheriff nor the county board has power to delegate supervisory or law enforcement powers to such an agency. 63 Atty. Gen. 596.

A sheriff may not unilaterally withdraw investigative services provided to one urbanized town within the county because the town maintains its own police department. 81 Atty. Gen. 24.

59.29 Transportation, apprehension of criminals. (1) TRANSPORTATION OF CRIMINALS THROUGH OTHER COUNTIES; REWARDS FOR THEIR APPREHENSION. (a) Any sheriff or other officer who has legally arrested any person in any county may pass across and through such parts of any other county or counties as are in the ordinary route of travel from the place where such person was arrested to the place where the person is to be conveyed, according to the command of the process by which such arrest was made; and such conveyance of such prisoner shall not be considered an escape, nor shall the prisoner so conveyed or the officers having the prisoner in custody be liable to arrest on any civil process while passing through such other county or counties.

(b) Whenever a person convicted of, or charged with, any felony, the punishment for which is not less than 5 years' imprisonment, shall escape, or whenever any such felony shall be committed by any unknown person or persons the sheriff of the county from which such escape was made or in which such felony was committed may, with the consent of the chairperson of the board of such county when such board is not in session, and with the consent of the board when it is in session, offer such reward for the apprehension and delivery of such escaped person, or the apprehension or conviction of the perpetrator of such felony as the sheriff considers necessary, not exceeding $1,000 in any one case; but no such reward or any part thereof shall be paid to any such sheriff, undersheriff or any deputy. The right to any such reward shall be determined finally by such sheriff; and if more than one person claims the reward the sheriff shall determine what portion, if any, the claimants are entitled to, and shall certify the determination to the treasurer, and such certificate shall be the treasurer's authority for paying the sum so certified.

(2) COMPENSATION FOR APPREHENSIONS IN OTHER STATES; CONDITIONS. (a) In all cases where by the laws of this state the governor is authorized to demand of the executive authority of any other state any fugitive from justice or any person charged with a crime in this state and to appoint an agent to receive such person, and such person is apprehended in any other state by the sheriff or deputy sheriff of the county in this state where the warrant for such fugitive from justice is properly issued, or such crime was committed, and such person voluntarily returns with said sheriff to this state without requisition, such sheriff shall be entitled to $8 per day for the time necessarily expended in traveling to, apprehending and returning with such person and the sheriff's actual and necessary expenses for such time, which compensation and expenses shall be allowed by the board of such county upon the presentation thereto of an itemized and verified account, stating the number of days that the sheriff was engaged, the number of miles traveled and each item of expense incurred in rendering such services, including the transportation and board of the person in custody. No allowance whatever shall be made to the sheriff as mileage.

(b) The sheriff of any county having less than 300,000 population shall not receive the compensation provided under par. (a), unless the apprehension was duly authorized in writing by the district attorney or by the circuit judge for the county where the crime was committed. The written authority shall certify that the ends of justice will be served by the apprehension and return of the person, and the sheriff shall attach the certificate to and file it with his or her itemized account of such services.

(c) If the district attorney certifies in writing that it is necessary or desirable, the sheriff or deputy sheriff may be accompanied and assisted in retaining custody of any such prisoner, by one or more other deputy sheriffs, who shall be entitled to compensation for such services at the rate of $5 per day, unless a different rate is established by resolution of the board, and to their necessary and actual expenses. Such compensation and expenses shall be claimed and allowed in the manner provided in par. (a) and the said certificate of the district attorney shall be attached to the verified account of such deputy for such services.

History: 1977 c. 449; 1991 a. 316; 1995 a. 201 ss. 285, 289, 290; 1995 a. 225; 1997 a. 35.

The authority of county officials to offer rewards for the arrest or conviction of persons violating the criminal law is limited to the circumstances set forth in s. 59.25 (2) [now s. 59.29 (1) (b)]. 63 Atty. Gen. 555.

59.30 Not to act as attorney. No sheriff, undersheriff, deputy, coroner or medical examiner shall appear or practice as an attorney in any court, draw or fill up any writ, pleading or proceeding for a party in any action, nor, with the intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; and for violation of this section every such officer shall forfeit not more than $50.

History: 1973 c. 272; 1995 a. 201 s. 286; Stats. 1995 s. 59.30; 1997 a. 35.

59.31 Service on sheriff; how made. Every writ, notice or other paper required to be delivered to or served on any sheriff may be served by leaving the same at the sheriff's office during the hours it is required to be kept open; but if there is any person belonging to such office therein, such writ, notice or other paper shall be delivered to such person; and every such service shall be considered equivalent to a personal delivery to or service on such sheriff.

History: 1991 a. 316; 1995 a. 201 s. 287; Stats. 1995 s. 59.31.

59.32 Fees received by sheriff. (1) SHERIFF; FEES. The sheriff shall collect the fees prescribed in s. 814.70, unless a higher fee is applicable under s. 814.705 (1) (a) or (2), and remit them to the treasurer as provided in s. 59.22 (1) (b).

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(2) FEES, HOW COLLECTED. All fees allowed to the sheriff upon the service of an execution or a writ for the collection of money or judgment for the sale of real estate and advertising thereon shall be collected by virtue of the execution, writ or judgment in the same manner as the sum therein directed to be collected.

(3) FEES, HOW PAID. All fees to which sheriffs or their deputies are entitled for attendance required by law upon any court of record shall be paid out of the treasury of the county in which the services were rendered in the manner that fees of jurors attending such courts are paid; and whenever any such officer is required to perform any service for the state, which is not chargeable to the officer's county or some officer or person, that officer's account therefor shall be paid out of the state treasury.

(4) EXCESSIVE FEES. No sheriff, undersheriff or deputy shall directly or indirectly ask, demand or receive for any services or acts to be performed by that officer in the discharge of any of that officer's official duties any greater fees than are allowed by law; and for the violation of any of the provisions of this subsection every such officer shall be liable in treble damages to the party aggrieved and shall forfeit not less than $25 nor more than $250.

History: 1991 a. 316; 1995 a. 201 ss. 288, 291 to 294; 1995 a. 225; 1997 a. 27.

Because fingerprinting is not one of the items that is mentioned in s. 814.70, fingerprinting persons that have been arrested or taken into custody is not an item for which the sheriff may charge a fee. Further, a sheriff cannot impose a charge for fingerprinting persons who need to submit fingerprints to the department of justice in order to be eligible for certain occupations or certain kinds of employment, as a county or a county officer has only such power as is conferred by statute, either expressly or by clear implication. OAG 6−09.

59.33 Powers after term. (1) Every undersheriff and deputy sheriff, compensated for services by fees or by part salary and part fees, may execute and return all writs, processes and orders in their hands at the expiration of the sheriff's term of office and which the undersheriff or deputy sheriff has, before that time, begun to execute by service, levy, advertisement or the collection of money thereon.

(2) In counties where the compensation of sheriffs, undersheriffs and deputies has been changed from the fee to the salary system, the sheriff, immediately upon the expiration of the sheriff's term, shall turn over to the sheriff's successor all writs, processes and orders in the hands of the sheriff, or in the hands of the undersheriff or deputies, whether or not such writs, processes and orders have been partly or fully executed or returned, and such successor shall execute and return or complete the execution and return of such writs, processes and orders.

(3) In case of a vacancy in the office of sheriff, of any county, the undersheriff and deputies then in office having then any writ, process or order in their hands shall have the same authority and be under the same obligation to serve, execute and return the same as if the sheriff had continued in office.

History: 1987 a. 181; 1991 a. 316; 1995 a. 201 s. 295.

59.34 Coroner, medical examiner duties; coroner, medical examiner compatibility. (1) CORONER; MEDICAL EXAMINER; DUTIES. The coroner shall do all of the following:

(a) Participate in inquest proceedings when required by law, except that in any county with a population of 500,000 or more and all counties which have instituted the medical examiner system this duty and the powers incident thereto shall be vested exclusively in the office of the medical examiner. Except as provided under s. 59.38 (5), the board shall appoint the medical examiner. The office may be occupied on a full−time or part−time basis and the officeholder shall be paid compensation as the board by ordinance provides. The duties performed by the county coroner and not vested in the medical examiner shall be performed by the clerk. The medical examiner may appoint such assistants as the board authorizes. Whenever requested by the court or district attorney, the medical examiner shall testify to facts and conclusions disclosed by autopsies performed by him or her, at his or her direction or in his or her presence; shall make physical examinations and tests incident to any matter of a criminal nature up for consideration before either the court or district attorney upon request; shall testify as an expert for either the court or the state in all matters where the examinations or tests have been made; and shall perform such other duties of a pathological or medicolegal nature as may be required.

(b) When there is no sheriff or undersheriff in any county organized for judicial purposes, exercise all the powers and duties of sheriff of that county until a sheriff is elected or appointed and qualified; and when the sheriff for any cause is committed to the jail of that county, be keeper thereof during the time that the sheriff remains a prisoner therein.

(c) Serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the action and whenever the clerk of the circuit court addresses the original or other process in any action to the coroner as provided in s. 59.40 (2) (o), execute the same in like manner as the sheriff might do in other cases; exercise the same powers and proceed in the same manner as prescribed for sheriffs in the performance of similar duties; and in all cases the coroner and the coroner's sureties shall be liable in the same manner and to the same extent on the coroner's official bonds as sheriffs and their sureties are liable in similar cases.

(d) Perform all other duties that are required by law.

(e) Act as coroner in another county when requested to do so.

(2) CORONER, MEDICAL EXAMINER; COMPATIBILITY WITH OTHER OFFICES. (a) Notwithstanding s. 979.04 (3) and except as provided in par. (b), any person holding office under sub. (1) may also serve as an emergency medical technician, first responder or fire fighter.

(b) 1. No person serving as a coroner or medical examiner, or deputy coroner or medical examiner's assistant, who also serves as an emergency medical technician, first responder, or a fire fighter may participate as a coroner or medical examiner, or deputy coroner or medical examiner's assistant, in any case in which he or she may be required to participate as an emergency medical technician, first responder, or fire fighter. If an apparent or actual conflict of interest arises between the person's duties as coroner or medical examiner and as emergency medical technician, first responder, or fire fighter, the deputy coroner or medical examiner's assistant shall act as coroner or medical examiner in the case in which the conflict exists. If an apparent or actual conflict of interest arises between the person's duties as deputy coroner or medical examiner's assistant and as emergency medical technician, first responder, or fire fighter, a coroner or another deputy coroner, or a medical examiner or another medical examiner's assistant shall act as coroner or medical examiner in the case in which the conflict exists. If there is no coroner, deputy coroner, medical examiner, or medical examiner's assistant available who may act without an apparent or actual conflict of interest, the coroner or medical examiner shall request that the coroner, medical examiner, deputy coroner, or a medical examiner's assistant in another county act as coroner or medical examiner in the case in which the conflict exists. Any fees owed to or expenses incurred by the acting coroner or medical examiner from the other county shall be paid by the county that requested the acting coroner's or medical examiner's services.

2. If a person serving as coroner under sub. (1) is required to exercise the powers and duties of sheriff under sub. (1) (b), the deputy coroner shall act as coroner or, if there is no deputy coroner, the coroner shall request under the procedures in subd. 1. that another person act as coroner until the coroner is no longer exercising the powers and duties of sheriff.

History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56; 2005 a. 127.

A county board in a county under 500,000 can abolish the elective office of coroner and implement a medical examiner system to be effective at the end of the incumbent coroner's term. 63 Atty. Gen. 361.

A medical examiner should be a qualified expert in pathology. 69 Atty. Gen. 44.

Appointment of a law enforcement officer as an assistant medical examiner creates an impermissible conflict between the offices. 75 Atty. Gen. 28.

59.35 Deputy coroner. (1) Within 10 days after entering upon the duties of the office, the coroner shall appoint some

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proper person, who is a resident of the county, chief deputy coroner, and may appoint as many other deputy coroners as the coroner considers proper. The coroner may fill vacancies in the office of any such appointees, and may appoint a person to take the place of any deputy who becomes incapable of executing the duties of the office. A person appointed deputy coroner for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the coroner. Every appointment of a deputy coroner and every revocation of an appointment shall be in writing and filed and recorded in the office of the clerk of the circuit court. In case of a vacancy in the office of coroner, the chief deputy coroner shall in all things and with like liabilities and penalties execute the duties of the office until the vacancy is filled as provided by law.

(2) The coroner shall be responsible for every default or misconduct in office of a deputy coroner during the coroner's term of office, and after the coroner's death, resignation, or removal from office, as well as before. An action for any default or misconduct under this subsection may be prosecuted against the coroner and the sureties on the coroner's official bond or against the coroner's personal representative.

(3) The coroner may require a deputy coroner, before entering upon the duties of the office, to execute and deliver to the coroner a bond in such sum and with such sureties as the coroner may require, conditioned for the faithful performance of the deputy's official duties; and every default or misconduct of the deputy coroner for which the coroner shall be liable shall be a breach of the bond.

(4) Whenever a medical examiner has been appointed under s. 59.34 (1) (a), this section shall not apply in such counties, nor shall the coroner of such counties be responsible for any default or misconduct in office of the medical examiner.

(5) A person holding office under this section may also serve as an emergency medical technician, a first responder, a fire fighter or a chief, deputy chief or assistant chief of a fire department.

History: 1973 c. 272; 1975 c. 294, 421; 1985 a. 315; 1989 a. 31; 1991 a. 316; 1995 a. 201 s. 306; Stats. 1995 s. 59.35; 1997 a. 35; 1999 a. 56; 2001 a. 102; 2005 a. 39, 127; 2007 a. 97.

A coroner can legally appoint a deputy after the time in sub. (1). 74 Atty. Gen. 198.

59.36 Coroner; fees. The board shall set the fees for all services rendered by the coroner. The fees may not exceed an amount that is reasonably related to the actual and necessary cost of providing the service.

History: 1983 a. 146; 1995 a. 201 s. 307; Stats. 1995 s. 59.36.

59.37 Service when no coroner. Whenever there is a vacancy in the office of coroner, or when the coroner is absent from the county, sick or unable to perform the duties of that office, or for any reason, except the nonpayment of legal fees, refuses to serve and execute legal process against the sheriff in any action commenced in any court of record within the county for which the coroner was or should have been elected, any judge of a court of record or circuit court commissioner of the county may, on proof of the vacancy, sickness, absence or refusal to serve and execute such process, by an order to be endorsed on such process and addressed to him or her, empower any citizen of the county in which such process is to be served and executed to serve and execute the same; and that order shall be sufficient authority to the person therein named to serve and execute such process with like powers, liabilities and fees as the coroner.

History: 1977 c. 449; 1995 a. 201 s. 305; Stats. 1995 s. 59.37; 2001 a. 61.

59.38 Medical examiner and assistants. (1) MEDICAL EXAMINER, ASSISTANTS; SALARIES; FEES; REPORT. The medical examiner and medical examiner's assistants authorized by the board shall be paid semimonthly out of the county treasury of the proper county, for the performance of all their official duties and in lieu of all other compensation, salaries to be fixed by the board. The medical examiner and medical examiner's assistants shall collect for all services performed, except in cases where the county is solely liable, all fees that coroners are by law entitled to receive, and shall keep accurate books of account in which shall be entered from day to day the items of services rendered, the titles of the proceedings in which and the names of the persons for whom rendered, and the fees charged and received, and shall, at the end of every 3 months, render to the board and to the treasurer an accurate report or statement, verified by his or her oath, of all fees and income collected by them or for them during the 3 months; and at the same time they shall pay to the treasurer all fees and incomes collected by them, or which they were entitled by law to charge or receive, not paid to the treasurer. The medical examiner or a medical examiner's assistant shall act as coroner in another county when requested to do so under s. 59.34 (2) (b).

(2) OFFICE AND RECORDS. The board shall provide for the use of the medical examiner suitable offices at the county seat, and the medical examiner shall keep in his or her office proper books containing records of all inquests held by the medical examiner, setting forth the time and place of holding the inquests and the names of the jurors serving thereon, together with a brief statement of the inquest proceedings.

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

(4) SPECIAL COUNTIES; DEPUTIES AND ASSISTANTS; POWERS. The medical examiner and his or her assistants shall be compensated for the performance of all their official duties by salaries fixed by the board under sub. (1).

(5) MEDICAL EXAMINER; APPOINTMENT IN POPULOUS COUNTIES. In a county with a population of 500,000 or more, the county executive shall appoint the medical examiner in the unclassified service, subject to confirmation by a majority of the board. The medical examiner may be dismissed at any time by the county executive with the concurrence of a majority of the members−elect of the board, or by a majority of the members−elect of the board with the concurrence of the county executive. If the county executive vetoes an action by the board to dismiss the medical examiner, the board may override the veto by a two−thirds vote of the members−elect of the board.

History: 1995 a. 201 ss. 300 to 304, 309, 310; 1997 a. 35; 2005 a. 127.

59.39 Coroner or medical examiner as funeral director, limitation. No coroner, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director, an owner or operator of a funeral establishment as defined in s. 445.01, or an employee of a funeral establishment, and no funeral establishment with which such a coroner, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director upon the body of any person whose death is required by law to be investigated by such coroner, his or her deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than $50.

History: 1973 c. 272; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1983 a. 485; 1995 a. 201 s. 308; Stats. 1995 s. 59.39.

59.40 Clerk of court. (1) CLERK OF COURT; DEPUTIES; CHIEF DEPUTY; DIVISION CHIEF DEPUTIES; CALENDAR DEPUTY CLERK IN CERTAIN COUNTIES. (a) *Counties of less than 500,000 population.* Every clerk of the circuit court shall appoint one or more deputies and the appointments shall be approved by the majority of circuit judges for the county, but shall be revocable by the clerk at pleasure, except in counties having a population of 500,000 or more. The appointments and revocations shall be in writing and shall be filed in the clerk's office. The deputies shall aid the clerk in the

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discharge of the clerk's duties. In the absence of the clerk from the office or from the court, the deputies may perform all the clerk's duties; or in case of a vacancy by resignation, death, removal or other cause the deputy appointed shall perform all such duties until the vacancy is filled.

(b) *Counties of more than 500,000 population.* In counties having a population of 500,000 or more the clerk shall appoint one chief deputy and 4 assistant chief deputy clerks, 3 calendar deputy clerks, and one or more deputy clerks as the board authorizes. The deputy clerks shall aid the clerk in the discharge of the clerk's duties under the supervision of the clerk, the chief deputy clerk and the assistant chief deputy clerks. The appointments of the chief deputy clerk who is exempt from classified civil service and the calendar deputy clerks shall be in writing and filed in the clerk's office. These appointments shall be approved by the chief judge of the judicial administrative district, but are revocable at the pleasure of the clerk. The chief deputy clerk has all powers and duties of assistant chief deputy clerks, deputy clerks, and other court assistants except bailiffs and reporters and in the absence of the clerk from the office or from the court, the chief deputy clerk may perform all of the clerk's duties; or in case of a vacancy by resignation, death, removal or other cause the chief deputy clerk shall perform all such duties until the vacancy is filled.

(2) CLERK OF COURT; TO KEEP COURT PAPERS, BOOKS AND RECORDS. The clerk of circuit court shall:

(a) File and keep all papers properly deposited with him or her in every action or proceeding unless required to transmit the papers. The papers may be microfilmed or microphotographed, or transferred to optical disks or electronic format if authorized under s. 59.52 (14), and the originals may thereafter be destroyed upon compliance with SCR chapter 72.

(b) Keep a court record and write in that record the names of parties in every civil action or proceeding in the court, the names of attorneys representing the parties, a brief statement of the nature of the action or proceeding, the date of filing every paper therein and of each proceeding taken, the file in which the papers can be found, the time when the action or proceeding is put on the calendar for trial, and when and how the action or proceeding is disposed of; the location where minutes in every case can be found and the place in the judgment record or microfilm or optical disc or electronic file where any judgment, order or report has been recorded, so as to make the court record a history in brief of each action or proceeding from beginning to final disposition; and a complete index of all proceedings therein.

(c) Keep a criminal record and write in that record a history in every criminal action like the court record in civil actions and proceedings with references to the file where papers in the action can be found, to the minute record and to the information record where indictments and informations can be found.

(d) Keep a minute record and, except for actions under ch. 799, write in that record a brief statement of all proceedings in open court showing motions and orders during trial, names of witnesses, jurors selected, the officer sworn to take them in charge, jury verdicts and openings and adjournments of court. The clerk, in lieu of keeping a minute record, may elect to incorporate in the appropriate court record, civil or criminal, the data which this paragraph requires to be recorded.

(e) Keep a judgment and lien docket of all money judgments of the court, transcripts from judgment and lien dockets of other Wisconsin courts and of federal courts, warrants for unemployment insurance and warrants for delinquent Wisconsin income or franchise taxes.

(f) Keep a judgment and lien docket of all claims for liens filed by prime contractors, subcontractors, suppliers, service providers, and laborers and all claims filed for log, mining, and maintenance liens.

(g) Keep an index to the court record, the criminal record, the judgment record and the lien record.

(i) File, enter, record and keep such other papers, books and records as are required by law.

(im) Keep a record of all payments ordered by the court under s. 973.05 (4) or 778.30 (1) to be paid to the clerk of circuit court.

(j) Keep a record called registers of officials and write or copy in the record in tabular form the names of circuit and supplemental court commissioners, deputy sheriffs, notaries public and municipal judges. The clerk shall list the officers' names, the dates of their qualification and the commencement and termination, if any, of their terms. The names shall be in alphabetical order or there shall be an index in alphabetical order to the names.

(k) Keep a record called certificate lists and write or copy in the record a list of all certificates issued by him or her to witnesses, interpreters, jurors, sheriffs, deputy sheriffs and deputy clerks, stating the persons to whom issued, the number, date and amount of each certificate. At each annual session of the board, the board may request that the clerk prepare a summary report of certificates issued in the previous year.

(L) Send to the secretary of state on or before June 1 of each year a certified list of all municipal judges who filed their official bonds during the preceding year.

(m) Pay monthly to the treasurer for the use of the state the state's percentage of the costs, fees, and surcharges imposed under ch. 814 that are required to be paid on each civil action, criminal action, and special proceeding filed during the preceding month and pay monthly to the treasurer for the use of the state the percentage of court imposed fines and forfeitures that are required by law to be deposited in the state treasury. The payments shall be made by the 15th day of the month following receipt of the payments.

(n) Pay monthly to the treasurer the amounts required by s. 302.46 (1) for the jail assessment surcharge. The payments shall be made by the 15th day of the month following receipt thereof.

(o) Address process to the coroner if a party, the party's agent or the party's attorney files an affidavit that the party believes the sheriff will not properly perform the sheriff's duty in such action.

(p) Cooperate with the department of children and families with respect to the child and spousal support and establishment of paternity and medical support liability program under ss. 49.22 and 59.53 (5), and provide that department with any information from court records which it requires to administer that program.

(q) Perform all other duties that are required by law.

(3) CLERK OF COURT; FEES; INVESTMENT OF FUNDS. (a) The clerk of the circuit court shall collect the fees that are prescribed in ss. 814.60 to 814.63. The clerk may refuse to accept any paper for filing or recording until the fee prescribed in subch. II of ch. 814 or any applicable statute is paid.

(b) Except as provided in par. (c), the clerk may invest any funds that are paid into his or her office and are being held for repayment. The investments shall be made in suitably protected accounts in the manner specified in s. 66.0603 (1m) and all income that may accrue shall be paid into the county general fund.

(c) A judge may direct that par. (b) does not apply to certain funds paid into the office. The judge's authority applies only to funds relating to cases before his or her court.

(4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by the board under s. 59.52 (28), the clerk of circuit court may contract with a debt collector, as defined in s. 427.103 (3), for the collection of unpaid fines and forfeitures. Any contract entered into shall provide that the debt collector shall be paid from the proceeds recovered by the debt collector. The net proceeds received by the clerk of circuit court after the payment to the debt collector shall be considered the amount of fines and forfeitures collected for purposes of distribution to the state and county under sub. (2) (m).

(5) CLERK OF CIRCUIT COURT; CREDIT AND DEBIT CARDS; PAYMENT PLANS. (a) In this subsection:

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1. "Credit card" means a card or other similar device existing for the purpose of obtaining money, property, or services on credit under an open−end credit agreement.

2. "Debit card" means a card or other similar device existing for the purpose of obtaining money, property, or services through the use of a depository−institution access device.

3. "Depository−institution access device" means a terminal or other facility or installation, attended or unattended, that is not located at the principal place of business or at a branch or remote facility of a depository institution and through which depository institutions and their customers may engage, by means of either the direct transmission of electronic impulses to and from a depository institution or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a depository institution, in transactions that are incidental to the conduct of the business of a depository institution.

4. "Open−end credit agreement" means an agreement under which credit is extended on an account and under which all of the following are true:

a. The debtor may make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide.

b. The debtor has the privilege of paying the balance in full or in installments.

c. The creditor may from time to time assess a charge, computed on any outstanding unpaid balance.

(b) The clerk of circuit court may accept a credit card or debit card for any required payment to the clerk of circuit court and may charge and collect a reasonable service fee for the use of a credit card or debit card. The county board shall establish the amount of the service fee, which shall be retained in full by the county.

(c) The clerk of circuit court may charge and collect a fee for the establishment and monitoring of a payment plan for persons ordered to make payments to the clerk of circuit court. The amount of the fee may not exceed $15 and shall be on a sliding scale based on the person's ability to pay in view of the person's income.

History: 1995 a. 27 ss. 3290, 3291; 1995 a. 201 ss. 311 to 318, 320 to 322, 325; 1995 a. 224 ss. 11 to 13; 1995 a. 227 s. 203; 1995 a. 279 s. 8; 1995 a. 404 s. 185; 1995 a. 438; 1995 a. 448 s. 61; Sup. Ct. Order No. 96−08, 207 Wis. 2d xv (1997); 1997 a. 3, 27; 1997 a. 35 ss. 185, 186; 1997 a. 39, 135, 148, 191, 237, 248, 252; 1999 a. 9, 32; 1999 a. 150 s. 672; 2001 a. 16, 56, 61, 105; 2003 a. 33, 139, 321, 326; 2005 a. 25, 59, 204; 2007 a. 20.

Cross−reference: See ss. 69.01 (5), 69.12 (1), 69.14 (1) (h), 69.15 (1) (b), 69.16 (2), 69.17, 69.19, and 69.21 (4) (b) as to Furnish information to the state registrar of vital statistics.

Cross−reference: See ch. 767 as to collecting and disbursing maintenance and support payments.

Cross−reference: See s. 758.13 as to furnishing information to the judicial council.

Cross−reference: See ss. 753.30, 801.61, 809.15, 889.08, and 889.09 as to authenticating, certifying, and transmitting documents.

Cross−reference: See chs. 818 and 969 as to receiving bail as provided by law.

Cross−reference: See ch. 756 as to performing duties with respect to jurors.

Cross−reference: See s. 757.40 as to care for the county law library.

Cross−reference: See ch. 814 as to taxing costs and collecting fees.

Cross−reference: See ch. 815 as to Issuing executions and writs of assistance.

Cross−reference: See s. 885.01 as to issuing and signing subpoenas.

Cross−reference: See s. 779.07 as to keeping a lien docket.

A clerk of court who customarily supplies an affidavit form to persons claiming witness fees cannot refuse one to a person whom he believes is not entitled to fees. State ex rel. Hurley v. Schmidley, 48 Wis. 2d 659, 180 N.W.2d 605 (1970).

Under s. 59.42 (1) [now 59.40 (3) (a)], a clerk retains discretion to refuse to file documents unless the fee is tendered, even though the standard may result in inconsistent policies among the counties. Giese v. LIRC, 153 Wis. 2d 212, 450 N.W.2d 489 (Ct. App. 1989).

The payment to a county under s. 59.42 (2) [now 59.40 (3) (b)] of interest earned on a condemnation award deposited with the clerk is not an unconstitutional taking. Brongman v. Douglas County, 164 Wis. 2d 718, 476 N.W.2d 611 (Ct. App. 1991).

The express powers to appoint and discharge deputies under this section are separate from those of the county and are not subject to a collective bargaining agreement entered into by the county. Crawford County v. WERC, 177 Wis. 2d 66, 501 N.W.2d 836 (Ct. App. 1993).

Crawford County v. WERC is restricted to its facts. Deputized employees, apart from a chief deputy, are exempt from the terms of collective bargaining agreements only to the extent that they are managerial or supervisory employees. Eau Claire County v. AFSCME Local 2223, 190 Wis. 2d 298, 526 N.W.2d 802 (Ct. App. 1994).

Removal by the clerk of court of an employee with dual employment status as deputy court clerk and judicial assistant from the judicial assistant position was not authorized by sub. (1). The removal was subject to the terms of a collective bargaining agreement. Winnebago County v. Courthouse Employees Association, 196 Wis. 2d 733, 540 N.W.2d 240 (Ct. App. 1995), 94−2504.

For a paper to be filed, it must be properly deposited with the clerk under s. 59.40 (2). "Properly" connotes complying with formality or correctness, but is not susceptible to exact definition. Delivery of papers to the clerk at his home after business hours was too far removed from legislative guidelines to be considered "properly deposited." Granado v. Sentry Insurance, 228 Wis. 2d 794, 599 N.W.2d 62 (Ct. App. 1999), 98−3675.

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. Oneida County v. WERC, 2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00−0466.

When read in conjunction with s. 32.05 (7) (d), sub. (3) (c) empowers a circuit judge to veto the clerk's authority to invest a condemnation award and to direct the clerk to transfer the award from the clerk's control into a private account for the benefit of the persons named in the award or to otherwise invest the funds for the benefit of those persons. Sub. (3) (c) empowers a circuit judge not only to veto the clerk's authority to invest and control the interest on condemnation awards but also to veto the clerk's authority over "certain" other funds deposited with the clerk, so long as the funds relate to a case before the judge's court. HSBC Realty Credit Corporation v. City of Glendale, 2007 WI 94, 303 Wis. 2d 1, 735 N.W.2d 77, 05−1042.

Granado holds that the court clerk as a constitutional officer has the discretion to adopt a policy, as long as the policy complies with the statutory guidelines indicating when and where the clerk's duties should be performed. In his or her discretion, the clerk may adopt a policy that is flexible or one that restricts filings to regular business hours. Hartford Citizens for Responsible Government v. City of Hartford Board of Zoning Appeals, 2008 WI App 107, 313 Wis. 2d 431, 756 N.W.2d 454, 07−1265.

A county civil service ordinance enacted under s. 59.07 (20) [now 59.52 (8)] or a collective bargaining agreement under s. 111.70, establishing a procedure to be followed prior to discharge of a classified employee, supersedes and modifies s. 59.38 (1) [now s. 59.40 (1) (a)]. 63 Atty. Gen. 147.

Clerks of court may not send original records of criminal cases to the public defender prior to appeal unless a judge authorizes the release. 69 Atty. Gen. 63.

59.41 Not to act as attorney. No person acting as clerk of any circuit court in this state may practice as an attorney or solicitor in the court in which the person is acting as clerk; and the person shall not be eligible for the office of municipal judge during the time that the person holds the office of the clerk.

History: 1977 c. 305, 449; 1995 a. 201 s. 323; Stats. 1995 s. 59.41.

59.42 Corporation counsel. (1) CORPORATION COUNSEL; CERTAIN COUNTIES. (a) Except as provided under par. (b), in counties not having a population of 500,000 or more, the board may employ a corporation counsel, and fix the salary of the corporation counsel. The corporation counsel appointed under this paragraph may be terminated at any time by a majority vote of all the members of the board.

(b) In any county with a county executive or county administrator, the county executive or county administrator shall have the authority to appoint and supervise the corporation counsel if the board authorizes the establishment of the office of corporation counsel. Such appointment shall be subject to confirmation by the board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. The corporation counsel may be removed by the county executive or county administrator with the concurrence of the board unless the corporation counsel is appointed under such an examination procedure.

(c) The corporation counsel may, when authorized by a majority of the board, appoint one or more assistant corporation counsels to aid the corporation counsel in the performance of the duties of corporation counsel. The assistants so appointed shall have authority to perform all the duties of the corporation counsel. The duties of the corporation counsel shall be limited to civil matters and may include giving legal opinions to the board and its committees and interpreting the powers and duties of the board and county officers. Whenever any of the powers and duties conferred upon the corporation counsel are concurrent with similar powers or duties conferred by law upon the district attorney, the district attorney's powers or duties shall cease to the extent that they are so conferred upon the corporation counsel and the district attorney shall be relieved of the responsibility for performing such powers or duties. Opinions of the corporation counsel on all such matters shall have the same effect as opinions of the district attorney. The corporation counsel may request the attorney general to consult

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and advise with the corporation counsel in the same manner as district attorneys as provided by s. 165.25 (3).

(2) CORPORATION COUNSEL IN SPECIAL COUNTIES; APPOINTMENT, DISMISSAL AND DUTIES. (a) In a county with a population of 500,000 or more there is created the office of corporation counsel, and such deputy corporation counsels, assistants, stenographers and clerks at such salaries as are authorized by the board. The corporation counsel and deputy and assistant corporation counsels shall be attorneys at law licensed to practice in this state. All such offices and positions shall be in the classified civil service of the county except the corporation counsel, who is in the unclassified service. The corporation counsel shall be appointed by the county executive, with the concurrence of a majority of the board and shall not serve at the pleasure of the county executive. Any incumbent corporation counsel serving on August 1, 1990, shall retain that position and title until a new appointee is confirmed by the board. The corporation counsel may be dismissed at any time by the county executive with the concurrence of a majority of the members−elect of the board. The corporation counsel may also be dismissed at any time by a majority vote of the board. If the county executive vetoes an action by the board to dismiss the corporation counsel, the board may override the veto by a two−thirds vote of the members−elect of the board. The corporation counsel shall appoint deputies, assistants and clerical and stenographic help. Deputy corporation counsels shall have, according to their rank and seniority, the powers and duties of the corporation counsel in his or her absence or disability. The corporation counsel and deputy corporation counsels shall take and file the constitutional oath of office.

(b) The duties of the corporation counsel and assistant corporation counsels shall be, without limitation because of enumeration, to:

1. Prosecute and defend all civil actions, proceedings, applications and motions in any court, commission, board, tribunal or body in any jurisdiction of this or other states or of the nation in which the county or any board, commission, committee or officer thereof is interested or a party by virtue of the office; and shall in like manner represent or assist in representing the state, or any commission, board, agency or tribunal of the state, in such civil actions or proceedings when requested to do so by the attorney general or when the district attorney of the county is required by any statute to do so.

2. Give advice to the board, county park commission, county department under s. 46.215 or 46.22 and other departments, boards, commissions, committees, agencies or officers of the county, when requested, in all civil matters in which the county or state is interested or relating to the discharge of the official duties of such departments, boards, commissions, committees, agencies or officers; examine all claims against the county for officers', interpreters', witnesses' and jurors' fees in civil actions and examinations, when presented to the county board of supervisors, and report in writing thereto as to the liability of the county for any and all claims of whatever nature filed against it; and act as legislative counsel for the county board of supervisors when so authorized by it.

3. Serve as legal adviser to the county highway commissioner and county highway committee, draw all papers required in the performance of their duties and attend to all civil legal matters in and out of court where the commissioner or committee is a party or wherein the acquisition of lands for state or county highway purposes is concerned.

4. Perform all duties in connection with civil matters relating to the county or any agency, board, commission or officer thereof or to the state within the county that are imposed by any statute upon the district attorney of the county and for such purposes the term "district attorney" wherever it appears in the statutes relating to duties of a civil nature shall, with regard to counties containing a population of 500,000 or more, mean the corporation counsel. Opinions of the corporation counsel shall have the same force and effect as opinions of the district attorney except that in matters relating to elections the district attorney shall have the right of review. After May 17, 1957, the district attorney's powers and duties as to civil matters shall cease to the extent that they are conferred upon the corporation counsel and the district attorney shall be relieved of the responsibility of performing such duties. The corporation counsel may request the attorney general to consult and advise with the corporation counsel in the same manner as district attorneys under s. 165.25 (3).

5. Review and countersign all contracts to verify that the contracts comply with all statutes, rules, ordinances, and the county's ethics policy. This subdivision applies only in a county with a population of 750,000 or more.

(3) CORPORATION COUNSEL; ATTORNEY DESIGNEE. In lieu of employing a corporation counsel under sub. (1) or in addition to employing a corporation counsel under sub. (1) or (2) (a), a board shall designate an attorney to perform the duties of a corporation counsel as the need arises. Two or more counties may jointly designate an attorney to perform the duties of a corporation counsel. If an attorney has been designated to perform the duties of a corporation counsel, that person may exercise any powers and perform any duties of the corporation counsel.

History: 1995 a. 201 ss. 158, 324, 329, 330, 332, 333; 2011 a. 62.

Under s. 59.07 (44) [now 59.42 (1)], a corporation counsel may apprise a county board of the consequences, both civil and criminal, that result from specific actions of the board. State v. Davis, 63 Wis. 2d 75, 216 N.W.2d 31 (1974).

A corporation counsel should provide legal advice and representation to ss. 51.42/51.437 boards, as well as to the county board. 63 Atty. Gen. 468.

Appointment, supervision, and removal of a corporation counsel is discussed. 72 Atty. Gen. 161.

59.43 Register of deeds; duties, fees, deputies. (1) REGISTER OF DEEDS; DUTIES. Subject to sub. (1m), the register of deeds shall:

(a) Record or cause to be recorded in suitable books to be kept in his or her office, correctly and legibly all deeds, mortgages, instruments and writings authorized by law to be recorded in his or her office and left with him or her for that purpose, provided such documents have plainly printed or typewritten thereon the names of the grantors, grantees, witnesses and notary. The register of deeds shall record and file or cause to be recorded and filed all plats and certified survey maps that are authorized to be accepted for recording and filing in his or her office. Any county, by a resolution duly adopted by the board, may combine the separate books or volumes for deeds, mortgages, miscellaneous instruments, attachments, lis pendens, sales and notices, certificates of organization of corporations, plats or other recorded or filed instruments or classes of documents as long as separate indexes may be produced. Notwithstanding any other provisions of the statutes, any county adopting a system of microfilming or like process or a system of recording documents by optical imaging or electronic formatting under ch. 228 may substitute the headings, reel, disk or electronic file name and microfilm image (frame) for volume and page where recorded and different classes of instruments may be recorded, reproduced or copied on or transferred to the same reel, disk or electronic file or part of a reel or disk. All recordings made prior to June 28, 1961, which would have been valid under this paragraph, had this paragraph then been in effect, are hereby validated. In this subsection, "book", if automated recording or indexing equipment is used, includes the meaning given under sub. (12) (d).

(b) Perform the duties that are related to vital statistics under ss. 69.05 and 69.07.

(c) State upon the record of any conveyance of real estate the real estate transfer fee paid or, if the conveyance is not subject to a fee, the reason for the exemption, citing the relevant subsection of s. 77.25.

(d) Keep safely and maintain the documents, images of recorded documents and indexes mentioned in this section and in s. 84.095 in the manner required.

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(e) Endorse upon each instrument or writing received by the register for record a certificate of the date and time when it was received, specifying the day, hour and minute of reception, which shall be evidence of such facts. Instruments shall be recorded in the order in which they are received.

(f) Endorse plainly on each instrument a number consecutive to the number assigned to the immediately previously recorded or filed instrument, such that all numbers are unique for each instrument within a group of public records that are kept together as a unit and relate to a particular subject.

(g) Safely keep and return to the party entitled thereto, on demand within a reasonable time, every instrument that is left with the register for record not required by law to be kept in the register's office.

(h) Register, file and index all marriages contracted, deaths and births occurring in the county.

(i) Make and deliver to any person, on demand and upon payment of the required fees, a certified copy, with the register's official seal affixed, of any record, paper, file, map or plat in the register's office.

(j) File and safely keep in the register's office all of the records, documents and papers of any post of the Grand Army of the Republic and of any historical society in the register's county.

(k) Keep an index of all organizational documents of corporations, fraternal societies, religious organizations, associations and other entities, and all amendments of such documents, that are allowed or required by law to be filed or recorded in the register's office. The index shall access the documents by the names of the corporations, fraternal societies, religious organizations, associations and other entities, and shall contain a reference to the document number or volume and page number where the documents are filed or recorded in the register's office.

(L) File all documents pertaining to security interests, as defined in s. 401.201 (2) (t), that are required or authorized by law to be filed with the register. Except as otherwise prescribed by the department of financial institutions under subch. V of ch. 409, these documents shall be executed in a manner that satisfies the requirements set forth in sub. (2m) (b) 1. to 5.

(m) Keep these chattel documents in consecutive numerical arrangement, for the inspection of all persons, endorsing on each document the document number and the date and time of reception.

(n) Upon the filing of a financing statement or other document evidencing the creation of a security interest, as defined in s. 401.201 (2) (t), required to be filed or recorded with the register under s. 409.501 (1) (a), index the statement or document in the real estate records index under sub. (9).

(o) Upon the filing of an assignment, continuation statement, termination statement, foreclosure affidavit, extension, or release pertaining to a filed financing statement or other chattel security document, index the document in the real estate records index under sub. (9).

(p) Perform all other duties that are required of the register of deeds by law.

(q) Record and index writings that are submitted according to s. 289.31 (3), evidencing that a solid or hazardous waste disposal facility will be established on the particular parcel described in the writings.

(r) Record and index marital property agreements under ch. 766 and statements and revocations under s. 766.59.

(s) Record and index statements of claim and perform the other duties specified under s. 706.057 (7).

(t) Upon commencement of each term, file his or her signature and the impression of his or her official seal or rubber stamp in the office of the secretary of state.

(u) Submit that portion of recording fees collected under sub. (2) (ag) 1. and (e) and not retained by the county to the department of administration under s. 59.72 (5).

(v) Record and index statements of authority under s. 184.05.

(1g) AUTHORITY TO REJECT ENTIRE GROUP OF RELATED DOCUMENTS. If the register of deeds is presented with a group of related documents that has been identified by the person submitting the documents by any reasonable method as representing a single transaction and one or more documents within the group may not be recorded because of a failure to comply with any provision of sub. (2m), the register of deeds may return the entire group of documents unrecorded.

(1m) RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY NUMBERS. (a) Except as otherwise provided in this subsection, a register of deeds may not record any instrument offered for recording if the instrument contains the social security number of an individual.

(b) If a register of deeds is presented with an instrument for recording that contains an individual's social security number, and if the register of deeds records the instrument but does not discover that the instrument contains an individual's social security number until after the instrument is recorded, the register of deeds may not be held liable for the instrument drafter's placement of an individual's social security number on the instrument and the register of deeds may remove or obscure characters from the social security number such that the social security number is not discernable on the instrument.

(c) If a register of deeds records an instrument that contains the complete social security number of an individual, the instrument drafter is liable to the individual whose social security number appears in the recorded public document for any actual damages resulting from the instrument being recorded.

(cm) If a register of deeds is presented with an instrument for recording that contains an individual's social security number the register of deeds may, prior to recording the instrument, remove or obscure characters from the social security number such that the social security number is not discernable on the instrument.

(d) Paragraphs (a) to (c) do not apply to a federal income tax lien.

(e) Paragraphs (a) to (c) do not apply to vital records under subch. I of ch. 69.

(f) Paragraphs (a) to (c) do not apply to certificates of discharge or release recorded under s. 45.05.

(2) REGISTER OF DEEDS; FEES. Every register of deeds shall receive the following fees:

(a) 1. In this subsection, "page" means one side of a single sheet of paper.

2. Any instrument that is submitted for recording shall contain a blank space at least 2.5 inches by 2.5 inches in size for use by the register of deeds. If the space is not provided, the register of deeds may add a page for his or her use and charge for the page a fee that is established by the county board not to exceed an amount reasonably related to the actual and necessary cost of adding the page.

(ag) 1. Subject to s. 59.72 (5) and except as provided in par. (L), for recording any instrument entitled to be recorded in the office of the register of deeds, $25, except that no fee may be collected for recording a change of address that is exempt from a filing fee under s. 185.83 (1) (b) or 193.111 (1) (b).

2. In the event of conflict in the statutes regarding recording fees, subd. 1. shall control, except that subch. V of ch. 409 and s. 409.710 shall control this section.

(ar) No person may record under this section a single instrument that contains more than one mortgage, or more than one mortgage, being assigned, partially released or satisfied.

(b) For copies of any records or papers, $2 for the first page plus $1 for each additional page, plus $1 for the certificate of the register of deeds, except that the department of revenue is exempt from the fees under this paragraph.

(c) Notwithstanding any other provision of law the register of deeds with the approval and consent of the board may enter into

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contracts with municipalities, private corporations, associations, and other persons to provide noncertified copies of the complete daily recordings and filings of documents pertaining to real property for a consideration to be determined by the board which in no event shall be less than cost of labor and material plus a reasonable allowance for plant and depreciation of equipment used.

(d) For performing functions under s. 409.523, the register shall charge the fees provided in s. 409.525, retain the portion of the fees prescribed under s. 409.525, and submit the portion of the fees not retained to the state. A financing statement and an assignment or notice of assignment of the security interest, offered for filing at the same time, shall be considered as only one document for the purpose of this paragraph. Whenever there is offered for filing any document that is not on a standard form prescribed by ch. 409 or by the department of financial institutions or that varies more than 0.125 inch from the approved size as prescribed by sub. (1), the appropriate fee provided in s. 409.525 or an additional filing fee of one−half the regular fee, whichever is applicable, shall be charged by the register.

(e) Subject to s. 59.72 (5) and except as provided in par. (L), for filing any instrument which is entitled to be filed in the office of register of deeds and for which no other specific fee is specified, $25.

(f) The fees for processing vital records or for issuing copies of vital records shall be as provided in s. 69.22.

(g) For making a new tract index upon the order of the board, the amount that is fixed by the board, to be paid from the county treasury.

(h) For recording and filing a cemetery plat under s. 157.07, a subdivision plat under s. 236.25 or a condominium plat under s. 703.07, $50.

(i) Except as provided in par. (L), for recording certificates and for preparing and mailing documents under s. 867.045 or 867.046, $25.

(j) All fees under this subsection shall be payable in advance by the party procuring the services of the register of deeds, except that the fees for the services performed for a state department, board or commission shall be invoiced monthly to such department, board or commission.

(k) For recording a transportation project plat under s. 84.095, $25.

(L) For recording any instrument under par. (ag), filing any instrument under par. (e), and recording certificates and preparing and mailing documents under par. (i), $30 if the county uses $5 of each $30 fee received under this paragraph to make social security numbers from electronic format records not viewable or accessible on the Internet under sub. (4) (c) and s. 59.72 (6), until the earliest of the following:

1. Completion of the making of social security numbers from electronic format records not viewable or accessible on the Internet under sub. (4) (c) and s. 59.72 (6).

2. Unless the register of deeds has been granted an extension by the department of administration, January 1, 2012. The register of deeds may request the department of administration to extend the time period under this subdivision by one year. The department of administration may grant the extension and may renew the extension for additional one−year periods.

3. January 1, 2015.

(2m) STANDARD FORMAT REQUIREMENTS FOR RECORDED DOCUMENTS. (a) Except as provided in pars. (d) and (e), no document may be recorded in the office of a register of deeds unless it substantially complies with all of the following on the first page of the instrument:

1. The name of the instrument is clear and is located not less than 0.5 inch nor more than 3 inches from the top of the document. If more than one instrument name is given, the first name given shall be used for indexing purposes.

2. A horizontal area within 3 inches of the top of the instrument in the upper left corner of the instrument, not less than 0.5 inch by 2 inches, is left blank for the unique document number.

3. An area in the upper right corner of the instrument, at least 3 inches by 3 inches, is left blank for recording information.

4. A horizontal area for the return address, at least one inch by 3 inches, is on the instrument in one of the following areas:

a. Directly below the recording information area described under subd. 3.

b. Directly below the document number area described under subd. 2.

c. Directly below the name of the instrument if the return address does not extend further than 3 inches from the top of the instrument.

5. a. Subject to subd. 5. b. and c., a space and a line are provided directly below the return address information and the line is labeled as “parcel identifier number”, “parcel identification number”, “parcel ID number”, “parcel number” or “PIN”.

b. If multiple parcels are affected by the instrument, the line described under subd. 5. a. may be used to refer the reader to another area of the instrument where the parcel identifier number is located.

c. Subdivision 5. a. applies only in a county whose board requires the use of a parcel identifier number.

(b) Except as provided in pars. (d) and (e), no document may be recorded in the office of a register of deeds unless it substantially complies with all of the following:

1. The paper is white and is at least 20 pound weight.

2. The page width is 8.5 inches and the page length is either 11 inches or 14 inches. The maximum deviation from any of these measurements may not exceed 0.25 inch.

3. A multipage instrument is not hinged or otherwise joined completely at the top or sides.

4. The entire document is clear and the letters, numbers, symbols, diagrams and other representations in the document are large enough and dense enough to be reproduced or read by a copy machine and a microfilm camera or optical scanner to the extent that the image captured is legible.

5. The ink is black or red, except that signatures and coded notations on maps may be other colors.

6. The top margin of each page is 0.5 inch, except that company logos may appear within this margin if they do not interfere with any of the other requirements of this subsection.

7. The bottom and side margins of each page are at least 0.25 inch.

(c) The register of deeds shall provide, upon request, a blank form which a person may complete and use as the first page of an instrument that the person seeks to record. The blank form shall be provided without charge and shall conform to the provisions of pars. (a) and (b).

(d) Paragraphs (a) and (b) do not apply to any of the following instruments:

1. Copies of documents that are certified by the state or by a city, village, town or county, or by a subunit or instrumentality of any of the foregoing.

2. Rerecorded documents.

3. Filed documents.

4. Federal income tax lien form 688 (Y) (c).

(e) Every instrument that the register of deeds accepts for recordation under this subsection shall be considered recorded despite its failure to conform to one or more of the requirements of this subsection, if the instrument is properly indexed in a public index maintained in the office of the register of deeds.

(3) REGISTER OF DEEDS; DEPUTIES. Every register of deeds shall appoint one or more deputies, who shall hold office at the register’s pleasure. The appointment shall be in writing and shall be

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recorded in the register's office. The deputy or deputies shall aid the register in the performance of the register's duties under the register's direction, and in case of the register's vacancy or the register's absence or inability to perform the duties of the register's office the deputy or deputies shall perform the duties of register until the vacancy is filled or during the continuance of the absence or inability.

(4) REGISTER OF DEEDS; MICROFILMING AND OPTICAL DISK AND ELECTRONIC STORAGE. (a) Except as provided in par. (b), upon the request of the register of deeds, any county, by board resolution, may authorize the register of deeds to photograph, microfilm or record on optical disks or in electronic format records of deeds, mortgages or other instruments relating to real property or may authorize the register of deeds to record on optical disks or in electronic format instruments relating to security interests in accordance with the requirements of s. 16.61 (7) or 59.52 (14) and to store the original records within the county at a place designated by the board. The storage place for the original records shall be reasonably safe and shall provide for the preservation of the records authorized to be stored under this paragraph. The register of deeds shall keep a photograph, microfilm or optical disk or electronic copy of such records in conveniently accessible files in his or her office and shall provide for examination of such reproduction or examination of a copy generated from an optical disk or electronic file in enlarged, easily readable form upon request. Compliance with this paragraph satisfies the requirement of sub. (1) (a) that the register of deeds shall keep such records in his or her office. The register of deeds may make certified copies reproduced from an authorized photograph, from a copy generated from optical disk or electronic storage or from the original records.

(b) The register of deeds may microfilm or record on optical disks or in electronic format notices of lis pendens that are at least one year old, in accordance with the requirements of s. 16.61 (7) or 59.52 (14) (b) to (d). The register of deeds shall keep a microfilm or optical disk or electronic copy of notices of lis pendens in conveniently accessible files in his or her office and shall provide for examination of such reproduction or examination of a copy generated from optical disk or electronic storage in enlarged, easily readable form upon request. Compliance with this paragraph satisfies the requirement of sub. (1) (a) that the register of deeds shall keep such records in his or her office. The register of deeds may make certified copies reproduced from a copy generated from microfilm or from optical disk or electronic storage. The register of deeds may destroy or move to off−site storage any notice of lis pendens that has been microfilmed or recorded on optical disk or in electronic format under this paragraph.

(c) With regard to any instrument filed with or recorded by a register of deeds before April 1, 2006, which the register of deeds makes available for viewing or download on the Internet, the register of deeds shall make a reasonable effort to make social security numbers from the transferred instrument's electronic format not viewable or accessible on the Internet.

(d) No later than March 31 annually, every register of deeds of a county that has not completed making social security numbers from electronic format records not viewable or accessible on the Internet under par. (c) shall submit to the department of administration a report regarding the progress made by the county during the preceding year in making social security numbers from electronic format records not viewable or accessible on the Internet under par. (c), including a statement of the number of instruments transferred to an electronic format in the preceding year, the number of these instruments from which social security numbers were made not viewable or accessible on the Internet in the preceding year, the number of instruments remaining from which social security numbers remain to be made not viewable or accessible on the Internet, and the estimated time needed to review the remaining instruments for making social security numbers not viewable or accessible on the Internet.

(5) INCLUDING NAME OF PERSON DRAFTING INSTRUMENT. (a) No instrument by which the title to real estate, or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or otherwise disposed of shall be recorded by the register of deeds unless the name of the person who, or governmental agency which, drafted such instrument is printed, typewritten, stamped or written thereon in a legible manner. An instrument complies with this subsection if it contains a statement in the following form: "This instrument was drafted by .... (name) ....".

(b) Paragraph (a) does not apply to an instrument executed before May 9, 1957, or to:

1. A decree, order, judgment or writ of a court.

3. An instrument that is executed or acknowledged outside of this state.

4. A transportation project plat that conforms to s. 84.095.

(6) EFFECT OF CERTAIN OMISSIONS IN REGISTERS' RECORDS. The validity and effect of the record of any instrument in the office of register of deeds shall not be lessened or impaired by the fact that the name of any grantor, grantee, witness or notary was not printed or typed on the instrument or by the fact that it does not comply with sub. (5).

(7) INCLUDING PARCEL IDENTIFICATION NUMBER. (a) In counties with a population of 500,000 or more where parcel identification numbers are used in the tax roll for taxes based on the value of property in municipalities, any conveyance, as defined in s. 706.01 (4), of any interest in real estate located in such a municipality shall contain reference to the parcel identification number affected. The parcel identification number shall be required for the recording of the conveyance.

(b) In counties with a population of less than 500,000 where parcel identification numbers are used in the tax roll for taxes based on the value of property in municipalities, any conveyance, as defined in s. 706.01 (4), of any interest in real estate located in such a municipality shall contain reference to the parcel identification number affected if the county in which the parcel is located enacts an ordinance that requires the use of such a number in a conveyance. The parcel identification number shall be required for the recording of the conveyance, for administrative purposes only, if the county enacts an ordinance under this paragraph.

(8) REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR RECORDING. It is unlawful for the register of deeds of any county or any proper public authority to file or record a map, plat, survey or other document within the definition of land surveying, which does not have impressed thereon, and affixed thereto, the personal signature and seal of a registered land surveyor under whose responsible charge the map, plat, survey or other document was prepared. This subsection does not apply to any deed, contract or other recordable document prepared by an attorney, or to a transportation project plat that conforms to s. 84.095 and that is prepared by a state agency.

(9) REAL ESTATE RECORDS INDEX. (a) 1. A register of deeds shall maintain an index for the real estate record series that contains at least all of the following:

a. Number of the instrument that is consecutive and unique within the record series.

b. Time and date of the instrument's acceptance.

c. Name of the grantor.

d. Name of the grantee.

e. Description of the land.

f. Name of the instrument.

g. Volume and page where the instrument is recorded or filed.

h. To whom the instrument is delivered, unless the document is kept on file.

i. The amount of fees received.

2. The index shall be accessible and searchable by at least all of the following means:

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a. Name of the grantor.

b. Name of the grantee.

c. Document number, or volume and page where the instrument is recorded or filed.

d. By tract of land parcel if the county has a tract index.

(b) In the case of assignments, satisfactions and partial releases of mortgages, and subordination of mortgages, the index shall also contain the document number or volume and page of the original mortgage instrument whenever that original mortgage instrument is referenced on the document.

(c) With regard to affidavits of corrections of filed documents, the register shall include at least one of the following notations on the filed document:

1. The document number of the affidavit of correction.

2. The volume and page number where the affidavit of correction is filed, and the date when the affidavit is filed.

(11) RECORD OF ATTACHMENTS, LIS PENDENS, ETC. A register of deeds shall file or record, and index in the real estate records index, every writ of attachment or certified copy of such a writ and certificate of real estate attached, every certificate of sale of real estate, and every notice of the pendency of an action affecting real estate, which may be filed or recorded in the register's office.

(12) DESTRUCTION, TRANSFER OF DOCUMENTS; RECORDING, INDEXING DOCUMENTS. (a) The board of any county may, upon request of the register of deeds, authorize the destruction of all obsolete documents pertaining to chattels antedating by 6 years, including final books of entry.

(b) A board may, upon request of the register of deeds, authorize the destruction of all documents pertaining to town mutual insurance companies that were formerly required to be filed under ch. 202, 1971 stats., and that under s. 612.81 no longer have to be filed and all documents pertaining to stock corporations that were formerly required to be recorded under ch. 180, 1987 stats., and that under ch. 180 no longer have to be recorded. At least 60 days prior to the proposed destruction, the register of deeds shall notify in writing the state historical society which may order delivery to it of any records of historical interest. The state historical society may, upon application, waive the notice.

(c) Notwithstanding this subsection, sub. (1) and ss. 16.61 (3) (e), 19.21 (1) and (5) and 59.52 (4), the board may authorize the transfer of the custody of all records maintained by the register of deeds under s. 342.20 (4), 1979 stats., to the department of transportation.

(d) In a county where the board has established a system of recording and indexing by means of electronic data processing, machine printed forms or optical disk storage, the process of typing, keypunching, other automated machines or optical imaging may be used to replace any handwritten entry or endorsement as described in this subsection or in sub. (1). The various documents and indexes may also be combined into a general document file with one numbering sequence and one index at any time. In this subsection and in sub. (1), "book", if automated equipment is used, may include forms, tab or computer printed sheets as well as cards and other supply forms which although processed separately may be bound after preparation.

(12m) TRACT INDEX SYSTEM. (a) The board by ordinance may require the register of deeds to keep a tract index such that records containing valid descriptions of land may be searched by all of the following:

1. Quarter−sections of land or government lots within the county, the boundaries of which refer to the public land survey system or a recorded private claim, as defined in s. 236.02 (9m).

2. Recorded and filed certified survey map and lot or outlot number.

3. Recorded and filed plat, by name and lot, block, outlot or unit within the plat, according to the description of the land.

(b) No index established under par. (a) may be discontinued, unless the county establishing the index adopts, keeps and maintains a complete abstract of title to the real estate in the county as a part of the records of the office of the register of deeds of that county.

(c) If the board determines that a tract index system is unfit for use, the board may, by resolution, establish a new and corrected tract index. Any person who is authorized by the board to compile the new tract index shall have access to the old tract index and any other county records that may assist the person in compiling the new tract index. Upon completion, and approval by the board, of the new tract index system, the old tract index system shall be preserved as provided in s. 59.52 (3) (b). The resolutions of the board ordering, approving and adopting the new tract index systems, certified by the clerk, shall be recorded in each volume of the new tract index system and upon the resolution of the board adopting the new system, such a system is the only lawful tract index system in the register of deeds' office.

History: 1995 a. 201 ss. 326, 327, 335, 338 to 353, 355, 361, 367, 369, 375, 377 to 380, 382 to 384; 1995 a. 225 ss. 159, 160, 162; 1995 a. 227; 1997 a. 27 ss. 2164am to 2164e, 9456 (3m); 1997 a. 35, 79, 140, 252, 282, 303, 304; 1999 a. 96; 2001 a. 10; 2001 a. 16 ss. 1999m to 2001m, 4041b; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 ss. 1 to 7, 23, 24; 2005 a. 25 ss. 1231 to 1234, 2493; 2005 a. 41, 139, 441; 2009 a. 98, 314, 320.

Cross−reference: See s. 779.97 for fees for filing federal liens and releases of liens.

Cross−reference: See s. 182.01 (3) for the requirement that certain corporate documents must bear the name of the drafter of the instrument before it may be filed by the department of financial services.

The express powers to appoint and discharge deputies under this section are separate from those of the county and are not subject to a collective bargaining agreement entered into by the county. Crawford County v. WERC, 177 Wis. 2d 66, 501 N.W.2d 836 (Ct. App. 1993).

Crawford County v. WERC is restricted to its facts. Deputized employees, apart from a chief deputy, are exempt from the terms of collective bargaining agreements only to the extent that they are managerial or supervisory employees. Eau Claire County v. AFSCME Local 2223, 190 Wis. 2d 298, 526 N.W.2d 802 (Ct. App. 1994).

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. Oneida County v. WERC, 2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00−0466.

A register of deeds does not have authority to correct an original recording of a deed made by a predecessor. 61 Atty. Gen. 189.

Section 59.513 [now s. 59.43 (5)] does not apply unless the instrument affects real estate in the manner described in the statute. 63 Atty. Gen. 594.

In a county maintaining a tract index system, the register of deeds must enter into the index any deed, mortgage, or other recorded instrument that affects title to or mentions an indexed tract or any part thereof. 63 Atty. Gen. 254.

Registers of deeds have no obligation to file or record "common−law liens" or "common−law writs of attachment." 69 Atty. Gen. 58.

Registers of deeds entering into contracts under sub. (2) (c) may insist on provisions protecting the identity and integrity of records obtained under the contracts and protecting the public. Authority to require provisions directly prohibiting the contracting party from selling or disseminating copies of the records is not prohibited and may reasonably be implied from the general contracting authority under sub. (2) (c). OAG 1−03.

The fee requirements of sub. (2) (b), not those of s. 19.35 (3), apply to electronic copies of records obtained pursuant sub. (4), unless the requester has entered into a contract authorized by sub. (2) (c). OAG 1−03.

59.44 County abstractor; appointment; duties; fees.

(1) (a) Except as provided under par. (b), whenever any county adopts a tract index system or any recognized chain of title system, the board may create a department to be known as an abstract department, either in connection with or independent of the office of the register of deeds, as the board considers advisable. The board may appoint a competent person for a term of 2 years, who shall be known as the county abstractor, and shall have charge of and operate the abstract department. The board shall furnish a seal for the abstractor, who shall place the seal on every abstract issued by the abstractor.

(b) In any county with a county executive or a county administrator, if the county creates an abstract department under par. (a), the county executive or county administrator shall appoint and supervise the county abstractor. Such appointment shall be subject to confirmation by the board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made

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under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63.

(2) The register of deeds shall be eligible to hold the office of county abstractor and may hold both offices at the same time.

(3) The county abstractor shall make and deliver to any person an abstract of title to any land in the county, upon the payment of the required fee.

(4) The board shall fix the salary of said abstractor, provide such clerical assistance as may be necessary and fix their compensation and shall fix the fees to be received for the compiling and furnishing of abstracts and may at any time prescribe regulations for the operation and conduct of said department. All fees received for the compiling and furnishing of abstracts shall be paid into the county treasury.

(5) The board may by two−thirds vote of all the members of the board discontinue furnishing abstracts.

History: 1985 a. 29; 1991 a. 316; 1995 a. 201 s. 387; Stats. 1995 s. 59.44; 1995 a. 225 s. 163; 1997 a. 35.

59.45 County surveyor; duties, deputies, fees. (1) SURVEYOR; DUTIES. (a) The county surveyor shall do all of the following:

1. Execute, personally or by a deputy, all surveys that are required by the county or by a court. Surveys for individuals or corporations may be executed at the county surveyor's discretion.

2. Make, personally or by a deputy, a record, in books or on drawings and plats that are kept for that purpose, of all corners that are set and the manner of fixing the corners and of all bearings and the distances of all courses run, of each survey made personally, by deputies or by other land surveyors and arrange or index the record so it is an easy to use reference and file and preserve in the office the original field notes and calculation thereof. Within 60 days after completing any survey, the county surveyor shall make a true and correct copy of the foregoing record, in record books or on reproducible papers to be furnished by the county and kept in files in the office of the county surveyor to be provided by the county. In a county with a population of 500,000 or more where there is no county surveyor, a copy of the record shall also be filed in the office of the regional planning commission which acts in the capacity of county surveyor for the county.

3. Furnish a copy of any record, plat or paper in the office to any person on demand and upon payment to the county of the required fees.

4. Administer to every survey assistant engaged in any survey, before commencing their duties, an oath or affirmation to faithfully and impartially discharge the duties of survey assistant, and the deputies are empowered to administer the same.

5. Perform all other duties that are required by law.

(b) Surveys for individuals or corporations may be performed by any land surveyor who is employed by the parties requiring the services, providing that within 60 days after completing any survey the land surveyor files a true and correct copy of the survey in the office of the county surveyor. In counties with a population of 500,000 or more the copy shall be filed in the office of the register of deeds and in the office of the regional planning commission which acts in the capacity of county surveyor for the county.

(2) SURVEYOR; DEPUTIES. The county surveyor may appoint and remove deputies at will on filing a certificate thereof with the clerk.

(3) SURVEYOR; FEES. In addition to the regular fees of land surveyors that are received from the parties employing the county surveyor, the county surveyor may receive a salary from the county.

History: 1995 a. 201 ss. 328, 389, 391, 399; 1997 a. 35.

Compensation and duties of an elected county surveyor and possible conflicts of interest in public contracts are discussed. 60 Atty. Gen. 134.

Duties of county and other land surveyors and minimum standards for property surveys are discussed. 69 Atty. Gen. 160.

59.46 Penalty for nonfeasance. Any county surveyor, any city, village or town engineer, or any land surveyor who fails or refuses to perform any duty required of that person by law shall forfeit not less than $25 nor more than $50 for each such failure or refusal.

History: 1991 a. 316; 1993 a. 246; 1995 a. 201 s. 401; Stats. 1995 s. 59.46.

59.47 County auditors; powers; duties. (1) In every county, except as provided in s. 59.255 (2) (i), the clerk shall act as auditor, unless a separate office of county auditor is created as provided in sub. (2), and, when directed by resolution of the board, shall examine the books and accounts of any county officer, board, commission, committee, trustees or other officer or employee entrusted with the receipt, custody or expenditure of money, or by or on whose certificate any funds appropriated by the board are authorized to be expended, whether compensated for services by fees or by salary, and all original bills and vouchers on which moneys have been paid out and all receipts of moneys received by them. The clerk shall have free access to such books, accounts, bills, vouchers and receipts as often as may be necessary to perform the duties required under this subsection and he or she shall report in writing the results of the examinations to the board.

(2) The board by resolution may create a separate office of county auditor and may fix the compensation of the auditor. The auditor shall perform the duties and have all of the powers conferred upon the clerk as auditor by sub. (1), and shall perform such additional duties and shall have such additional powers as are imposed and conferred upon him or her from time to time by resolution adopted by the board.

(3) If a county auditor's office is created under sub. (2), the chairperson of the board shall appoint a person known to be skilled in matters of public finance and accounting to act as county auditor. The appointment shall be made under ss. 63.01 to 63.17 and shall be subject to confirmation by the board. The auditor shall direct the keeping of all of the accounts of the county, in all of its offices, departments and institutions, and shall keep books of account necessary to properly perform the duties of the office. The auditor's salary and the amount of the official bond shall be fixed by the board. The auditor shall perform all duties pertaining to the office, have all of the powers and perform the duties in sub. (1) and perform other duties imposed by the board.

(4) The board by resolution may authorize a county auditor appointed under sub. (3) to appoint a deputy auditor under ss. 63.01 to 63.17 to aid him or her in the discharge of the duties of his or her office, and who, in the absence or disability of the county auditor, or in case of a vacancy in said office, shall perform all the duties of the office of county auditor until such vacancy is filled, or disability is removed. Such deputy shall execute and file an official bond in the same amount as that given by the county auditor.

History: 1977 c. 265, 305, 447; 1983 a. 192; 1995 a. 201 s. 420; Stats. 1995 s. 59.47; 2011 a. 62.

This section's effect on county bookkeeping and auditing is discussed. 67 Atty. Gen. 248.

The statutory duties of the county clerk under ch. 70 may not be transferred to the county auditor, but the county auditor may be granted supervisory authority over the manner in which such duties are exercised. OAG 6−08.

The removal of the county auditor is subject to the specific civil service provisions established by ordinance or resolution of the county board under ss. 63.01 to 63.17 and is not governed by the more general removal provision contained in s. 17.10 (3). Rather than creating the separate office of county auditor pursuant under s. 59.47 (2), a county board could create a department of administration under s. 59.52 (1) (b) and assign administrative audit functions to that department under that statute. If the administrative function is under the jurisdiction of the county auditor the function may be assigned to the department of administration. A person in the department of administration who performs audit functions therefore need not be appointed using civil service procedures. OAG 6−08.

59.48 County assessor. The county executive elected under s. 59.17 or the county administrator elected or appointed under s. 59.18 shall appoint a county assessor as prescribed in and subject to the limitations of s. 70.99, approve the hiring of the assessor's staff as prescribed in that section and otherwise comply with that

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section. In counties with neither a county executive nor a county administrator the appointment of the county assessor shall be the duty of the chairperson of the board subject to the approval of the board and subject to the limitations of s. 70.99. The hiring of the assessor's staff shall be the duty of the county assessor subject to the limitations of s. 70.99.

History: 1995 a. 201 s. 171.

SUBCHAPTER V

POWERS AND DUTIES OF COUNTIES

59.51 Board powers. (1) ORGANIZATIONAL OR ADMINISTRATIVE POWERS. The board of each county shall have the authority to exercise any organizational or administrative power, subject only to the constitution and any enactment of the legislature which grants the organizational or administrative power to a county executive or county administrator or to a person supervised by a county executive or county administrator or any enactment which is of statewide concern and which uniformly affects every county. Any organizational or administrative power conferred under this subchapter shall be in addition to all other grants. A county board may exercise any organizational or administrative power under this subchapter without limitation because of enumeration, and these powers shall be broadly and liberally construed and limited only by express language.

(2) GENERAL AUTHORITY. The board may represent the county, have the management of the business and concerns of the county in all cases where no other provision is made, apportion and levy taxes and appropriate money to carry into effect any of the board's powers and duties.

History: 1995 a. 201 ss. 110, 116, 337.

59.52 County administration. (1) DEPARTMENT OF ADMINISTRATION. (a) In counties with a population of 500,000 or more, the county may create a department of administration, provide for the appointment by the county executive of a director of such department and assign such administrative functions to the department as it considers appropriate, subject to the limitations of this paragraph. No such function shall be assigned to the department where the performance of the same by some other county office, department or commission is required by any provision of the constitution or statutes of this state, except that administrative functions under the jurisdiction of the county civil service commission or the county auditor may be so assigned notwithstanding sub. (8) and ss. 59.47, 59.60 and 63.01 to 63.17. Such director shall be appointed by the county executive in the unclassified civil service and is subject to confirmation by the county board, as provided in s. 59.17 (2) (bm).

(b) Any county with a population of less than 500,000 may create a department of administration and assign any administrative function to the department as it considers appropriate, except that no administrative function may be assigned to the department if any other provision of state law requires the performance of the function by any other county office, department or commission unless the administrative function is under the jurisdiction of the county civil service commission or the county auditor, in which case, the function may be assigned to the department notwithstanding sub. (8) and ss. 59.47, 59.60 and 63.01 to 63.17. Except as provided under par. (a), in any county with a county executive or county administrator, the county executive or county administrator shall have the authority to appoint and supervise the head of a department of administration; and except as provided under par. (a), the appointment is subject to confirmation by the county board unless the appointment is made under a civil service system competitive examination procedure established under sub. (8) or ch. 63.

(2) PUBLIC RECORDS. The board may prescribe the form and manner of keeping the records in any county office and the accounts of county officers. The board may enact an ordinance designating legal custodians for the county. Unless prohibited by law, the ordinance may require the clerk or the clerk's designee to act as legal custodian for the board and for any committees, commissions, boards or authorities created by ordinance or resolution of the board.

(3) RECORDS WHERE KEPT; PUBLIC EXAMINATION; REBINDING; TRANSCRIBING. (a) The books, records, papers and accounts of the board shall be deposited with the respective county clerks and shall be open without any charge to the examination of all persons.

(b) When any book, public record or the record of any city, village or town plat in any county office shall, from any cause, become unfit for use in whole or in part, the board shall order that the book, record or plat be rebound or transcribed. If the order is to rebind such book, record or plat, the rebinding must be done under the direction of the officer in charge of the book, record or plat, and in that officer's office. If the order is to transcribe such book, record or plat, the officer having charge of the same shall provide a suitable book for that purpose; and thereupon such officer shall transcribe the same in the book so provided and carefully compare the transcript with the originals, and make the same a correct copy thereof, and shall attach to the transcript a certificate over that officer's official signature that that officer has carefully compared the matter therein contained with, and that the same is a correct and literal copy of the book, record or plat from which the same was transcribed, naming such book. The certified copy of the book, record or plat shall have the same effect in all respects as the original, and the original book, record or plat shall be deposited with the treasurer and carefully preserved, except that in counties having a population of 500,000 or more where a book containing a tract index is rewritten or transcribed the original book may be destroyed. The order of the board directing the transcribing of any book, record or plat duly certified by the clerk shall, with such certificate, be recorded in each copy of the book, record or plat transcribed. The fee of the officer for such service shall be fixed by the board, not exceeding 10 cents per folio, or if such books or any part thereof consist of printed forms, not to exceed 5 cents per folio for such books or records, to be paid by the county.

(4) DESTRUCTION, TRANSFER OF OBSOLETE RECORDS. (a) *Destruction of obsolete county records.* Whenever necessary to gain needed vault and filing space, county or court officers and the custodian of the records of all courts of record in the state may, subject to pars. (b) and (c), destroy obsolete records in their custody as follows:

1. Notices of tax apportionment that are received from the secretary of state, after 3 years.

2. Copies of notices of tax apportionment that are sent to local taxing districts by the clerk, after 3 years.

3. Records of bounty claims that are forwarded to the department of natural resources, after one year.

4. Lists of officers of a municipality that are certified to the county clerk by the municipal clerks, after the date of the expiration of the term listed.

5. Crop reports that are submitted to the clerk by the local assessors, after 3 years.

6. Illegal tax certificates that are charged back to local taxing districts, 3 years after the date of charging back such certificates.

7. Notices of application for the taking of tax deeds and certificates of nonoccupancy, proofs of service and tax certificates that are filed with the clerk in connection with the taking of tax deeds, after 15 years.

8. Official bonds, after 6 years.

9. Claims that are paid by the county, and papers supporting such claims, after 7 years.

10. Contracts, notices of taking bids, and insurance policies to which the county is a party, 7 years after the last effective day thereof.

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11. Reports of town treasurers that are submitted to the clerk on dog licenses sold and records of dog licenses issued, after 3 years.

12. The clerk's copies of all receipts that are issued by the treasurer, 4 years or until after being competently audited, whichever is earlier.

13. Copies of notices that are given by the clerk to the town assessors setting out lands owned by the county and lands sold by the county, after 3 years.

14. Tax receipts, after 15 years.

15. All other receipts of the treasurer, after 7 years.

16. Canceled checks, after 7 years.

17. Oaths of office, after 7 years.

18. Case records and other record material of all public assistance that are kept as required under ch. 49, if no payments have been made for at least 3 years and if a face sheet or similar record of each case and a financial record of all payments for each aid account are preserved in accordance with rules adopted by the department of health services or by the department of children and families. If the department of health services or the department of children and families has preserved such case records and other record material on computer disc or tape or similar device, a county may destroy the original records and record material under rules adopted by the department that has preserved those case records or other record material.

19. Marriage license applications and records and papers pertaining to the applications, including antenuptial physical examinations and test certificates, consents of parent or guardian for marriage and orders of the court waiving the waiting period, after 10 years.

20. Books in the office of the register of deeds in counties with a population of 500,000 or more containing copies of deeds, mortgages, other miscellaneous documents and military discharges that are authorized by law to be recorded in the office if the records first shall be photographed or microphotographed and preserved in accordance with ch. 228.

(b) *Transfer of obsolete county records.* Before the destruction of public records under par. (a), the proper officers in counties with a population of less than 500,000 shall make a written offer to the historical society under s. 44.09 (1). If the offer is accepted by the society within 60 days, the officers shall transfer title to noncurrent records in their custody as follows:

1. Original papers, resolutions and reports that are connected with board proceedings.

2. Tax rolls.

3. Original minutes of the board.

(c) *Destruction of county records, when.* If title is not accepted by the historical society within 60 days after a written offer is made under par. (b), county officers in counties with a population of less than 500,000 may destroy records as follows:

1. Original papers, resolutions and reports appearing in county board proceedings, 6 years following the date of first publication of the same in the official proceedings of the board.

2. Tax rolls, after 15 years.

3. No assessment roll that contains forest crop acreage may be destroyed without the prior approval of the secretary of revenue.

(5) OFFICIAL SEALS. The board may provide an official seal for the county and the county officers required to have one; and for the circuit court, with such inscription and devices as that court requires.

(6) PROPERTY. The board may:

(a) *How acquired; purposes.* Take and hold land acquired under ch. 75 and acquire, lease or rent property, real and personal, for public uses or purposes of any nature, including without limitation acquisitions for county buildings, airports, parks, recreation, highways, dam sites in parks, parkways and playgrounds, flowages, sewage and waste disposal for county institutions, lime pits for operation under s. 59.70 (24), equipment for clearing and draining land and controlling weeds for operation under s. 59.70 (18), ambulances, acquisition and transfer of real property to the state for new collegiate institutions or research facilities, and for transfer to the state for state parks and for the uses and purposes specified in s. 23.09 (2) (d).

(b) *Control; actions.* Make all orders concerning county property and commence and maintain actions to protect the interests of the county.

(c) *Transfers.* Direct the clerk to lease, sell or convey or contract to sell or convey any county property, not donated and required to be held for a special purpose, on terms that the board approves. In addition, any county property may be leased, rented or transferred to the United States, the state, any other county within the state or any municipality or school district within the county. Oil, gas and mineral rights may be reserved and leased or transferred separately.

(d) *Construction, maintenance and financing of county−owned buildings and public works projects.* 1. Construct, purchase, acquire, lease, develop, improve, extend, equip, operate and maintain all county buildings, structures and facilities hereinafter in this subsection referred to as "projects", including without limitation because of enumeration swimming pools, stadiums, golf courses, tennis courts, parks, playgrounds, bathing beaches, bathhouses and other recreational facilities, exhibition halls, convention facilities, convention complexes, including indoor recreational facilities, dams in county lands, garbage incinerators, courthouses, jails, schools, hospitals and facilities for medical education use in conjunction with such hospitals, homes for the aged or indigent, regional projects, sewage disposal plants and systems, and including all property, real and personal, pertinent or necessary for such purposes.

2. Finance such projects, including necessary sites, by the issuance of revenue bonds under s. 66.0621, and payable solely from the income, revenues and rentals and fees derived from the operation of the project financed from the proceeds of the bonds. If any such project is constructed on a site owned by the county before the issuance of the bonds, the county shall be reimbursed from the proceeds of the bonds in the amount of not less than the reasonable value of the site. The reasonable value of the site shall be determined by the board after having obtained written appraisals of value by 2 general appraisers, as defined in s. 458.01 (11), in the county having a reputation for skill and experience in appraising real estate values. Any bonds issued under this subsection shall not be included in arriving at the constitutional debt limitation.

3. Operate or lease such projects in their entirety or in part, and impose fees or charges for the use of or admission to such projects. Such projects may include space designed for leasing to others if such space is incidental to the purposes thereof.

(e) *Leases to department of natural resources.* Lease lands owned by the county to the department of natural resources for game management purposes. Lands so leased shall not be eligible for entry under s. 28.11. Of the rental paid by the state to the county for lands so leased, 60% shall be retained by the county and 40% shall be paid by the county to the town in which the lands are located and of the amount received by the town, 40% shall be paid by the town to the school district in which the lands are located. The amount so paid by a town to a joint school district shall be credited against the amount of taxes certified for assessment in that town by the clerk of the joint school district under s. 120.17 (8), and the assessment shall be reduced by such amount. In case any leased land is located in more than one town or school district the amounts paid to them shall be apportioned on the basis of area. This paragraph shall not affect the distribution of rental moneys received on leases executed before June 22, 1955.

(7) JOINT COOPERATION. The board may join with the state, other counties and municipalities in a cooperative arrangement as provided by s. 66.0301, including the acquisition, development, remodeling, construction, equipment, operation and maintenance

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of land, buildings and facilities for regional projects, whether or not such projects are located within the county.

(8) CIVIL SERVICE SYSTEM. (a) The board may establish a civil service system of selection, tenure and status, and the system may be made applicable to all county personnel, except the members of the board, constitutional officers and members of boards and commissions. The system may also include uniform provisions in respect to classification of positions and salary ranges, payroll certification, attendance, vacations, sick leave, competitive examinations, hours of work, tours of duty or assignments according to earned seniority, employee grievance procedure, disciplinary actions, layoffs and separations for just cause, as described in par. (b), subject to approval of a civil service commission or the board. The board may request the assistance of the department of administration and pay for such services, under s. 16.58.

(b) A law enforcement employee of the county may not be suspended, demoted, dismissed or suspended and demoted by the civil service commission or by the board, based either on its own investigation or on charges filed by the sheriff, unless the commission or board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the commission or the board shall apply the following standards, to the extent applicable:

1. Whether the employee could reasonably be expected to have had knowledge of the probable consequences of his or her alleged conduct.

2. Whether the rule or order that the employee allegedly violated is reasonable.

3. Whether the sheriff, before filing a charge against the employee, made a reasonable effort to discover whether the employee did in fact violate a rule or order.

4. Whether the effort described under subd. 3. was fair and objective.

5. Whether the sheriff discovered substantial evidence that the employee violated the rule or order as described in the charges filed against the employee.

6. Whether the sheriff is applying the rule or order fairly and without discrimination to the employee.

7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the employee's record of service with the sheriff's department.

(c) If a law enforcement employee of the county is dismissed, demoted, suspended or suspended and demoted by the civil service commission or the board under the system established under par. (a), the person dismissed, demoted, suspended or suspended and demoted may appeal from the order of the civil service commission or the board to the circuit court by serving written notice of the appeal on the secretary of the commission or the board within 10 days after the order is filed. Within 5 days after receiving written notice of the appeal, the commission or the board shall certify to the clerk of the circuit court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall upon application of the accused or of the board or the commission fix a date of trial which shall not be later than 15 days after the application except by agreement. The trial shall be by the court and upon the return of the board or the commission, except that the court may require further return or the taking and return of further evidence by the board or the commission. The question to be determined by the court shall be: Upon the evidence is there just cause, as described in par. (b), to sustain the charges against the employee? No cost shall be allowed either party and the clerk's fees shall be paid by the county. If the order of the board or the commission is reversed, the accused shall be immediately reinstated and entitled to pay as though in continuous service. If the order of the board or the commission is sustained, it shall be final and conclusive.

(9) PURCHASING AGENT. The board may appoint a person or committee as county purchasing agent, and provide compensation for their services. Any county officer or supervisor may be the agent or a committee member. The purchasing agent shall provide all supplies and equipment for the various county offices and the board chairperson shall promptly sign orders in payment therefor. The board may require that all purchases be made in the manner determined by it.

(10) SALARIES AND AUTOMOBILE ALLOWANCE; WHEN PAYABLE. Salaries of county officers and employees shall be paid at the end of each month, but the board of any county may authorize the payment of such salaries semimonthly or once in every 2 weeks in such manner as it may determine. Payment for automobile allowance to officers and employees, duly authorized to use privately owned automobiles in their work for the county, shall be made upon certification of the respective department heads in a manner similar to that in which salaries are paid, provided such method of payment of automobile allowance is authorized by ordinance specifically stating the departments to which it applies.

(11) INSURANCE. The board may:

(a) *Liability and property damage.* Provide public liability and property damage insurance, either in commercial companies or by self−insurance created by setting up an annual fund for such purpose or by a combination thereof, covering without limitation because of enumeration motor vehicles, malfeasance of professional employees, maintenance and operation of county highways, parks, parkways and airports and any other county activities involving the possibility of damage to the general public.

(b) *Fire and casualty.* Provide for fire and casualty insurance for all county property.

(c) *Employee insurance.* Provide for individual or group hospital, surgical and life insurance for county officers and employees and for payment of premiums for county officers and employees. A county with at least 100 employees may elect to provide health care benefits on a self−insured basis to its officers and employees. A county and one or more cities, villages, towns, other counties, or county housing authorities that together have at least 100 employees may jointly provide health care benefits to their officers and employees on a self−insured basis. Counties that elect to provide health care benefits on a self−insured basis to their officers and employees shall be subject to the requirements set forth under s. 120.13 (2) (c) to (e) and (g).

(d) *Bonds of officers and employees.* Provide for the protection of the county and public against loss or damage resulting from the act, neglect or default of county officers, department heads and employees and may contract for and procure bonds or contracts of insurance to accomplish that purpose either from commercial companies or by self−insurance created by setting up an annual fund for such purpose or by a combination thereof. Any number of officers, department heads or employees not otherwise required by statute to furnish an official bond may be combined in a schedule or blanket bond or contract of insurance. So far as applicable ss. 19.01 (2), (2m), (3), (4) (d) and (dm) and (4m) and 19.07 shall apply to the bonds or contracts of insurance. The bond shall be for a definite period. Each renewal of the bond shall constitute a new bond for the principal amount covering the renewal period.

Cross−reference: See also s. Ins 8.11, Wis. adm. code.

(12) ACCOUNTS AND CLAIMS; SETTLEMENT. The board may:

(a) Examine and settle all accounts of the county and all claims, demands or causes of action against the county and issue county orders therefor. In counties with a population of less than 50,000, the board may delegate its power in regard to current accounts, claims, demands or causes of action against the county to a standing committee where the amount does not exceed $5,000. In counties with a population of 50,000 or more, the board may delegate its power in regard to current accounts, claims, demands or causes of action against the county to a standing committee if the amount does not exceed $10,000. Instead of delegating its power under this paragraph to a standing committee, the

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board may, by resolution adopted by majority vote, delegate such power to the chairperson of a standing committee. Such a resolution remains in effect for one year after its effective date or until rescinded, whichever occurs first.

(b) Delegate its power in regard to any claim, demand or cause of action not exceeding $500 to the corporation counsel. If the corporation counsel finds that payment of the claim to a claimant is justified, the corporation counsel may order the claim paid. The claim shall be paid upon certification of the corporation counsel and shall be annually reported to the board.

(13) INJURED COUNTY WORKERS. The board may, in addition to any payments made under ch. 102, make further payment in such amounts as the board determines to any county employee injured at any time before January 1, 1937, while performing services for the county, in cases in which such further payments were made over a period of time following the injury and were based on a moral obligation to such employee.

(14) OPTICAL DISK AND ELECTRONIC STORAGE. (a) Upon request of any office, department, commission, board or agency of the county, the board may authorize any county record that is in the custody of the office, department, commission, board or agency to be transferred to, or maintained in, optical disk or electronic storage in accordance with rules of the department of administration under s. 16.612. The board may thereafter authorize destruction of the original record, if appropriate, in accordance with sub. (4) and ss. 16.61 (3) (e) and 19.21 (5) unless preservation is required by law.

(b) Any copy of a county record generated from optical imaging or electronic formatting of an original record is considered an original record if all of the following conditions are met:

1. The devices used to transform the record to optical disk or electronic format and to generate a copy of the record from optical disk or electronic format are ones which accurately reproduce the content of the original.

2. The optical disk or electronic copy and the copy generated from optical disk or electronic format comply with the minimum standards of quality for such copies, as established by the rule of the department of administration under s. 16.612.

3. The record is arranged, identified and indexed so that any individual document or component of the record can be located with the use of proper equipment.

4. The legal custodian of the record executes a statement of intent and purpose describing the record to be transferred to optical disk or electronic format and the disposition of the original record, and executes a certificate verifying that the record was received or created and transferred to optical disk or electronic format in the normal course of business and that the statement of intent and purpose is properly recorded in his or her office.

(c) The statement of intent and purpose executed under par. (b) 4. is presumptive evidence of compliance with all conditions and standards prescribed under par. (b).

(d) A copy of a record generated from an original record stored on an optical disk or in electronic format which conforms with the standards prescribed under par. (b) shall be taken as and stand in lieu of and have all of the effect of the original record and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible. A transcript, exemplification or certified copy of such a record so generated, for the purposes specified in this paragraph, is deemed to be a transcript, exemplification or certified copy of the original. An enlarged copy of any record so generated, made in accordance with the standards prescribed under par. (b) and certified by the custodian as provided in s. 889.18 (2), has the same effect as an actual−size copy.

(15) PRINTING IN LOCAL TAX ROLLS, ETC. The board may provide for the printing in assessment rolls and tax rolls and on data cards for local municipal officials, the descriptions of properties and the names of the owners thereof, but no municipality shall be subject to any tax levied to effect these functions where the municipality provides its own printing for the functions.

(16) PAYMENTS IN LIEU OF TAX. The board may:

(a) *Institutions, state farms, airports.* Appropriate each year to any municipality and school district in which a county farm, hospital, charitable or penal institution or state hospital, charitable or penal institution or state−owned lands used for agricultural purposes or county or municipally owned airport is located, an amount of money equal to the amount which would have been paid in municipal and school tax upon the lands without buildings, if those lands were privately owned. The valuation of the lands, without buildings, and computation of the tax shall be made by the board. In making the computation under this paragraph, lands on which a courthouse or jail are located and unimproved county lands shall not be included.

(b) *County veterans housing.* 1. If a county has acquired land and erected on that land housing facilities for rent by honorably discharged U.S. veterans of any war and the land and housing facilities are exempt from general taxation, appropriate money and pay to any school district or joint school district wherein the land and housing facilities are located a sum of money which shall be computed by obtaining the product of the following factors:

a. The tax rate for school district purposes of the school years for which the payment is made.

b. The ratio of the assessed valuation to the equalized valuation of the municipality in which the school district lies, multiplied by the actual cost incurred by the county for the acquisition of the land and improvements on the land used for such purposes.

2. In case of a joint school district, computation shall be made on the basis of the valuation of the several municipalities in which the school district lies. If school buildings are inadequate to accommodate the additional school population resulting from the county veterans housing program, and the school district cannot legally finance the necessary increased facilities, the board may appropriate money and grant assistance to the school district but the assistance shall be used solely to finance the purchase of land and the erection and equipment of the necessary additional facilities.

(17) RETURN OF RENTS TO MUNICIPALITIES. The board may return to municipalities all or any part of rent moneys received by the county under leases of county−owned lands.

(18) RETURN OF FOREST INCOME TO TOWNS. The board may return and distribute to the several towns in the county all or any part of any money received by the county from the sale of any product from county−owned lands which are not entered under the county forest law under s. 28.11.

(19) DONATIONS, GIFTS AND GRANTS. The board may accept donations, gifts or grants for any public governmental purpose within the powers of the county.

(20) SHERIFF'S FAMILY PENSION. The board may appropriate money to the family of any sheriff or sheriff's deputies killed while in the discharge of official duties.

(21) COUNTY COMMISSIONS. Except in counties having a population of 500,000 or more, the board may fix and pay the compensation of members of the county park commission and the county planning and zoning commission for attendance at meetings at a rate not to exceed the compensation permitted supervisors.

(22) COUNTY BOARDS' ASSOCIATION. By a two−thirds vote, the board may purchase membership in an association of county boards for the protection of county interests and the furtherance of better county government.

(23) PURCHASE OF PUBLICATIONS. The board may purchase publications dealing with governmental problems and furnish copies thereof to supervisors, officers and employees.

(24) PARKING AREAS. The board may enact ordinances establishing areas for parking of vehicles on lands owned or leased by the county; for regulating or prohibiting parking of vehicles on

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such areas or parts of such areas, including, but not limited to, provision for parking in such areas or parts thereof for only certain purposes or by only certain personnel; for forfeitures for violations thereof, but not to exceed $50 for each offense; and for the enforcement of such ordinances.

(25) ADVISORY AND CONTINGENT REFERENDA. The board may conduct a countywide referendum for advisory purposes or for the purpose of ratifying or validating a resolution adopted or ordinance enacted by the board contingent upon approval in the referendum.

(26) TRANSCRIPTS. The board may procure transcripts or abstracts of the records of any other county affecting the title to real estate in such county, and such transcripts or abstracts shall be prima facie evidence of title.

(27) BAIL BONDS. The authority of the board to remit forfeited bond moneys to the bondsmen or their heirs or legal representatives, where such forfeiture arises as a result of failure of a defendant to appear and where such failure to appear is occasioned by a justifiable cause, is hereby confirmed.

(28) COLLECTION OF COURT IMPOSED PENALTIES. The board may adopt a resolution authorizing the clerk of circuit court, under s. 59.40 (4), to contract with a debt collector, as defined in s. 427.103 (3), for the collection of unpaid fines and forfeitures.

(29) PUBLIC WORK, HOW DONE; PUBLIC EMERGENCIES. (a) All public work, including any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed $25,000 shall be let by contract to the lowest responsible bidder. Any public work, the estimated cost of which does not exceed $25,000, shall be let as the board may direct. If the estimated cost of any public work is between $5,000 and $25,000, the board shall give a class 1 notice under ch. 985 before it contracts for the work or shall contract with a person qualified as a bidder under s. 66.0901 (2). A contract, the estimated cost of which exceeds $25,000, shall be let and entered into under s. 66.0901, except that the board may by a three−fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids. This subsection does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers. This subsection does not apply to highway contracts which the county highway committee or the county highway commissioner is authorized by law to let or make.

(b) The provisions of par. (a) are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the board, in which the public health or welfare of the county is endangered. Whenever the board by majority vote at a regular or special meeting determines that an emergency no longer exists, this paragraph no longer applies.

(30) LIMITATION ON PERFORMANCE OF HIGHWAY WORK. Notwithstanding ss. 66.0131, 66.0301, and 83.035, a county may not use its own workforce to perform a highway improvement project on a highway under the jurisdiction of another county or a municipality that is located in a different county unless one of the following applies:

(a) A portion of the project lies within the county performing the work and no portion of the project extends beyond an adjoining county.

(b) The project lies, wholly or in part, within a municipality that lies partially within the county performing the work.

History: 1995 a. 201 ss. 104, 111 to 115, 117 to 122, 124, 127, 134, 139, 140, 157, 174, 181, 185, 186, 190, 238, 242, 252 to 256, 354, 356 to 360, 414 to 419, 432; 1995 a. 225 s. 135; 1997 a. 35, 237; 1999 a. 9, 83; 1999 a. 150 s. 672; 2001 a. 16, 104; 2005 a. 22, 59; 2007 a. 20 ss. 1846, 9121 (6) (a); 2009 a. 369; 2011 a. 32.

Cross−reference: See s. 66.0137 (5) as to payment of insurance premiums for employees.

Cross−reference: See s. 66.0517 concerning appointment of a county weed commissioner.

A county can contract with employees for special reserved parking privileges in a county ramp. Dane Co. v. McManus, 55 Wis. 2d 413, 198 N.W.2d 667 (1972).

Section 59.08 [now s. 59.52 (29)] does not compel the purchase of equipment from the lowest bidder. Joyce v. Dunn County, 192 Wis. 2d 699, 531 N.W.2d 628 (Ct. App. 1995).

Sub. (8) (c) does not provide the exclusive appeal remedy for discipline and termination of deputy sheriffs. A collective bargaining agreement providing for arbitration of disputes is enforceable. An employee may not pursue both a statutory appeal and arbitration however. Eau Claire County v. General Teamsters Union Local No. 662, 2000 WI 57, 235 Wis. 2d 385, 611 N.W.2d 744, 98−3197.

Limitations on the power of a county to sell property without calling for public bids are discussed. 60 Atty. Gen. 425.

Counties are without power to furnish equipment or supplies for, or to contract to do repair work, on private roads and driveways. 61 Atty. Gen. 304.

A county board is without authority to establish an alternative retirement system. 61 Atty. Gen. 371.

A county civil service ordinance enacted under s. 59.07 (20) [now 59.52 (8)], or a collective bargaining agreement under s. 111.70, establishing a procedure to be followed prior to the discharge of a classified employee, supersedes and modifies s. 59.38 (1) [now s. 59.40 (1) (a)]. 63 Atty. Gen. 147.

Section 59.07 (1) [now s. 59.52 (6)] is not sufficiently broad to permit a county to furnish housing for elderly and low−income persons when specific statutes provide for furnishing such housing. 63 Atty. Gen. 297.

Under s. 59.07 (1) (d) 1. [now s. 59.52 (6) (d) 1.], counties have authority to establish a hospital outpatient health facility to be used to train general practitioners of medicine as part of a program with the Medical College of Wisconsin. 65 Atty. Gen. 172.

Under s. 59.07 (1) (c) [now s. 59.52 (6) (c)], counties may make gifts of land or interests in lands only to enumerated public entities. 67 Atty. Gen. 236.

Under s. 59.07 (3) [now s. 59.52 (12)], a county board may require that all bills and claims be examined by it. 68 Atty. Gen. 38.

A county may enact an ordinance requiring its contractors to agree to a policy of nondiscrimination in employment, even though the ordinance provides broader protection than state and federal laws. 70 Atty. Gen. 64.

Section 59.08 (1) [now s. 59.52 (29) (a)] does not apply to architectural services. 76 Atty. Gen. 182.

A county has no statutory authority to award contracts only to unionized contractors. Federal preemption rules probably foreclose the exercise of such authority in any event. Federal preemption rules foreclose denying contracts to employers engaged in labor disputes. 79 Atty. Gen. 86.

A county may not acquire land specifically for the purpose of leasing it to a private entity to operate a racetrack; it may lease land initially acquired for a public purpose to such private entity, unless the land has become surplus. 80 Atty. Gen. 80.

A county board may not give land to a private corporation; the adequacy of a promise to build a factory on the land as consideration for the conveyance of land involves the application of the public purpose doctrine to the specific facts of the conveyance. 80 Atty. Gen. 341.

A county with a population of less that 250,000 is not required to designate an official newspaper. A county is not required to seek bids for the publication of legal notices. Even if a county does not competitively bid the publication of its own proceedings as provided in sub. (3), it may print its own proceedings or post them on its web site. A county may not, in lieu of publication in a printed newspaper or posting on a physical bulletin board, post its legal notices on its official web site. OAG 2−08.

The removal of the county auditor is subject to the specific civil service provisions established by ordinance or resolution of the county board under ss. 63.01 to 63.17 and is not governed by the more general removal provision contained in s. 17.10 (3). Rather than creating the separate office of county auditor pursuant under s. 59.47 (2), a county board could create a department of administration under s. 59.52 (1) (b) and assign administrative audit functions to that department under that statute. If the administrative function is under the jurisdiction of the county auditor the function may be assigned to the department of administration. A person in the department of administration who performs audit functions therefore need not be appointed using civil service procedures. OAG 6−08.

Municipal competitive bidding statutes do not apply to projects undertaken by intergovernmental agreement or when the municipalities that will perform the work have made a determination under sub. (29) to do the work themselves with their own employees. OAG 5−09.

59.53 Health and human services. (1) SURPLUS COMMODITY PLANS. The board may adopt and participate in any surplus commodity absorption plan in connection with furnishing relief to needy persons within any municipality in the county and appropriate money to carry out such plan.

(2) EMERGENCY ENERGY RELIEF. Regardless of whether a county operates a relief program under sub. (21), the board may appropriate money for making payments to individuals or providing grants to community action agencies and municipalities to assist persons and families in the purchase of emergency energy supplies.

(3) COMMUNITY ACTION AND NONPROFIT AGENCIES. The board may appropriate funds for promoting and assisting any community action agency under s. 49.265, and for making payments to a nonprofit organization, as defined in s. 23.197 (4) (a) 1., that has as a primary purpose providing assistance to individuals who are the victims of domestic violence and related crimes. The county

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may also appropriate money for making payments to such a nonprofit organization for its capital and operational expenses.

(4) COMPREHENSIVE HEALTH PLANNING. A county or combination of counties may engage in comprehensive health planning, and boards may appropriate county funds to an areawide agency for such planning, whether the organization to be utilized is a public agency or a private, nonprofit corporation.

(5) CHILD AND SPOUSAL SUPPORT; PATERNITY PROGRAM; MEDICAL SUPPORT LIABILITY PROGRAM. (a) The board shall contract with the department of children and families to implement and administer the child and spousal support and establishment of paternity and the medical support liability programs provided for by Title IV of the federal social security act. The board may designate by board resolution any office, officer, board, department or agency, except the clerk of circuit court, as the county child support agency. The board or county child support agency shall implement and administer the programs in accordance with the contract with the department of children and families. The attorneys responsible for support enforcement under sub. (6) (a), circuit court commissioners and all other county officials shall cooperate with the county and the department of children and families as necessary to provide the services required under the programs. The county shall charge the fee established by the department of children and families under s. 49.22 for services provided under this paragraph to persons not receiving benefits under s. 49.148 or 49.155 or assistance under s. 48.645, 49.19, 49.46, 49.465, 49.47, 49.471, or 49.472.

(b) The county child support agency under par. (a) shall electronically enter into the statewide data system related to child and spousal support payments that is operated by the department of children and families the terms of any order made or judgment granted in the circuit court of the county requiring payments under s. 948.22 (7) or ch. 767 or 769 that are directed under s. 767.57 (1) to be paid to the department of children and families or its designee. The county child support agency shall enter the terms of any such order or judgment within the time required by federal law and shall enter revisions ordered by the court to any order or judgment the terms of which are maintained on the data system.

Cross−reference: See also ch. DCF 102 and s. DHS 108.03, Wis. adm. code.

(6) ATTORNEYS; SUPPORT ENFORCEMENT RESPONSIBILITY. (a) 1. Except as provided in subd. 2., each board shall employ or contract with attorneys to provide support enforcement. Section 59.42 (1), (2) (a) and (3) does not preclude a board from assigning these support enforcement duties to any attorney employed by the county.

2. If on June 1, 1989, a county has 1.0 or more full−time equivalent attorney positions that have primary responsibility for handling cases described in par. (b), as determined by the district attorney of the prosecutorial unit, the county shall establish and maintain a support enforcement office consisting of support enforcement attorneys and office personnel. In counties having a population of less than 500,000, a county budget under s. 65.90 shall list the proposed appropriation under s. 65.90 (2) for the support enforcement office separate from any other office, department or activity. In counties having a population of 500,000 or more, a county budget shall treat a support enforcement office as a department, as defined in s. 59.60 (2) (a), separate from all other departments. If a county ceases to employ 1.0 or more full−time equivalent attorney positions in the office, the county may provide support enforcement under subd. 1.

(b) Attorneys responsible for support enforcement under par. (a) shall institute, commence, appear in or perform other prescribed duties in actions or proceedings under sub. (5) and ss. 49.22 (7), 767.205 (2), 767.501 and 767.80 and ch. 769.

(c) If the place of trial is changed to another county in any action or proceeding under par. (b), an attorney responsible for support enforcement under par. (a) shall continue to prosecute or defend the action or proceeding in the other county.

(7) INITIATIVE TO PROVIDE COORDINATED SERVICES. The board may establish an initiative to provide coordinated services under s. 46.56.

(8) REHABILITATION FACILITIES. The board may establish and maintain rehabilitation facilities in any part of the county under the jurisdiction of the sheriff as an extension of the jail, or separate from the jail under jurisdiction of a superintendent, to provide any person sentenced to the county jail with a program of rehabilitation for such part of the person's sentence or commitment as the court determines will be of rehabilitative value to the prisoner. Rehabilitation facilities may be located outside of the county under a cooperative agreement under s. 302.44.

(9) GROUP HOMES. The board may own or operate group homes, as defined in s. 48.02 (7).

(11) SENIOR CITIZEN PROGRAMS; APPROPRIATION; COMMISSION ON AGING. The board may:

(a) Appropriate funds to promote and assist county commissions on aging and senior citizens clubs and organizations within the county in their organization and activities. A county may cooperate with any private agency or group in such work.

(b) Appoint a commission on aging under s. 46.82 (4) (a) 1., if s. 46.82 (4) (a) 1. is applicable.

(c) Appropriate money to defray the expenses incurred by private organizations that provide homemaking services to elderly and handicapped persons within the county if the services will enable the persons to remain self−sufficient and to live independently or with relatives.

(12) GUARDIAN OF OR CONSERVATOR FOR COUNTY HOSPITAL PATIENTS. In any county having a population of 100,000 or more, the board may authorize the county as a body corporate to act as guardian or conservator of the respective estates of patients in its county hospital or mental hospital, and also as guardians or conservators of the respective estates of residents of its county home or infirmary.

(13) PAYMENTS FOR ABORTIONS AND ABORTION−RELATED ACTIVITY RESTRICTED. (a) No county, or agency or subdivision of the county, may authorize funds for or pay to a physician or surgeon or a hospital, clinic or other medical facility for the performance of an abortion except those permitted under and which are performed in accordance with s. 20.927.

(b) No county or agency or subdivision of a county may authorize payment of funds for a grant, subsidy or other funding involving a pregnancy program, project or service if s. 20.9275 (2) applies to the pregnancy program, project or service.

(14) VICTIMS AND WITNESSES OF CRIMES. The board may appropriate money for the implementation and operation of a program under s. 950.06.

(15) NURSING ASSOCIATIONS. The board may appropriate money toward the support of organized and bona fide nursing associations in the county, such associations to have at least one qualified nurse.

(16) ISOLATION HOSPITALS. (a) In counties having a population of 30,000 or more the board may erect, establish and maintain isolation hospitals or places for the care and treatment of all persons afflicted with infectious, contagious and communicable diseases, requiring isolation and quarantine under the laws of the state, who are inmates of the charitable, penal, correctional and other institutions of said county or who are required to be cared for and treated at the expense of said county. The board may also provide for the care and treatment therein of all persons so afflicted, who are required to be cared for by the various municipalities in said counties, under such terms, conditions, rules and regulations, as to apportionment of cost of erection of such buildings and places and the expense of care and treatment of such persons afflicted, as may be agreed upon between the county board and the common council of such cities and the boards of such villages and towns, and each such council or board is hereby vested with power

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and authority to enter into such contracts and to appropriate such funds as may be necessary to carry into execution all contracts so made.

(b) All isolation hospitals and other places, when erected or established in counties having a county board of administration, shall be conducted under the control and management of the board of administration in the same manner and to the same extent as other institutions under the control of the board of administration, and in other counties the isolation hospitals and other places shall be conducted under the control and management of the county board. Any resident of this state who is not indigent may be received into, treated and cared for in an isolation hospital or other place upon the terms and conditions and at the rate or pay established and fixed by the board having charge of the isolation hospital or other place; provided, however, that indigent and destitute sick persons shall be cared for and have preference of admission to such hospitals and places.

(17) AID TO IMMIGRATION SOCIETIES. (a) A board may appropriate an amount not to exceed $1,000 in any one year for the purpose of assisting a county association of the citizens of the county, or an association composed of the citizens of 2 or more counties of which the citizens of the county are members, organized solely for the purpose of inducing immigration to the state.

(b) The disbursement of an appropriation made under this subsection shall be under the supervision of the chairperson of the board, the clerk and the treasurer, and in all cases after such an appropriation has been made, there shall be filed with the clerk a sworn statement by the treasurer of the immigration society for whose benefit the appropriation was made, showing that the amount of the appropriation has been used by the association for the purpose of inducing immigration to the county making the appropriation and to adjoining counties, and itemized bills for the expenditure of a sum equal to the appropriation duly verified shall accompany the statement of the treasurer. Upon the approval of the statement and the itemized bills, by the county officers above named, the money so appropriated shall be paid by the proper officers of the county making the same into the treasury of the immigration association.

(18) IMMIGRATION BOARD. (a) The county board may create an immigration board consisting of 3 to 5 members, one of whom shall be the county surveyor. The immigration board shall meet, and its members shall receive such compensation and expenses and shall serve for the terms that the county board determines.

(b) The immigration board shall aid in promoting settlement of vacant agricultural lands in the county, and shall protect prospective settlers from unfair practices.

(c) The county board may in any year appropriate for the carrying out of the work of the immigration board a sum not to exceed $5,000.

(19) JOINT OPERATION OF HEALTH−RELATED SERVICE. The board may authorize the trustees of county hospitals, together with a private or public organization or affiliation, to organize, establish and participate in the governance and operation of an entity to operate, wholly or in part, any health−related service; to participate in the financing of the entity; and to provide administrative and financial services or resources for its operation on terms prescribed by the board.

(20) WORK CENTERS. The board may operate a work center licensed under s. 104.07 to provide employment for severely handicapped individuals.

(21) OPERATION OF RELIEF PROGRAMS. The board may operate a program of relief for a specific class or classes of persons residing in that county. The county may set such eligibility criteria to obtain relief, and may provide such services, commodities or money as relief, as the county determines to be reasonable and necessary under the circumstances. The program may include work components. The county may enact any ordinances necessary or useful to the operation of a relief program under this subsection. Counties may use vehicle registration information from the department of transportation in determining eligibility for relief programs under this subsection.

(22) COUNTY HOUSING AUTHORITIES. (a) Sections 66.1201 to 66.1211 shall apply to counties, except as otherwise provided in this subsection, or as clearly indicated otherwise by the context.

(b) The powers and duties conferred and imposed by ss. 66.1201 to 66.1211 upon mayors and councils are conferred upon boards, and the powers and duties of specified city officials under ss. 66.1201 to 66.1211 are conferred upon county officials performing duties similar to the duties of such specified city officials.

(c) The area of operation of a housing authority created in and for a county is all of the county for which it is created, but a county housing authority may not undertake any housing project within the boundaries of any municipality unless a resolution has been adopted by the governing body of the municipality, and by any housing authority which has been created in that municipality, declaring that there is need for the county housing authority to exercise its powers within that municipality.

(d) County housing authorities created under this subsection are urged to utilize those provisions of the federal housing laws whereby private developers may acquire land, build housing projects according to federal standards and turn them over to such housing authorities for due consideration.

(23) HOUSING AUTHORITIES, COUNTIES HAVING ONLY ONE TOWN. (a) The provisions of ss. 66.1201 to 66.1211 shall apply to any county having only one town, except as otherwise provided in this subsection or clearly indicated otherwise by the context, and any housing authority established under this subsection may participate in any state grants−in−aid for housing in the same manner as city housing authorities created under ss. 66.1201 to 66.1211.

(b) The powers and duties conferred and imposed by ss. 66.1201 to 66.1211 upon mayors and councils are conferred upon boards, and the powers and duties of specified city officials under those sections are conferred upon county officials performing duties similar to the duties of the specified city officials.

(c) Eligible low−income residents of the county who are 62 years of age or older may be given first preference in the selection of tenants for housing provided under the authority of this subsection. The housing may, insofar as possible, be designed specifically for the foregoing class of residents.

(d) The area of operation of a housing authority created in and for a county under this subsection is all of the county for which it is created.

History: 1995 a. 201 ss. 151, 153, 169, 413, 188, 192, 198, 201 to 206, 208, 217, 229, 234, 237, 241, 334, 362, 364, 436, 453; 1995 a. 225 ss. 164, 170; 1995 a. 279 s. 7; 1995 a. 289 s. 217; 1995 a. 404 ss. 184, 186; 1997 a. 3, 27, 35, 41, 191, 252; 1999 a. 150 s. 672; 2001 a. 61; 2003 a. 33, 318; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 75, 334.

A county cannot use its funds and employees to improve, reconstruct, or repair homes of private citizens who do not qualify for aid under ch. 49 without utilizing a county housing authority. 64 Atty. Gen. 106.

A county may not, in a manner consistent with federal and state statutes and regulations prohibiting supplementation, contractually obligate itself to pay visiting nurse association funds in addition to those received by such a home health care provider through the Medicaid program. 77 Atty. Gen. 287.

59.535 Veterans affairs. (1) CERTIFICATIONS AND FILINGS FOR VETERANS; NO CHARGE. (a) In this subsection, "veteran" has the meaning given in s. 45.01 (12), and includes a person under s. 45.51 (2) (a) 2.

(b) No fee shall be charged by any register of deeds, clerk of circuit court or any other public officer, either state, county or local, having custody of statistical records, for the making and certifying of copies, or examining proofs of any public record or instrument, required for or in connection with, the filing of any claim or application with the U.S. department of veterans affairs or any other federal agency, or to any state agency, or to the regularly established agency of any state, for benefits under federal or state laws, by a veteran or by any dependent of a veteran, when certified proof is required in connection with any claim or application for benefits, under federal or state laws, to which such veteran, or a dependent of a veteran, either living or dead, may be

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required to file, except, that in the counties where the register of deeds or clerk of circuit court is under the fee system and not a fixed salary, the usual fee for such service shall be paid by the county to the proper officer. The provisions of this subsection shall supersede any provision of law in conflict therewith.

(2) GRAVE MARKERS; VETERANS. (a) The board may furnish upon the petition of 5 residents of any municipality in their county an appropriate metal marker for the grave of each soldier, sailor or marine who served with honor in the U.S. armed forces, buried within the municipality.

(b) The petitioners shall state in the petition the names of the soldiers, sailors or marines buried in the municipality.

(3) WAR RECORDS. The board may appropriate money for the collection, publication or distribution of war records.

(4) SERVICE OFFICER AND COMMISSION. The board may appropriate funds for the execution of the duties of the county veterans service officer and the county veterans service commission.

History: 1995 a. 201 ss. 123, 135, 141, 365, 385; 2005 a. 22.

59.54 Public protection and safety. (1) AMBULANCES. The board may purchase, equip, operate and maintain ambulances and contract for ambulance service with one or more providers for conveyance of the sick or injured and make reasonable charges for the use thereof.

(2) RESCUE EQUIPMENT. The board may appropriate money for the purchase of boats and other equipment necessary for the rescue of human beings and the recovery of human bodies from waters of which the county has jurisdiction under s. 2.04 and charge a reasonable fee for the use of such boats and other equipment.

(3) RADIO SERVICE FOR FIRE PROTECTION. The board may appropriate money for the purpose of providing radio service for fire protection in the county, in the manner prescribed by the board.

(4) RURAL NAMING OR NUMBERING SYSTEM. The board may establish a rural naming or numbering system in towns for the purpose of aiding in fire protection, emergency services, and civil defense, and appropriate and expend money therefor, under which:

(a) Each rural road, home, business, farm or other establishment, may be assigned a name or number.

(b) The names or numbers may be displayed on uniform signs posted on rural roads and intersections, and at each home, business, farm or other establishment.

(4m) RURAL NAMING OR NUMBERING SYSTEM; TOWN COOPERATION. The rural naming or numbering system under sub. (4) may be carried out in cooperation with any town or towns in the county.

(5) EMERGENCY SERVICES FOR HEARING AND SPEECH IMPAIRED PERSONS. In any county having a population of 200,000 or more the board shall install in the sheriff's department a teletypewriter which shall be available to receive calls from hearing and speech impaired persons seeking emergency services. In cities having a population of 30,000 or more which are not contained in a county having a population of 200,000 or more, the city shall install a teletypewriter for the purposes of this subsection in either the police or fire department. If 2 or more cities having a population of 30,000 or more are contained in one county, the board shall install the teletypewriter in the sheriff's department and no teletypewriter shall be required in the cities.

(6) PEACE AND ORDER. The board may enact and enforce ordinances to preserve the public peace and good order within the county including, but not limited by enumeration, ordinances prohibiting conduct that is the same as or similar to conduct that is prohibited by ss. 947.01 (1) and 947.02, and provide a forfeiture for a violation of the ordinances.

(7) POLICE POWERS OVER CERTAIN U.S. LANDS AND STRUCTURES. In counties in which the United States has built a structure extending into a lake or river, the board may by ordinance regulate the use of such a structure by the public consistent with reasonable safety requirements, but nothing contained in the ordinance shall permit any interference with the operations of the United States, its agents, employees or representatives in connection with the structure. The ordinance may also provide that any person who violates the ordinance shall forfeit to the county an amount not to exceed $100 for each offense, plus costs, and in default of payment shall be imprisoned for not more than 30 days. Arrests for violation of the ordinance may be made by the sheriff or by any peace officer of the municipality wherein the structure is located.

(8) LOCAL EMERGENCY PLANNING COMMITTEES. (a) The board shall do all of the following:

1. Create a local emergency planning committee, with members as specified in 42 USC 11001 (c), which shall have the powers and the duties established for such committees under 42 USC 11000 to 11050 and under ss. 323.60 and 323.61.

2. Control all expenditures by the committee that is created under this paragraph.

3. Within the availability of state funds, take all actions that are necessary to ensure that the committee created under this paragraph properly executes the duties of a local emergency planning committee under 42 USC 11000 to 11050 and under ss. 323.60 and 323.61.

4. At least annually, submit to the division of emergency management in the department of military affairs a list of the members of the local emergency planning committee appointed by the county board under this paragraph, including the agency, organization or profession that each member represents.

(b) The board may do any of the following:

1. Appropriate funds for the operation of the committee that is created under par. (a).

2. Implement programs and undertake activities which are designed to prepare the county to cope with emergencies involving the accidental release of hazardous substances and which are consistent with, but in addition to, the minimum requirements of s. 323.60 and 42 USC 11000 to 11050.

(9) COUNTY TELECOMMUNICATION TERMINAL. Every county in the state shall have a telecommunication terminal installed in a county law enforcement agency which is interconnected with the department of transportation and other county, municipal and governmental law enforcement agencies in the TIME (Transaction Information for Management of Enforcement) system. This subsection shall not preclude the connection and participation in the system of any governmental law enforcement agency and the requirements of this subsection shall be effective even though there are additions, deletions or modifications in the system.

(10) NEIGHBORHOOD WATCH SIGN APPROVAL. The board may approve the placement, by a town board, of a neighborhood watch sign under s. 60.23 (17m) within the right−of−way of a county trunk highway.

(11) SAFETY AT SPORTING EVENTS. The board may enact and enforce an ordinance to prohibit conduct which is the same as conduct prohibited by s. 167.32 and provide a forfeiture for a violation of the ordinance.

(12) COUNTY−TRIBAL LAW ENFORCEMENT PROGRAMS. Pursuant to adoption of a resolution, a board may enter into an agreement and seek funding under s. 165.90.

(13) ARMING SHERIFFS. The board of any county may furnish its sheriff, undersheriff and deputy sheriffs with the necessary arms, ammunition, gas bombs and gas sticks for the carrying out of their respective duties, such arms, ammunition, gas bombs and gas sticks to remain the property of the county.

(14) COURTHOUSE AND JAIL; RESTRICTIONS. (a) A county shall provide a courthouse, fireproof offices and other necessary buildings at the county seat and keep them in good repair. A county shall provide a jail or enter into a cooperative agreement under s. 302.44 for the cooperative establishment and use of a jail. The jail and rehabilitation facilities as extensions of the jail need not be at the county seat and may be located outside of the county under a cooperative agreement under s. 302.44.

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(b) No jail may be constructed until the construction plans and specifications are approved by the department of corrections.

(c) When the courthouse from any cause becomes unsafe, inconvenient or unfit for holding court, the board shall provide some other convenient building at the county seat for that purpose temporarily, and this building shall then be considered the courthouse for the time being.

(d) The construction of any courthouse shall be in accordance with plans and specifications that are accompanied by the certificate of the circuit judge in whose circuit the building is to be erected, to the effect that after consultation with competent experts the judge is advised and believes that the courtrooms provided for will possess proper acoustical properties. The fee for this advice shall be paid by the county upon the judge's certificate.

(e) Repairs which amount substantially to a reconstruction of a courthouse shall be governed by the same restrictions that apply to new construction, so far as practicable.

(f) The personnel who are required to comply with ss. 302.41 and 302.42 shall be provided at county expense.

(g) A county may establish extensions of the jail, which need not be at the county seat, to serve as places of temporary confinement. No person may be detained in such an extension for more than 24 consecutive hours, except that a court may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c) or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than 24 consecutive hours in such an extension. Jail extensions shall be subject to plans and specifications approval by the department of corrections and shall conform to other requirements imposed by law on jails, except that cells may be designed and used for multiple occupancy.

(15) ANNUAL INSPECTION. At least once each year the board of each county, or a committee thereof, shall visit, inspect and examine each jail maintained by the county, as to health, cleanliness and discipline, and the keeper of the jail shall lay before the board or the committee a calendar setting forth the name, age and cause of committal of each prisoner. If it appears to the board or committee that any provisions of law have been violated or neglected, the board or the committee shall immediately give notice of the violation to the district attorney of the county.

(16) CONTRACT WITH U.S. FOR CUSTODY OF FEDERAL PRISONERS. The board may authorize the sheriff or superintendent of the house of correction to contract with the United States to keep in the county jail or house of correction any person legally committed under U.S. authority, but not for a term exceeding 18 months.

(17) HIGHWAYS. (a) *Safety and patrol.* The board may appropriate money to citizens' safety committees or to county safety commissions or councils for highway safety and patrol.

(b) *Highway commissioner term.* The board may enact an ordinance establishing the term of service of a highway commissioner elected under s. 83.01 (1) (a).

(c) *Highway safety coordinator.* The board chairperson, or the county executive or county administrator in a county having such an officer, may appoint a county highway safety coordinator who shall serve as a member of the county traffic safety commission under s. 83.013 (1) (a).

(18) CIVIL AIR PATROL. The board may appropriate funds or donate property and equipment to civil air patrol units in the county for the purpose of enabling such civil air patrol units to perform their assigned missions and duties as prescribed by U.S. air force regulations.

(19) RIDING HORSES, REGULATION. The board may provide by ordinance for the regulation, prohibition and licensing of horses kept for the purpose of riding, whether by private owners for their own use or by commercial stables, riding academies or clubs for hire; for the licensing and regulation of owners of riding horses and the regulation, prohibition and licensing of commercial stables keeping horses for riding purposes for hire. The board may revoke the license of any owner of a horse kept for the purpose of riding for violation of such ordinance after the filing of charges and notice and hearing thereon. Such ordinance may provide that the chairperson of the board, when the board is not in session, shall be authorized to issue such license or to suspend such license of any person violating such ordinance; such issuance of license or the suspension of such license to be acted on by the board at its next meeting. Such ordinance may impose a forfeiture not to exceed $100 for each violation or, in default of payment thereof, imprisonment for not more than 30 days. Such ordinances may not apply within cities, villages and towns that have enacted ordinances regulating the same subject matter.

(20) DOGS RUNNING AT LARGE. The board may enact ordinances regulating the keeping, apprehension, impounding and destruction of dogs outside the corporate limits of any city or village, but such ordinances shall not conflict with ss. 174.01 and 174.042, and such ordinances may not apply in any town that has enacted an ordinance under s. 60.23 (30).

(21) COUNTY DISPOSITION OF DEAD ANIMALS. The board may remove any dead animal, for burial or disposition at public expense, found upon public or private property within the county, or may contract for such removal and burial or other disposition with any private rendering plant, but the cost of such removal or disposition may be recovered by the county from the owner of the carcass, if the owner is known. The board may delegate powers and duties under this subsection to any political subdivision.

(22) POWER TO PROHIBIT CERTAIN CONDUCT. The board may enact and enforce ordinances, and provide forfeitures for violations of those ordinances, that prohibit conduct which is the same as or similar to that prohibited by chs. 941 to 948, except as provided in s. 59.55 (6), and by s. 167.31 (2) and (3), subject to rules promulgated under s. 167.31 (4m).

(23) PUBLIC ASSISTANCE; FALSE REPRESENTATION. The board may enact and enforce an ordinance to prohibit conduct that is the same as or similar to conduct that is prohibited by s. 49.95 (1) and provide a forfeiture for a violation of the ordinance.

(24) WORTHLESS PAYMENTS ISSUED TO A COUNTY; UNDERPAYMENTS AND OVERPAYMENTS. The board may enact and enforce an ordinance that is the same as or similar to s. 20.905 to do any of the following:

(a) Impose on and collect charges from any person who issues a worthless payment to a county office or agency.

(b) Permit a county office or agency to retain certain overpayments of fees, licenses and similar charges and waive certain underpayments.

(25) POSSESSION OF MARIJUANA. The board may enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state shall not be prosecuted under this subsection. Any ordinance enacted under this subsection applies in every municipality within the county.

(25g) POSSESSION OF A SYNTHETIC CANNABINOID. The board may enact and enforce an ordinance to prohibit the possession of any controlled substance specified in s. 961.14 (4) (tb) to (ty), and provide a forfeiture for a violation of the ordinance, except that any person who is charged with possession of a controlled substance specified in s. 961.14 (4) (tb) to (ty) following a conviction for possession of a controlled substance in this state shall not be prosecuted under this subsection. Any ordinance enacted under this subsection applies in every municipality within the county.

(25m) DRUG PARAPHERNALIA. The board may enact an ordinance to prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance. The board may enforce an ordinance enacted under this subsection in any municipality within the county.

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(26) FARM SAFETY. The board may appropriate money for or sponsor, or both, farm safety education, training or information programs.

(27) RELIGIOUS ORGANIZATIONS; CONTRACT POWERS. (a) *Definition.* In this subsection, "board" includes any department, as defined in s. 59.60 (2) (a).

(b) *General purpose and authority.* The purpose of this subsection is to allow the board to contract with, or award grants to, religious organizations, under any program administered by the county dealing with delinquency and crime prevention or the rehabilitation of offenders, on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) *Nondiscrimination against religious organizations.* If the board is authorized to contract with a nongovernmental entity, or is authorized to award grants to a nongovernmental entity, religious organizations are eligible, on the same basis as any other private organization, to be contractors and grantees under any program administered by the board so long as the programs are implemented consistently with the first amendment to the U.S. Constitution and article I, section 18, of the Wisconsin constitution. Except as provided in par. (L), the board may not discriminate against an organization that is or applies to be a contractor or grantee on the basis that the organization does or does not have a religious character or because of the specific religious nature of the organization.

(d) *Religious character and freedom.* 1. The board shall allow a religious organization with which the board contracts or to which the board awards a grant to retain its independence from government, including the organization's control over the definition, development, practice, and expression of its religious beliefs.

2. The board may not require a religious organization to alter its form of internal governance or to remove religious art, icons, scripture, or other symbols to be eligible for a contract or grant.

(e) *Rights of beneficiaries of assistance.* 1. If the board contracts with, or awards grants to, a religious organization for the provision of crime prevention or offender rehabilitation assistance under a program administered by the board, an individual who is eligible for this assistance shall be informed in writing that assistance of equal value and accessibility is available from a nonreligious provider upon request.

2. The board shall provide an individual who is otherwise eligible for assistance from an organization described under subd. 1. with assistance of equal value from a nonreligious provider if the individual objects to the religious character of the organization described under subd. 1. and requests assistance from a nonreligious provider. The board shall provide such assistance within a reasonable period of time after the date of the objection and shall ensure that it is accessible to the individual.

(g) *Nondiscrimination against beneficiaries.* A religious organization may not discriminate against an individual in regard to rendering assistance that is funded under any program administered by the board on the basis of religion, a religious belief or nonbelief, or a refusal to actively participate in a religious practice.

(h) *Fiscal accountability.* 1. Except as provided in subd. 2., any religious organization that contracts with or receives a grant from the board is subject to the same laws and rules as other contractors and grantees regarding accounting, in accord with generally accepted auditing principles, for the use of the funds provided under such programs.

2. If the religious organization segregates funds provided under programs administered by the board into separate accounts, only the financial assistance provided with those funds shall be subject to audit.

(i) *Compliance.* Any party that seeks to enforce its rights under this subsection may bring a civil action for injunctive relief against the entity that allegedly commits the violation.

(j) *Limitations on use of funds for certain purposes.* No funds provided directly to religious organizations by the board may be expended for sectarian worship, instruction, or proselytization.

(k) *Certification of compliance.* Every religious organization that contracts with or receives a grant from the county board to provide delinquency and crime prevention or offender rehabilitation services to eligible recipients shall certify in writing that it has complied with the requirements of pars. (g) and (j) and submit to the board a copy of this certification and a written description of the policies the organization has adopted to ensure that it has complied with the requirements under pars. (g) and (j).

(L) *Preemption.* Nothing in this subsection may be construed to preempt any other statute that prohibits or restricts the expenditure of federal or state funds by or the granting of federal or state funds to religious organizations.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193; 2005 a. 90; 2009 a. 42; 2011 a. 31, 35.

A town has initial authority to name town roads under s. 82.03 (7). However, the town's authority is subject to the county's discretionary authority under sub. (4) to establish a road naming and numbering system for the specific purpose of aiding in fire protection, emergency services, and civil defense. A county may cooperate with a town regarding road name changes, but ultimately a county has authority to implement name changes, even if a town does not consent, when the name changes are made under s. 59.54 (4). Liberty Grove Town Board v. Door County Board of Supervisors, 2005 WI App 166, 284 Wis. 2d 814, 702 N.W.2d 33, 04−2358.

A carefully drawn county ordinance prohibiting the sale of "disposable" bottles and cans would not, on its face, exceed the police power granted in s. 59.07 (64) [now s. 59.54 (6)], and would not constitute an unreasonable burden on interstate commerce, although a careful consideration of relevant factors may result in a finding of unreasonableness on both counts. 60 Atty. Gen. 158.

The authority of county officials to offer rewards for the arrest or conviction of persons violating the criminal law is limited to the circumstances set forth in s. 59.25 (2) [now s. 59.29 (1) (b)]. 63 Atty. Gen. 555.

The power of a county to provide limited rescue functions in connection with an ambulance service and to make reasonable charges is discussed. 65 Atty. Gen. 87.

Section 59.07 (64) [now s. 59.54 (6)] does not authorize county boards to proscribe deer shining. 68 Atty. Gen. 81.

A county board has authority under s. 59.07 (64) [now s. 59.54 (6)] to enact an ordinance prohibiting trespass that is similar to and consistent with s. 943.13. 69 Atty. Gen. 92.

A local emergency planning committee created by a county board pursuant to s. 59.07 (146) [now s. 59.54 (8)] is in many respects treated like other county committees. The county board has authority to appropriate funds for the committee and the county's relationship to the committee is the same as the county's relationship to other county bodies created under this section, with the exception that the county must be consistent with the authority exercised by the state emergency response commission. The county corporation counsel should provide legal advice and assistance to a LEPC. If a LEPC or its members are sued, the attorney general represents them, and the state would pay the judgment if the requirements of s. 895.46 have been satisfied. 78 Atty. Gen. 27.

Local Emergency Planning Committee subcommittee members appointed by a county board under s. 59.07 (146) [now 59.54 (8)] are entitled to indemnity for damage liability under s. 895.46 and legal representation by the attorney general under s. 165.25. 81 Atty. Gen. 17.

59.55 Consumer protection. (1) COUNTY CONSUMER PROTECTION AGENCY. (a) In this subsection:

1. "Consumer complaint" means a complaint received by a consumer protection agency from an individual.

2. "County consumer protection agency" means an agency created or designated under this subsection.

(b) A county may create or designate a consumer protection agency which may:

1. Maintain an office in the county.

2. Receive and maintain records of consumer complaints.

3. Upon receipt of a consumer complaint, conduct an investigation to determine the validity of the complaint.

4. Notify the person responsible for the cause of the complaint of the nature of the complaint.

5. Assist in the resolution of the complaint.

6. Refer complaints:

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a. To the appropriate state department or independent agency; or

b. To the district attorney.

7. Maintain follow−up records on all complaints referred to state departments or independent agencies or the district attorney.

(c) A county consumer protection agency created under this subsection shall report at least once every 6 months to the board on the actions and activities of the agency.

(2) TESTING MILK AND SOIL. The board may appropriate money and provide office and laboratory space for testing milk and soil and may provide residents of the county with reports of such tests.

(3) TRUCKERS, HAWKERS AND PEDDLERS LICENSING. Except in counties having a population of 500,000 or more, the board may enact ordinances providing for the licensing of truckers, hawkers and peddlers, other than licensees under s. 440.51, and provide for the enforcement of the ordinances. The ordinances shall not provide for licensing of fuel vendors or those engaged in the delivery of petroleum products or farmers or truck gardeners who sell farm products grown by themselves.

(4) TRANSIENT MERCHANTS. Counties may, by ordinance, regulate the retail sales, other than auction sales, made by transient merchants, as defined in s. 130.065 (1m), 1987 stats., in the towns in the county and provide forfeitures for violations of those ordinances.

(5) SECONDHAND CAR DEALERS, JUNKING CARS. The board may license and regulate dealers in secondhand motor vehicles, wreckers of motor vehicles, or the conduct of motor vehicle junking. Such regulation shall not apply to any municipality which enacts an ordinance governing the same subject.

(6) REGULATION OF OBSCENITY. The board may enact an ordinance to prohibit conduct that is the same as that prohibited by s. 944.21. A county may bring an action for a violation of the ordinance regardless of whether the attorney general has determined under s. 165.25 (3m) that an action may be brought. The ordinance may provide for a forfeiture not to exceed $10,000 for each violation.

History: 1995 a. 201 ss. 130, 131, 152, 178, 240, 368, 452.

59.56 Cultural affairs; education; recreation. (1) CULTURAL AND EDUCATIONAL CONTRIBUTIONS. The board may appropriate money for cultural, artistic, educational and musical programs, projects and related activities, including financial assistance to nonprofit corporations devoted to furthering the cultivation and appreciation of the art of music or to the promotion of the visual arts.

(2) PUBLIC MUSEUMS. (a) The board may appropriate money for the establishment, expansion, operation and maintenance of public museums in the county, including, but not limited to, any public museum owned by a city.

(b) The board may acquire, establish, expand, own, operate and maintain a public museum in the county and appropriate money for such purposes, except that a public museum owned by a county under this subsection may seek tax−exempt status as an entity described under section 501 (c) (3) of the internal revenue code.

(c) Notwithstanding pars. (a) and (b), in counties having a population of 500,000 or more the board may contribute funds toward the operation of a public museum owned by a 1st class city in such county, as partial reimbursement for museum services rendered to persons residing outside such city and in a manner similar to the annual appropriation of funds by the board under s. 43.57 toward the operation of the central library in such city.

(3) UNIVERSITY EXTENSION WORK. (a) *Creation.* A board may establish and maintain an educational program in cooperation with the University of Wisconsin, referred to in this subsection as "University Extension Program".

(b) *Committee on agriculture and extension education.* If a board establishes a university extension program, it shall create a committee on agriculture and extension education. The board may select as a member of the committee any public school administrator resident in the county. The members of the committee shall receive such compensation and expenses as the board determines under s. 59.22 (2) (c) and (3). The committee shall meet at such intervals as are considered necessary to properly carry out its functions and responsibilities.

(c) *Staff.* 1. The committee on agriculture and extension education shall appoint professionally qualified persons to the university extension program staff in cooperation with the university extension. Vacancies and additions to the staff shall be filled in the same manner.

2. The committee on agriculture and extension education may enter into joint employment agreements with the university extension or with other counties and the university extension if the county funds that are committed in the agreements have been appropriated by the board. Persons so employed under cooperative agreements and approved by the board of regents shall be considered employees of both the county and the University of Wisconsin.

(d) *Finance.* For the partial maintenance of the work of the university extension program, including cooperative extension programs as provided for in an act of congress approved May 8, 1914 (38 Stat. 372) and all acts supplementary thereto, the board may appropriate moneys as requested by the committee on agriculture and extension education to provide the county's share in such work. The money appropriated by the board shall be disbursed by the treasurer upon orders of the clerk pursuant to the actions of the committee on agriculture and extension education and as adopted by the board.

(e) *State aids.* To supplement the funds provided by the county for the work of the university extension program, each county shall be entitled to a minimum state aid of $1,500 per year if the board has made the required appropriation to maintain such a program, and such additional funds as are required to provide salary increases equal to those granted to state employees by the legislature.

(f) *Functions.* 1. A university extension program is authorized, under the direction and supervision of the county committee on agriculture and extension education, cooperating with the university extension of the University of Wisconsin, and within the limits of funds provided by the board and cooperating state and federal agencies, to make available the necessary facilities and conduct programs in the following areas:

a. Professional and liberal education.

b. Human resource development.

c. Economic and environmental development.

d. Extension work provided for in an act of congress that was approved on May 8, 1914 (38 Stat. 372) and all acts supplementary thereto.

e. Any other extension work that is authorized by local, state or federal legislation.

2. Such a program may consist of, but not be limited to, providing agents to conduct programs on energy conservation and renewable energy resource systems, conduct evaluations and provide planning, analysis and other technical support to community agencies and organizations, small businesses, individuals interested in energy conservation in local communities and primary and secondary school teachers.

3. Such program may take any action that will facilitate the accomplishment of any of the functions under this paragraph, including without limitation because of enumeration the following:

a. The training of group leaders and the directing of group activities.

b. Individual or group instruction or consultation.

c. Demonstration projects, exhibits and other instructional means.

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d. Group workshops, institutes, and conferences.

e. The creation of citizens' advisory committees.

f. The dissemination of information by any appropriate means including press, radio and television.

g. The imposition of fees for certain desired educational services when sufficient public funds are not available to cover costs.

h. Cooperation with other local, state and federal agencies.

(g) *Department of government.* For the purposes of s. 59.22 (2) (d) the university extension program shall be a department of county government and the committee on agriculture and extension education shall be the committee which is delegated the authority to direct and supervise the department. In cooperation with the university extension of the University of Wisconsin, the committee on agriculture and extension education shall have the responsibility to formulate and execute the university extension program. The university extension shall annually report to the board its activities and accomplishments.

(h) *Cooperation.* The personnel of the university extension program shall, whenever feasible, cooperate with other educational programs of importance to the residents of the county. Such cooperative agreements may be made under s. 66.0301.

(4) UNIVERSITY COLLEGE CAMPUSES. The board may appropriate money for the construction, remodeling, expansion, acquisition or equipping of land, buildings and facilities for a University of Wisconsin college campus, as defined in s. 36.05 (6m), if the operation of it has been approved by the board of regents.

(5) HISTORICAL SOCIETIES. The board may appropriate money to any local historical society incorporated under s. 44.03 located in the county for the purpose of collecting and preserving the records of the early pioneers, the life of the Indians, the experience of persons in the military, and the salient historical features of the county.

(6) COUNTY HISTORIAN. The board may create the position of county historian. The historian shall collect and preserve the records of the Indians and the early pioneers, the experiences of military men and women and the records of their service; mark and compile data concerning places of historical interest in the county; and perform such other duties relating to the collection, preservation, compilation and publication of historical data as the board prescribes. The board may provide the historian with a fireproof safe or vault in which to keep papers and documents, with clerical assistance and with such other needs as will enable the historian to adequately perform the duties of historian. The board may require reports.

(7) SCHOOL ATTENDANCE. The board may enact and enforce an ordinance to impose a penalty, which is the same as that provided under s. 118.15 (5), upon a person having under his or her control a child who is between the ages of 6 and 18 years and whose child is not in compliance with s. 118.15.

(9) RECREATION. The board may create, promote and conduct and assist in creating, promoting and conducting recreational activities in the county which are conducive to the general health and welfare, and elect persons for such terms and salaries as may be determined, who shall exercise the powers and perform the duties given by the board. The board may provide for what purpose and in what manner moneys appropriated under this subsection may be expended. Such persons may be designated "County Recreation Committee". At the annual meeting next after making the appropriation the board shall determine in which municipalities such activities were held and which other municipalities received benefits therefrom and determine the amount expended from the appropriation to make the programs or activities or benefits derived therefrom possible in each municipality and levy a tax upon the property of each municipality in accordance with such apportionment to reimburse the county for its expenditures, but no expenditure shall be made nor improvement ordered without the consent of the governing body of the municipality.

(10) ADVERTISE COUNTY. The board may:

(a) Appropriate funds to advertise the advantages, attractions and resources of the county and to conserve, develop and improve the same. The county may cooperate with any private agency or group in this work.

(b) In counties with a population of 500,000 or more, appropriate funds for the placing of advertisements in newspapers, periodicals or other publications listing radio and television broadcasting schedules, informing county residents of a radio or television appearance by a county official or employee, or advertising any program, function or activity sponsored by the county.

(11) FISH AND GAME. The board may establish, maintain and operate fish hatcheries and facilities for raising game birds.

(12) AMUSEMENTS; REGULATION. Subject to sub. (12m), the board:

(a) May exercise, outside of cities, villages, and towns that have not adopted a regulation under s. 60.23 (10), all powers conferred on cities to regulate dance halls, roadhouses and other places of amusement.

(b) May enact ordinances to regulate, prohibit or license dance halls and pavilions, amusement parks, carnivals, concerts, street fairs, bathing beaches and other like places of amusement. Such ordinances shall provide for license fees yielding sufficient revenues for administering their provisions and paying for extraordinary governmental services required as a result of the licensed amusement. These services are limited to extra police protection, traffic control or refuse collection.

(bg) May, upon enactment of an ordinance under par. (b), select a sufficient number of persons whose duty it shall be to supervise public dances or places of amusement according to assignments to be made by the board. Such persons while engaged in supervising public dances or places of amusement shall have the powers of deputy sheriffs, and shall make reports in writing of each dance or place of amusement visited to the clerk, and shall receive such compensation as the board determines. Their reports shall be filed by the clerk and incorporated in a report to the board at each meeting.

(br) Shall immediately revoke the license of any dance hall proprietor or manager issued under an ordinance enacted under par. (b) if there is allowed at any such dance presence of intoxicated persons, or of children 17 years of age or under or adults who have not attained the age of 21 years unaccompanied by their parent or lawful guardian when alcohol beverages are available for consumption on the premises, or if any of the ordinances are violated. The board may enact an ordinance requiring the revocation of a dance hall license if the use of intoxicating liquor is permitted on the premises during the holding of a public dance. The chairperson of the board, when the board is not in session, is authorized to issue licenses or to suspend the license of any person violating this law or any regulation adopted by the board; such issuance of licenses or the suspension of such license to be acted on by the board at its next meeting.

(c) May enact ordinances providing for a specified closing hour for places where soft drinks are sold.

(12m) LIMITS ON REGULATION. Ordinances enacted by a board under sub. (12) (b), (br) or (c) shall not apply to any city or village, or to any town that has adopted a similar regulation under s. 60.23 (10).

(13) CELEBRATIONS AND CONVENTIONS. The board may appropriate money to defray the expense of national air shows or similar aeronautics activities held in the county, of municipal commemorative or patriotic celebrations or observances, of state or national conventions of war veterans, of national conventions of fraternal associations, of group entertainment for children on Halloween by county or municipal agencies within the county or of state or national conventions of county officers or employees or associations thereof or of bringing any of such conventions to the county.

(14) FAIRGROUNDS AND FAIRS. (a) 1. Except as provided in par. (c), land upon which to hold agricultural and industrial fairs

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and exhibitions may be acquired by a board and improvements made thereon.

2. In counties containing less than 500,000 population, the board may annually, at the same time that other county taxes are levied, levy a tax upon the taxable property of such county.

(b) The board may grant the use of fairgrounds acquired under par. (a) 2. to agricultural and other societies of similar nature for agricultural and industrial fairs and exhibitions, and such other purposes as tend to promote the public welfare, and may receive donations of money, material or labor from any person or municipality for the improvement or purchase of such land. All improvements made on such lands by societies using them may be removed by the societies at any time within 6 months after their right to use the land terminates, unless otherwise agreed in writing between the societies and the county at the time of making the improvements.

(c) In counties containing more than 500,000 population, land upon which to hold agricultural and industrial fairs and exhibitions may be acquired by a board, and improvements made thereon, by donation, purchase or condemnation, but not exceeding in value $150,000, and the board may convey or donate such lands so purchased or acquired or the use thereof to the state of Wisconsin or to agricultural and industrial societies for the purpose of holding thereon agricultural and industrial fairs and exhibitions, and may receive donations of money, material or labor from any person or municipality for the improvement or purchase of such land. If at any time lands or the use thereof so conveyed or donated shall be abandoned or no longer used for the purpose for which such lands or the use thereof were so conveyed or donated, the title to such land shall revert to the county; and the commissioners of public lands, in the case of conveyances or donations to the state, are authorized and directed to execute and deliver such proper deeds of conveyance as well as revest the title to such lands in such county, and when such lands or the use thereof were conveyed or donated to an agricultural and industrial society, such proper deeds or conveyance shall be executed and delivered by such society by its proper officers. However, the state may at any time within one year after title to any such lands revests, by proper conveyance in such county, remove any structures erected thereon by or for the state subsequent to the acquisition of such lands by the state.

(d) The board may vote an amount which it considers sufficient to aid in the purchase of, or to make improvements upon the fairgrounds for any organized agricultural society, or to aid any organized agricultural society or any incorporated poultry association in any of its public exhibitions held or to be held; and any amount so voted shall be paid upon demand by the treasurer to the treasurer of such organized agricultural society, who shall keep an accurate record of the expenditure thereof by such society, and file a verified copy of such record with the clerk within one year after the receipt of such amount.

(e) The board may provide for and conduct county fairs and exhibitions if a majority of the electors in the county so approve, in a referendum, and for such purpose may:

1. Acquire by deed or lease real estate and make improvements on such real estate.

2. Appropriate funds to properly equip, manage and control the fair or exhibition.

3. Adopt rules and regulations for the management and control of the property, fair or exhibition and for the appointment and salaries of persons necessary therefor.

(16) ADVOCACY FOR WOMEN AND AGRICULTURE. The board may appropriate money to county commissions to conduct advocacy activities on behalf of women or agriculture.

History: 1995 a. 201 ss. 128, 129, 132, 136, 138, 142, 143, 144, 145, 173, 199, 200, 209, 370, 372, 373, 406, 408, 410, 412, 443 to 448; 1997 a. 35, 237; 1999 a. 150 s. 672.

A county board has the power to lease a public museum to a private corporation. Hart v. Ament, 177 Wis. 2d 694, 500 N.W.2d 312 (1993).

A special county board committee to plan and coordinate the need for planning trails for snowmobiles, bicycles, hiking, motorbikes, etc., is discussed. 60 Atty. Gen. 259.

Possible county liability for 4−H club activities at a county fairgrounds is discussed. 61 Atty. Gen. 218.

Section 59.07 (95) [now s. 59.56 (1)] authorizes the appropriation of county funds for promotion of the fine arts. 61 Atty. Gen. 316.

59.57 Economic and industrial development. **(1)** COUNTY INDUSTRIAL DEVELOPMENT AGENCY. (a) Subject to par. (b), the board may appropriate money for and create a county industrial development agency or to any nonprofit agency organized to engage or engaging in activities described in this paragraph, appoint an executive officer and provide a staff and facilities to promote and develop the resources of the county and of its component municipalities. To this end the agency may, without limitation because of enumeration, develop data regarding the industrial needs, advantages and sites in the county, acquaint the purchaser with the products of the county by promotional activities, coordinate its work with that of the county planning commission, the Wisconsin Economic Development Corporation, and private credit development corporations, and do all things necessary to provide for the continued improvement of the industrial climate of the county.

(b) If a county with a population of 500,000 or more appropriates money under par. (a) to fund nonprofit agencies, the county shall have a goal of expending 20% of the money appropriated for this purpose to fund a nonprofit agency that is actively managed by minority group members, as defined in s. 16.287 (1) (f), and that principally serves minority group members.

(2) INDUSTRIAL DEVELOPMENT AGENCIES. (a) *Short title.* This subsection shall be known and may be cited as the "Industrial Development Law".

(b) *Findings.* It is found and declared that industries located in this state have been induced to move their operations in whole or in part to, or to expand their operations in, other states to the detriment of state, county and municipal revenue arising through the loss or reduction of income and franchise taxes, real estate and other local taxes, and thereby causing an increase in unemployment; that such conditions now exist in certain areas of the state and may well arise in other areas; that economic insecurity due to unemployment is a serious menace to the general welfare of not only the people of the affected areas but of the people of the entire state; that such unemployment results in obligations to grant public assistance and in the payment of unemployment insurance; that the absence of new economic opportunities has caused workers and their families to migrate elsewhere to find work and establish homes, which has resulted in a reduction of the tax base of counties, cities and other local governmental jurisdictions impairing their financial ability to support education and other local governmental services; that security against unemployment and the preservation and enhancement of the tax base can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of commerce, industry and manufacturing; that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurers and other financial institutions; that means are necessary under which counties so desiring may create instrumentalities to promote industrial development and such purpose requires and deserves support from counties as a means of preserving the tax base and preventing unemployment. It is therefore declared to be the policy of this state to promote the right to gainful employment, business opportunities and general welfare of the inhabitants thereof and to preserve and enhance the tax base in counties and municipalities by the creation of bodies, corporate and politic, which shall exist and operate for the purpose of fulfilling the aims of this subsection and such purposes are hereby declared to be public purposes for which public money may be spent and the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination.

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(c) *Definitions.* In this subsection, unless the context clearly indicates otherwise:

1. "Federal agency" includes the United States, the president of the United States and any department of or corporation, agency or instrumentality that is created, designated or established by the United States.

2. "Industrial development agency" or "agency" means a public body corporate and politic created under this subsection, which agency shall have the characteristics and powers described in this subsection.

3. "Industrial development project" means any site, structure, facility, or undertaking comprising or being connected with or being a part of an industrial, manufacturing, commercial, retail, agribusiness, or service−related enterprise established or to be established by an industrial development agency.

(d) *Formation of industrial development agencies.* 1. Any county upon a finding by the board that there is a need therefor may cause to be formed an agency. Except as provided under s. 59.82, the agency shall be the sole agency and instrumentality of the county for the purposes stated in this subsection.

2. Any adjoining counties upon a finding by their boards that there is need therefor may jointly cause to be formed an agency which shall be the sole agency and instrumentality of the counties for the purposes stated in this subsection.

3. The board may appropriate such sums of money as are necessary or advisable for the benefit of the agency and prescribe the terms and conditions of such appropriation.

4. The agency shall be a separate and distinct public instrumentality and body corporate and politic exercising public powers determined to be necessary by the state for the purposes set forth in par. (b). The agency shall have no power at any time to pledge the credit or taxing power of the state, any county, or any municipality or political subdivision, but all of its obligations shall be considered to be obligations solely of the agency.

(e) *Organization of industrial development agencies.* All of the following apply to an agency:

1. Proposed articles of incorporation and proposed bylaws shall be made available for inspection by any municipality within the county for a period of at least 30 days and shall then be submitted to the board for approval.

2. The articles of incorporation shall be signed and acknowledged by persons designated by the board or where counties join in the formation of the agency by the boards of those counties and shall include at least 3 of the following from each county: the county executive, if there is one; the chairperson of the board; the chairperson of the board finance committee, if there is one; the county corporation counsel and the county auditor or treasurer in counties having no county auditor, and only those persons so signing and acknowledging the articles of incorporation shall for the purposes of ch. 181 be the incorporators of the agency.

3. The provisions of ch. 181, except such as are inconsistent with this subsection and except as otherwise specifically provided in this subsection, shall be applicable to such agency. The articles of incorporation shall specifically state that the agency is a public instrumentality created under the industrial development law and organized in accordance with the requirements of ch. 181 and that the agency shall be subject to ch. 181 to the extent that said chapter is not inconsistent with this subsection.

4. The articles of incorporation shall provide for 2 classes of members who shall be designated as county members and public members and shall fix the number of each class, but the county members, at all times, shall constitute not less than a majority of the total authorized members. All members of each class shall be designated by the board and shall hold office at the pleasure of the board, except that in counties having a county executive, the members shall be designated by the county executive subject to confirmation by the board. The agency shall be subject to dissolution and its corporate authority terminated upon resolution adopted by a majority of the board, or of the boards of each county where counties join in the formation of the agency whereupon the members shall proceed immediately to dissolve the agency, wind up its affairs and distribute its remaining assets as provided in this subsection.

5. The articles of incorporation shall provide for 2 classes of directors, each class to consist of such number as is provided in the bylaws. The county executive, if there is one, the chairperson of the board, the chairperson of the board finance committee, if there is one, the county corporation counsel and the county auditor or treasurer in counties having no county auditor, shall be members of the board of directors by virtue of their office and as representatives of the county in which they hold the office and the board of each county shall have the right to designate such additional county directors as the bylaws authorize. The county directors shall at all times constitute not less than a majority of the total authorized number of directors. Public directors shall be appointed by the board and shall hold office at the pleasure of the board.

6. The corporate income of the agency shall not inure to any private person. Upon the dissolution of the agency all net assets after payment or provision for the payment of all debts and obligations shall be paid to the county in which the agency is located or if counties have joined in the formation of the agency then to such counties in such shares as is provided in the articles of incorporation.

(f) *Operating authority of industrial development agencies.* Subject to par. (fm), the agency is granted all operating authority necessary or incidental to carrying out and effectuating the purposes of this subsection including, without limitation because of enumeration, the following:

1. To grant financial aid and assistance to any industrial development project, which may be loans, contracts of sale and purchase, leases and such other transactions as are determined by the agency.

2. Within the boundaries of the county or the counties joining in the formation of the agency to acquire by purchase, lease or otherwise any real or personal property or any interest therein or mortgage or other lien thereon; to hold, improve, clear and redevelop any such property; to sell, assign, lease, subdivide and make the property available for industrial use and to mortgage or otherwise encumber the property.

3. To borrow money and to execute notes, bonds, debentures and other forms of indebtedness; to apply for and accept advances, loans, grants and contributions and other forms of financial assistance from the federal, state or county government and from municipalities and other public bodies and from industrial and other sources; to give such security as is required by way of mortgage, lien, pledge or other encumbrance, but any obligations for the payment of money shall be issued by the agency only after approval in such manner as is determined by the board or boards where counties have joined in the formation of the agency and is prescribed in the articles of incorporation or bylaws of the agency.

4. To loan money for such period of time and at an interest rate that is determined by the agency and to be secured by mortgage, pledge or other lien or encumbrance on the industrial development project for which the loan was made or in other appropriate manner, which mortgage or other lien may be subordinate to a mortgage or other lien securing the obligations representing funds secured from independent sources which are used in the financing of the industrial development project and which mortgage or other lien and the indebtedness secured thereby may be sold, assigned, pledged or hypothecated.

5. To enter into any contracts considered necessary or helpful and in general have and exercise all such other and further authority as is required or necessary in order to effectuate the purposes of this subsection.

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(fm) *Limitations on authority of industrial development agencies.* No agency may take any action under par. (f) 2. for an industrial development project that is a commercial, retail, agribusiness, or service−related enterprise.

(g) *Examination and audit.* The accounts and books of the agency, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operation and affairs shall be examined and audited annually by the county auditor or by an independent certified public accountant designated by the board or boards where counties have joined in the formation of the agency.

(h) *Limitation of powers.* 1. An industrial development agency shall not enter into any transaction which entails moving an industrial plant or facility from a municipality within the county to another location outside the municipality if the common council or the village board of the municipality where the plant or facility is then situated, within 45 days after receipt of written notice from the agency that it proposes to enter into such transaction, objects thereto by resolution adopted by a two−thirds vote of its council or board and approved by its mayor or president.

2. The state pledges to and agrees with the United States and any other federal agency that if any federal agency constructs, loans or contributes any funds for the construction, extension, improvement or enlargement of any industrial development project, or any portion thereof, the state will not alter or limit the rights and powers of the agency in any manner which would be inconsistent with the due performance of any agreements between the agency and any such federal agency, and the agency shall continue to have and may exercise all powers granted in this subsection, so long as the powers are necessary or desirable for the carrying out of the purposes of this subsection.

(i) *Construction.* This subsection shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this subsection or to exclude other powers comprehended in such general grant.

(3) TAX INCREMENTAL FINANCING. (a) *Authority.* Subject to par. (b), a county board of a county in which no cities or villages are located may exercise all powers of cities under s. 66.1105. If the board exercises the powers of a city under s. 66.1105, it is subject to the same duties as a common council under s. 66.1105 and the county is subject to the same duties and liabilities as a city under s. 66.1105.

(b) *Limitations.* 1. A board acting under par. (a) may not create a tax incremental district unless the town board of each town in which the proposed district is to be located adopts a resolution approving of the creation of the district.

2. When a county convenes a joint review board under s. 66.1105 (4m) (a), the county representative specified in that paragraph shall be chosen as specified under s. 66.1105 (4m) (ae) 2., and the city representative specified in s. 66.1105 (4m) (a) and chosen as specified under s. 66.1105 (4m) (ae) 3. shall be a representative of the town where the tax incremental district is located, and shall be the town board chair or his or her designee, consistent with the provisions of s. 66.1105 (4m) (ae) 3.

3. The 25 percent vacant land limitation for a tax incremental district that is not a district suitable for industrial sites, as described in s. 66.1105 (4) (gm) 1., does not apply to a tax incremental district that is created under this subsection.

History: 1995 a. 27 s. 9116; 1995 a. 201 ss. 187, 239, 374; 1997 a. 39, 79; 1999 a. 83; 2005 a. 227, 357; 2011 a. 32.

An industrial development corporation is a separate municipality or public agency for purposes of the Wisconsin retirement fund and public employees social security fund. 60 Atty. Gen. 66.

59.58 Transportation. (1) AIRPORTS. The board may:

(a) Construct, purchase, acquire, develop, improve, extend, equip, operate and maintain airports and airport facilities and buildings, including without limitation because of enumeration, terminal buildings, hangars and parking structures and lots, and including all property that is appurtenant to or necessary for such purposes.

(b) Finance such projects, including necessary sites, by the issuance of revenue bonds as provided in s. 66.0621, and payable solely from the income, revenues and rentals derived from the operation of the project financed from the proceeds of the bonds. If any such project is constructed on a site owned by the county prior to the issuance of the bonds the county shall be reimbursed from the proceeds of the bonds in the amount of not less than the reasonable value of the site. The reasonable value of the site shall be determined by the board after having obtained written appraisals of value by 2 general appraisers, as defined in s. 458.01 (11), in the county having a reputation for skill and experience in appraising real estate values. Any bonds issued under this subsection shall not be included in arriving at the constitutional debt limitation.

(c) Operate airport projects or lease such projects in their entirety or in part, and any project may include space designed for leasing to others if the space is incidental to the purposes of the project.

(2) COUNTY TRANSIT COMMISSION. (a) A county in this state may establish, maintain and operate a comprehensive unified local transportation system, the major portion of which is or is to be located within or the major portion of the service of which is or is to be supplied to the inhabitants of such county, and which system is or is to be used chiefly for the transportation of persons and freight.

(b) The transit commission shall be designated "Transit Commission" preceded by the name of the establishing county.

(c) In this subsection:

1. "Commission" means the local transit commission created hereunder.

2. "Comprehensive unified local transportation system" means a transportation system that is comprised of motor bus lines and any other local public transportation facilities, the major portions of which are within the county.

(d) The commission shall consist of not less than 7 members to be appointed by the board, one of whom shall be designated chairperson, except that in a county having a county executive, the executive shall make the appointments.

(e) 1. The first members of the commission shall be appointed for staggered 3−year terms. The term of office of each member thereafter appointed shall be 3 years.

2. No person holding stocks or bonds in a corporation subject to the jurisdiction of the commission, or who is in any other manner pecuniarily interested in any such corporation, shall be a member of, nor be employed by, the commission.

(f) The commission may appoint a secretary and employ such accountants, engineers, experts, inspectors, clerks and other employees and fix their compensation, and purchase such furniture, stationery and other supplies and materials, as are reasonably necessary to enable it properly to perform its duties and exercise its powers.

(g) 1. The commission may adopt rules relative to the calling, holding and conduct of its meetings, the transaction of its business, the regulation and control of its agents and employees, the filing of complaints and petitions and the service of notices thereof and conduct hearings.

2. For the purpose of receiving, considering and acting upon any complaints or applications which may be presented to it or for the purpose of conducting investigations or hearings on its own motion the commission shall hold regular meetings at least once a week except in the months of July and August in each year and special meetings on the call of the chairperson or at the request of the board.

3. The commission may adopt a seal, of which judicial notice shall be taken in all courts of this state. Any process, writ, notice or other instrument which the commission may be authorized by

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law to issue shall be considered sufficient if signed by the secretary of the commission and authenticated by such seal. All acts, orders, decisions, rules and records of the commission, and all reports, schedules and documents filed with the commission may be proved in any court in this state by a copy thereof certified by the secretary under the seal of the commission.

(h) The jurisdiction, powers and duties of the commission shall extend to the comprehensive unified local transportation system for which the commission is established including any portion of such system extending into adjacent or suburban territory within this state lying outside of the county not more than 30 miles from the nearest point marking the corporate limits of the county.

(i) The initial acquisition of the properties for the establishment of, and to comprise, the comprehensive unified local transportation system shall be subject to s. 66.0803 or ch. 197.

(j) 1. Any county may by contract under s. 66.0301 establish a joint municipal transit commission, in cooperation with any municipality, county or federally recognized Indian tribe or band.

2. Notwithstanding any other provision of this subsection, no joint municipal transit commission under subd. 1. may provide service outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint municipal transit commission unless the joint municipal transit commission receives financial support for the service under a contract with a public or private organization for the service. This subdivision does not apply to service provided by a joint municipal transit commission outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint municipal transit commission if the joint municipal transit commission is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and elects to continue the service.

(k) 1. In lieu of providing transportation services, a county may contract with a private organization for the services.

2. Notwithstanding any other provision of this subsection, no county may contract with a private organization to provide service outside the corporate limits of the county unless the county receives financial support for the service under a contract with a public or other private organization for the service. This subdivision does not apply to service provided under subd. 1. outside the corporate limits of a county if a private organization is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and the county elects to continue the service.

(L) Notwithstanding any other provision of this subsection, no transit commission may provide service outside the corporate limits of the county which establishes the transit commission unless the transit commission receives financial support for the service under a contract with a public or private organization for the service. This paragraph does not apply to service provided by a transit commission outside the corporate limits of the county which establishes the transit commission if the transit commission is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and elects to continue the service.

(3) PUBLIC TRANSIT IN COUNTIES. A board may:

(a) Purchase and lease buses to private transit companies that operate within and outside the county.

(b) Apply for federal aids to purchase such buses or other facilities considered essential for operation.

(c) Make grants and provide subsidies to private transit companies that operate bus lines principally within the county to stabilize, preserve or enhance levels of transit service to the public.

(d) Acquire a transportation system by purchase, condemnation under s. 32.05 or otherwise and provide funds for the operation and maintenance of such a system. "Transportation system" means all land, shops, structures, equipment, property, franchises and rights of whatever nature required for transportation of passengers or freight within the county, or between counties, and includes, but is not limited to, elevated railroads, subways, underground railroads, motor vehicles, motor buses and any combination thereof, and any other form of mass transportation. Such acquisition and operation between counties shall be subject to ch. 194 and whenever the proposed operations between such counties would be competitive with the urban or suburban operations of another existing common carrier of passengers or freight, the county shall coordinate proposed operations with such carrier to eliminate adverse financial impact for such carrier. This coordination may include, but is not limited to, route overlapping, transfers, transfer points, schedule coordination, joint use of facilities, lease of route service and acquisition of route and corollary equipment. If such coordination does not result in mutual agreement, the proposals shall be submitted to the department of transportation for arbitration. The following forms of transportation are excepted from the definition of "transportation system":

1. Taxicabs.

2. School bus transportation businesses or systems that are engaged primarily in the transportation of children to or from school, and which are subject to the regulatory jurisdiction of the department of transportation and the department of public instruction.

3. Charter or contract operations to, from or between points that are outside the county or contiguous or cornering counties.

(e) Acquire all of the capital stock of a corporation that owns and operates a transportation system.

(f) Use a public road, street or highway for the transportation of passengers for hire without obtaining a permit or license from a municipality for the operation of a transportation system within such municipality but such use shall be subject to approval by the department of transportation.

(g) Upon the acquisition of a transportation system:

1. Operate and maintain it or lease it to an operator or contract for its use by an operator.

2. Contract for superintendence of the system with an organization which has personnel with the experience and skill necessary.

3. Delegate responsibility for the operation and maintenance of the system to an appropriate administrative officer, board or commission of the county notwithstanding s. 59.84 or any other statute.

4. Maintain and improve a railroad right−of−way and improvements on the right−of−way for future use.

(h) 1. A county may contract under s. 66.0301 to establish a joint transit commission with other municipalities, as defined under s. 66.0301 (1) (b).

2. Notwithstanding any other provision of this subsection, no joint transit commission under subd. 1. may provide service outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint transit commission unless the joint transit commission receives financial support for the service under a contract with a public or private organization for the service. This subdivision does not apply to service provided by a joint transit commission outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint transit commission if the joint transit commission is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and elects to continue the service.

(i) Paragraphs (d) to (h) 1. shall only apply if a board by a two−thirds vote of its membership so authorizes.

(j) 1. Notwithstanding any other provision of this subsection, no county which acquires a transportation system under this subsection may provide service outside the corporate limits of the county unless the county receives financial support for the service under a contract with a public or private organization for the service. This paragraph does not apply to service provided by a county outside the corporate limits of the county if the county is providing the service on April 28, 1994, without receiving finan-

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cial support from a public or private organization for the service, and elects to continue the service.

2. Notwithstanding any other provision of this subsection, no county which establishes a transportation system under this subsection may contract with an operator to provide service under par. (g) 1. outside the corporate limits of the county unless the county receives financial support for the service under a contract with a public or private organization for the service. This subdivision does not apply to service provided under par. (g) 1. outside the corporate limits of a county under a contract between the county and an operator if an operator is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and the county elects to continue the service.

(4) COUNTY OBLIGATIONS TO EMPLOYEES OF COUNTY MASS TRANSPORTATION SYSTEMS. (a) A board acquiring a transportation system under sub. (3) (d) shall assume all the employer's obligations under any contract between the employees and management of the system.

(b) A board acquiring, constructing, controlling or operating a transportation system under sub. (3) (d) shall negotiate an agreement protecting the interests of employees affected by the acquisition, construction, control or operation. Such agreements shall include, but are not limited to, provisions for:

1. The preservation of rights, privileges and benefits under an existing collective bargaining agreement or other agreement.

2. The preservation of rights and benefits under existing pension plans covering prior service, and continued participation in social security.

3. The continuation of collective bargaining rights.

4. The protection of individual employees against a worsening of their positions with respect to their employment to the extent provided by section 13 (c) of the urban mass transportation act, as amended (49 USC 1609 (c)).

5. Assurances of employment to employees of the transportation systems and priority of reemployment of employees who are terminated or laid off.

6. Assurances of first opportunity of employment in order of seniority to employees of any nonacquired system, affected by a new, competitive or supplemental public transportation system, in unfilled nonsupervisory positions for which they can qualify after a reasonable training period.

7. Paid training or retraining programs.

8. Signed written labor agreements.

(c) An agreement under par. (b) may include provisions for the submission of labor disputes to final and binding arbitration by an impartial umpire or board of arbitration acceptable to the parties.

(d) In all negotiations under this subsection, the county executive, if such office exists in the county, shall be a member of the county negotiating body.

(5) SPECIALIZED TRANSPORTATION SERVICES. The board may coordinate specialized transportation services, as defined in s. 85.21 (2) (g), for county residents who are disabled or are aged 60 or older, including services funded under 42 USC 3001 to 3057n, 42 USC 5001 and 42 USC 5011 (b), under ss. 49.43 to 49.499 and 85.21 and under other public funds administered by the county.

History: 1995 a. 201 ss. 197, 231, 386, 388, 465, 466 to 474; 1997 a. 27, 35; 1999 a. 150 s. 672; 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32.

Section 59.968 (3) [now s. 59.58 (3) (c)] authorizes a county to subsidize a bus company operating a route principally located within the county, even though the route is only 5% of the company's total business. 65 Atty. Gen. 191.

SUBCHAPTER VI

FINANCE AND BUDGET

59.60 Budgetary procedure in certain counties. **(1)** APPLICATION. The provisions of this section shall apply to all counties with a population of 500,000 or more. Except as provided in sub. (13), any county with a county executive or county administrator may elect to be subject to the provisions of this section.

(2) DEFINITIONS. In this section:

(a) "Department" includes all county departments, boards, commissions, institutions, offices, and other agencies of the county government for which funds may be legally appropriated.

(b) "Director" means the director of the county department of administration.

(3) FISCAL YEAR. The fiscal year in every county is the calendar year.

(3m) ACCOUNTING AND BUDGETING PROCEDURE. Every accounting and budgeting procedure that is applied under this section shall comply with generally accepted accounting principles for government as promulgated by the governmental accounting standards board or its successor bodies or other authoritative sources.

(4) SUBMISSION OF ANNUAL BUDGET REQUESTS. On or before the date that the director specifies, but not later than July 15, each department shall annually submit to the director in the form that the director specifies:

(a) The department's estimated revenues and expenditures for the ensuing fiscal year.

(b) The estimated cost of any capital improvements pending or proposed for the ensuing fiscal year and for the next 4 fiscal years.

(c) Any other information that the director requests.

(5) COMPILATION OF BUDGET REQUESTS. Not later than August 15 of each year, the director shall submit to the county executive or county administrator and to the board:

(a) The annual budget estimates of each department.

(b) A statement of principal and interest becoming due on outstanding bonds and on other financial obligations.

(c) An estimate of all other expenditures, including proposed expenditures on capital improvements that are not financed by bonds.

(d) An estimate of anticipated issues of new bond obligations during the ensuing fiscal year, plus a statement of the funds required for maturities and interest payments on these issues.

(e) An estimate of funds required as an appropriation for contingencies.

(f) An estimate of revenue from all other sources.

(g) A complete summary of all the budget estimates and a statement of the property tax levy required if funds were appropriated on the basis of these estimates. In determining the property tax levy required, the director shall deduct from the total estimated expenditures the estimated amount of revenue from sources other than the property tax levy and shall deduct the amount of any surplus at the close of the preceding fiscal year not yet appropriated. The board, by two−thirds vote, may adopt a resolution before the adoption of the tax levy authorizing the use of the surplus fund in whole or in part as a sinking fund for the redemption or repurchase of bonds or to provide funds for emergency needs under sub. (9), but for no other purposes, except as provided in sub. (13).

(6) (a) The county executive or county administrator shall review the estimates of expenditures and revenues and hold public hearings on such estimates at which the head or a representative of every county department shall appear and give information with regard to the appropriations requested, including work programs, other justification of expenditures, and other data that the county executive or county administrator requests. The county executive or county administrator shall make changes in the proposed budget that in the executive's or administrator's discretion are considered desirable or proper.

(b) On or before October 1, and after the hearings required under par. (a), the county executive or county administrator shall submit the amended proposed budget to the board. The amended

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proposed budget shall be the executive's or administrator's budget and shall include all of the following:

1. A simple, clear, general summary of the detailed contents of the budget.

2. A comparative statement by organization unit and principal object of expenditure showing the actual expenditures of the preceding fiscal year, the appropriations and estimated expenditures for the fiscal year currently ending, and the recommended appropriations for the fiscal year next succeeding.

3. A comparative statement of the actual revenues from all sources including property taxes during the preceding fiscal year, the anticipated revenues and the estimated revenues for the fiscal year currently ending, and the anticipated revenues for the fiscal year next succeeding including any surplus from the preceding fiscal year not otherwise appropriated under sub. (9).

(c) The anticipated revenues for the fiscal year next succeeding shall be equal in amount to the recommended appropriations.

(d) The executive's or administrator's budget shall be accompanied by a message prepared by the county executive or county administrator which shall outline the important features of the budget plan and indicate any major changes in policy or in recommended appropriations or revenues as compared with the fiscal year currently ending, and shall set forth the reasons for such changes.

(7) PUBLICATION OF BUDGET AND PUBLIC HEARING. The board shall refer the executive's or administrator's budget to the finance committee and such committee shall publish as a class 1 notice, under ch. 985, a summary of the executive's or administrator's budget and comparative figures together with a statement of the county's bonded indebtedness, in the 2 daily newspapers having the largest circulation in the county, and shall make available to the general public reprinted copies of the summary as published. The publication shall also state the date, hour, and place of the public hearing to be held by the board on such executive's or administrator's budget. The board shall, not less than 14 days after publication of the summary of the executive's or administrator's budget, but not later than the first Monday in November of each year and prior to the adoption of the property tax levy, hold a public hearing on such executive's or administrator's budget, at which time citizens may appear and express their opinions. After such public hearing, and on or before the annual meeting, the finance committee shall submit to the board its recommendations for amendments to the executive's or administrator's budget, if any, and the board shall adopt the budget with such changes as it considers proper and advisable. When so adopted, the sums provided shall, subject to the provisions of sub. (8), constitute legal appropriations and anticipated revenues for the ensuing year.

(7m) PUBLICATION OF BUDGET SUMMARY. Notwithstanding sub. (1), this subsection applies to all counties with a population of 500,000 or more. Any such county shall publish, in the same manner as the summary that may be published under sub. (7), a summary that includes all of the following:

(a) The total amount of budgeted expenditures for the current year.

(b) The proposed amount of total expenditures and the percentage change compared to the amount in par. (a).

(c) The property tax levy for the current year.

(d) The proposed property tax levy and the percentage change compared to the amount in par. (c).

(8) TRANSFERS OF APPROPRIATIONS. (a) At the request of the head of any department, and after receiving the recommendation of the county executive or county administrator, the finance committee may, at any time during the fiscal year, transfer any unencumbered appropriation balance or portion thereof between principal objects of expenditures within a department; but no transfers shall be made of appropriations originating from bond funds unless the purpose for which the bonds were issued has been fulfilled or abandoned. If the county executive or county administrator fails to make a recommendation within 10 days after the submission of a request for transfer, the finance committee may act upon the request without his or her recommendation. If more than one department is under the jurisdiction of the same board or commission or under the same general management, the group of departments may be considered as though they were a single unit with respect to transfers of appropriations within the group.

(b) Except as provided under sub. (9), the board, upon the recommendation of the finance committee and by resolution adopted by a majority of the members present and voting at any meeting, may transfer any unencumbered appropriation balance or portion thereof from one department or account to another at any time during the following:

1. The first 9 months of the fiscal year, if another unit of government fails to appropriate moneys which the board anticipated and appropriated to that department or account when the board adopted the budget. The amount of money transferred under this subdivision may not exceed the amount of money which that other unit of government fails to appropriate.

2. The last 3 months of the fiscal year.

(c) Paragraph (b) does not apply to an appropriation which is irrepealable by law.

(9) APPROPRIATIONS, SUPPLEMENTAL AND EMERGENCY. (a) At the request of the head of any department and after review and recommendation by the finance committee, the board, by resolution adopted by a vote of two−thirds of the members−elect of the board, may transfer from the contingency appropriation into any other appropriation or create a new appropriation for any legal county purpose if any unforeseen condition requires an appropriation of funds during the budget year. The board may make supplemental appropriations for the year up to the amount of the additional revenue and surplus so certified to meet a public emergency affecting life, health, property or the public welfare, if the director certifies that any of the following funds are available for appropriation:

1. Revenues that are received from sources not anticipated in the budget that year.

2. Revenues that are received that exceed budget estimates.

3. Unappropriated surplus funds from the preceding fiscal year.

(b) An appropriation under par. (a) may be made only by resolution adopted by a vote of two−thirds of the members−elect of the board. To the extent that unappropriated funds or realized revenues in excess of anticipated revenues are unavailable to meet the emergency, the board may, by resolution adopted by three−fourths of the members−elect, issue tax anticipation notes under s. 67.12. Notice of intent to make supplemental appropriations from revenues or surplus or to issue tax anticipation notes shall be published as a class 1 notice, under ch. 985, in the 2 daily newspapers having the largest circulation in the county, not less than 6 days prior to the hearings before the finance committee of the board in regard to these matters.

(10) ORDINANCE INCREASING SALARIES; NEW POSITIONS; WHEN EFFECTIVE. No ordinance or resolution authorizing the creation of new or additional positions or increasing salaries shall become effective in any fiscal year until an appropriation of funds for such purpose is made or the ordinance or resolution contains a provision for the transfer of funds if required. All such ordinances or resolutions which do not require an appropriation or transfer of funds shall state therein the specific account or accounts in which funds are available for such purposes.

(11) LAPSE OF APPROPRIATIONS. Every appropriation excepting an appropriation for a capital expenditure, or a major repair, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure or a major repair shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of such appropriation for any capital expenditure or

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a major repair shall be considered abandoned if 3 years pass without any expenditure from, or encumbrance of, the appropriation concerned.

(12) PAYMENTS AND OBLIGATIONS PROHIBITED; CERTIFICATIONS; PENALTIES. No payment may be authorized or made and no obligation incurred against the county unless the county has sufficient appropriations for payment. No payment may be made or obligation incurred against an appropriation unless the director first certifies that a sufficient unencumbered balance is or will be available in the appropriation to make the payment or to meet the obligation when it becomes due and payable. An obligation incurred and an authorization of payment in violation of this subsection is void. A county officer who knowingly violates this subsection is jointly and severally liable to the county for the full amount paid. A county employee who knowingly violates this subsection may be removed for cause. This subsection does not prohibit contracting for capital improvements being financed wholly or partly by the issuance of bonds or prevent the making of a contract or lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made. The board shall make or approve by resolution each contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year.

(13) TAX STABILIZATION FUND. (a) Notwithstanding sub. (1), only a county with a population of at least 500,000 may create a tax stabilization fund under this subsection.

(b) The board of a county described in par. (a) may enact an ordinance creating a tax stabilization fund in the county. If such fund is created under this paragraph, the following amounts, if positive, shall be deposited into the tax stabilization fund:

1. The amount determined by subtracting the estimated nonproperty tax revenues collected by the county in the prior year from the corresponding actual receipts for the prior year, as determined by the comptroller not later than April 15 of each year.

2. The amount determined by subtracting total adjusted operating budget appropriations for the prior year from total expenditures, commitments, and reserves for the prior year, as determined by the comptroller not later than April 15 of each year.

3. Any general surplus balance as of December 31 of the prior year, as determined by the comptroller not later than April 15 of each year.

4. Any amounts included in the county's property tax levy that are designated for deposit in the fund.

(c) Subject to par. (d), the board may withdraw amounts from the tax stabilization fund, by a three−quarters vote of the members−elect, or by a majority vote of the members−elect if the county's total levy rate, as defined in s. 59.605 (1) (g), is projected by the board to increase by more than 3% in the current fiscal year and the withdrawn funds would prevent an increase of more than 3%.

(d) The tax stabilization fund may not be used to offset any of the following:

1. Any deficit that occurs between the board's total estimated nonproperty tax revenue, and the total actual nonproperty tax revenue.

2. Any deficit that occurs between total appropriations and total expenditures.

(e) If the uncommitted balance in the tax stabilization fund exceeds 5% of the current year's budget that is under the board's control, as of June 1 of the current year, any amount that exceeds that 5% shall be used to reduce the county's next property tax levy.

History: 1981 c. 56, 314; 1985 a. 29 ss. 1190, 1191, 3200 (56); 1987 a. 284, 399; 1989 a. 31; 1995 a. 201 s. 435; Stats. 1995 s. 59.60; 1995 a. 225 s. 169; 1997 a. 35; 2001 a. 16.

Cross−reference: See s. 65.90 for budget procedure in counties other than Milwaukee.

59.605 Tax levy rate limit. (1) DEFINITIONS. In this section:

(a) "Debt levy" means the county purpose levy for debt service on loans under subch. II of ch. 24, bonds issued under s. 67.05, promissory notes issued under s. 67.12 (12), and appropriation bonds issued under s. 59.85, less any revenues that abate the levy.

(b) "Debt levy rate" means the debt levy divided by the equalized value of the county exclusive of any tax incremental district value increment.

(c) "Excess over the limit" means the amount of revenue received by a county that results from the county exceeding the limit under sub. (2).

(d) "Operating levy" means the county purpose levy, less the debt levy.

(e) "Operating levy rate" means the total levy rate minus the debt levy rate.

(f) "Penalized excess" means the excess over the limit for the county.

(g) "Total levy rate" means the county purpose levy divided by the equalized value of the county exclusive of any tax incremental district value increment.

(2) LIMIT. Except as provided in sub. (3), no county may impose an operating levy at an operating levy rate that exceeds .001 or the operating levy rate in 1992, whichever is greater.

(3) REFERENDUM, RESPONSIBILITY TRANSFERS. (a) 1. If the governing body of a county wishes to exceed the operating levy rate limit otherwise applicable to the county under this section, it shall adopt a resolution to that effect. The resolution shall specify either the operating levy rate or the operating levy that the governing body wishes to impose for either a specified number of years or an indefinite period. The governing body shall call a special referendum for the purpose of submitting the resolution to the electors of the county for approval or rejection. In lieu of a special referendum, the governing body may specify that the referendum be held at the next succeeding spring primary or election or partisan primary or general election to be held not earlier than 70 days after the adoption of the resolution of the governing body. The governing body shall file the resolution to be submitted to the electors as provided in s. 8.37.

2. The clerk of the county shall publish type A, B, C, D and E notices of the referendum under s. 10.01 (2). Section 5.01 (1) applies in the event of failure to comply with the notice requirements of this subdivision.

3. The referendum shall be held in accordance with chs. 5 to 12. The governing body shall provide the election officials with all necessary election supplies. The form of the ballot shall correspond substantially with the standard form for referendum ballots prescribed by the government accountability board under ss. 5.64 (2) and 7.08 (1) (a). If the resolution under subd. 1. specifies the operating levy rate, the question shall be submitted as follows: "Under state law, the operating levy rate for the .... (name of county), for the tax to be imposed for the year .... (year), is limited to $.... per $1,000 of equalized value. Shall the .... (name of county) be allowed to exceed this rate limit for .... (a specified number of years) (an indefinite period) by $.... per $1,000 of equalized value that results in an operating levy rate of $.... per $1,000 of equalized value?" If the resolution under subd. 1. specifies the operating levy, the question shall be submitted as follows: "Under state law, the operating levy rate for the .... (name of county), for the tax to be imposed for the year .... (year), is limited to $.... per $1,000 of equalized value. Notwithstanding the operating levy rate limit, shall the .... (name of county) be allowed to levy an amount not to exceed $.... (operating levy) for operating purposes for the year .... (year), which may increase the operating levy rate for .... (a specified number of years) (an indefinite period)? This would allow a ....% increase above the levy of $.... (preceding year operating levy) for the year .... (preceding year)."

4. Within 14 days after the referendum, the clerk of the county shall certify the results of the referendum to the department of revenue. A county may exceed the operating levy rate limit otherwise applicable to it under this section in that year by an amount not exceeding the amount approved by a majority of those voting on the question.

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(b) 1. If an increased operating levy rate is approved by a referendum under par. (a) for a specified number of years, the increased operating levy rate shall be the operating levy rate limit for that number of years for purposes of this section. If an increased operating levy rate is approved by a referendum under par. (a) for an indefinite period, the increased operating levy rate shall be the operating levy rate limit for purposes of this section.

2. If an increased operating levy is approved by a referendum under par. (a), the increased operating levy shall be used to calculate the operating levy rate limit for the approved year for purposes of this section. After the approved year, the operating levy rate limit in the approved year or the operating levy rate limit that would have been applicable if there had been no referendum, whichever is greater, shall be the limit for the specified number of years or for an indefinite period for purposes of this section.

(c) 1. If a county transfers to another governmental unit responsibility for providing any service that the county provided in the preceding year, the levy rate limit otherwise applicable under this section to the county in the current year is decreased to reflect the cost that the county would have incurred to provide that service, as determined by the department of revenue.

2. If a county increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, the levy rate limit otherwise applicable under this section to the county in the current year is increased to reflect the cost of that service, as determined by the department of revenue.

(4) PENALTIES. If the department of revenue determines that a county has a penalized excess in any year, the department of revenue shall do all of the following:

(a) Reduce the amount of the shared revenue payments to the county under subch. I of ch. 79 in the following year by an amount equal to the amount of the penalized excess.

(b) If the amount of the reduction made under par. (a) is insufficient to recover fully the amount of the penalized excess, request the department of transportation to reduce the aids paid in that following year to the county under s. 86.30 (2) (e) by the amount needed to recover as much of the remainder as is possible.

(c) Ensure that the amount of any reductions in shared revenue payments under par. (a) lapses to the general fund.

(d) Ensure that the amount of the penalized excess is not included in determining the limit described under sub. (2) for the county for the following year.

(5) RATE COMPARISON. Annually, the department of revenue shall compare the operating levy rate limit of each county under this section to the actual operating levy rate imposed by the county.

(6) TEMPORARY SUSPENSION OF THE LIMIT. This section does not apply to a county's levy that is imposed in December 2011 or December 2012.

History: 1993 a. 16, 490; 1999 a. 150 s. 568; Stats. 1999 s. 59.605; 1999 a. 182 s. 207; 2007 a. 1, 115; 2011 a. 32, 75.

Cross−reference: See also ch. Tax 21, Wis. adm. code.

59.61 Financial transactions. (1) RECEIPTS AND DEPOSITS OF MONEY; ACCOUNTS. Every county officer and employee and every board, commission or other body that collects or receives money for or in behalf of the county shall:

(a) Give such receipts therefor and file such duplicates thereof with the clerk and treasurer as the board directs.

(b) Keep books of account and enter accurately in the books from day to day with ample description, the items of that person's or that body's official service, and the fees therefor.

(c) Pay all such money into the county treasury at the time that is prescribed by law, or if not so prescribed daily or at the intervals that are prescribed by the board.

(d) Perform all other duties in connection therewith that are required by law.

(2) DEPOSITORIES; DESIGNATION. (a) The board of each county having a population of 200,000 or more shall designate 2 or more, and in other counties the board, or when the occasion arises and the board is not in session, then a committee of the board which has been authorized to do so shall designate one or more credit unions, banks, savings banks, savings and loan associations, or trust companies organized and doing business under the laws of this state or federal law, located in this state, as county depositories, one or more of which shall be designated as working credit unions, savings banks, savings and loan associations or banks, all deposits in which shall be active deposits.

(b) In addition to the depositories specified in par. (a), the local government pooled−investment fund may be designated as a depository for investment purposes.

(3) FUNDS TO BE PLACED IN DEPOSITORIES; REPORTS; CASH BALANCE. (a) Whenever a board has designated a county depository under sub. (2), the treasurer shall deposit therein as soon as received all funds that come to the treasurer's hands in that capacity in excess of the sum the treasurer is authorized by the board to retain. Any sum on deposit shall be considered to be in the county treasury, and the treasurer shall not be liable for any loss thereon resulting from the failure or default of such depository. The board, a committee of the board designated by it or the treasurer acting under s. 59.25 (3) (s) may invest any funds that come into the county treasurer's hands in excess of the sum the treasurer is authorized by the board to retain for immediate use in the name of the county in the local government pooled−investment fund, in interest−bearing bonds of the United States or of any county or municipality in the state or in any other investment authorized by statute. The board, committee or the county treasurer acting under s. 59.25 (3) (s) may sell such securities when considered advisable.

(b) Every such depository shall on the first business day of each month, and more often when required, file with the clerk a statement of the amount of county money deposited with it during the preceding month, and the treasurer shall at the same time file with such clerk a statement showing the amount of moneys received and disbursed by the treasurer during the previous month.

(c) The board may fix the amount of money which may be retained by the treasurer but in no case shall the sum exceed $3,000; provided, that in all counties having a population of 200,000 or more inhabitants, the treasurer may retain such sum as may be fixed by the board.

(d) Such treasurer and clerk, whenever the cash balance does not amount to the sum authorized by the board to be retained, may increase it to such amount by their check on the county depository or depositories in favor of such treasurer.

History: 1995 a. 201 ss. 392, 422, 424, 425.

One who deals with a municipality does so at his or her own risk and may be subject to any provisions of law that might prevent him or her from being paid by a municipality even though the services are rendered. Unless the power to bind the municipality financially has been specifically delegated, the only entity with the statutory authority to contract is the municipality. Holzbauer v. Safway Steel Products, Inc. 2005 WI App 240, 288 Wis. 2d 250, 712 N.W.2d 35, 04−2058.

59.62 Investment authority delegation. (1) The board may delegate to any officer or employee any authority assigned by law to the board to invest county funds. The delegation shall provide that the officer or employee be bonded.

(2) The board may impose any restriction on the delegation or exercise of authority delegated under this section considered desirable by the board. If the board delegates authority under this section, the board shall periodically review the exercise of the delegated authority by the officer or employee.

History: 1995 a. 201 s. 207.

59.63 Treasurer's disbursement of revenue. The treasurer may make disbursements of property tax revenues and of

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credits under s. 79.10 according to the proportions that are reported under ss. 60.33 (10m), 61.25 (10) and 62.09 (11) (j).

History: 1983 a. 395; 1985 a. 39 s. 17; 1989 a. 56 s. 259; 1995 a. 201 s. 272; Stats. 1995 s. 59.63.

59.64 Claims against county. (1) CLAIMS, HOW MADE; PROCEDURE. (a) *In general.* Every person, except jurors, witnesses and interpreters, and except physicians or other persons who are entitled to receive from the county fees for reporting to the register of deeds births or deaths, which have occurred under their care, having any claim against any county shall comply with s. 893.80. This paragraph does not apply to actions commenced under s. 19.37, 19.97 or 281.99.

(b) *Of court officers, certified by district attorney.* No claim for official services, in any criminal action or proceeding before a judge, shall be allowed by any board until the same has been examined and a written report made thereon by the district attorney of the proper county as required by par. (d); nor shall the claim of any sheriff, undersheriff, deputy sheriff, constable or other such officer for the services or expenses of an assistant in making an arrest or commitment be allowed unless the judge before whom the prisoner is brought certifies that there was a necessity for such assistance because of the dangerous character of the defendant or because 2 or more persons were arrested at the same time.

(c) *Of circuit and supplemental court commissioners.* 1. Circuit and supplemental court commissioners shall, on or before the first Monday of November in each year, forward to the clerk of their respective counties a correct statement of all actions or proceedings had before them, during the immediately preceding year, in which the county became liable for costs. The statement shall include all of the following:

a. The names of the parties in each action or proceeding.

b. The nature and result of each action or proceeding.

c. The amount of costs in detail in each action or proceeding.

d. The items of costs awarded, if any, which have been paid and the amount of each payment.

2. The clerk shall file the statements described in subd. 1. in his or her office. Any circuit or supplemental court commissioner who neglects to make and return the statements within the time prescribed in subd. 1. shall not receive any compensation from the county for any service rendered by him or her in any criminal case or proceeding during the year next preceding the time when the statement is required to be made and returned.

(d) *Of court officers; certification; audit by district attorney; waiver.* Fees of officers, in any action or proceeding before a circuit or supplemental court commissioner, shall be certified to and allowed by the board in the following manner:

1. At least 10 days before the annual meeting of the board, every circuit and supplemental court commissioner shall make and file with the clerk a certified statement of all actions or proceedings had or tried before him or her within the year next preceding the date of the statement in which the state was a party and in which the county became liable for the fees of officers who appeared on the part of either the state or a defendant. The statement shall include all of the following:

a. The title and nature of the action or examination.

b. The date of trial.

c. The names of all officers who actually attended court and gave in a statement of their attendance and travel.

d. The amount to which they are severally entitled.

1m. The statement described in subd. 1 shall be substantially in the following form:

STATE OF WISCONSIN

v.

....

IN CIRCUIT COURT FOR .... COUNTY

Complaint for ....

Before ...., ... Circuit or Supplemental Court Commissioner.

Heard the .... day of ...., ...(year)

To the County Board of .... County:

I hereby certify that in the foregoing entitled action the following named persons rendered services and attended before me in the capacity stated. I further certify that the following named persons are severally entitled to the amounts specified below for services, attendance and travel, that the services were actually and necessarily rendered, and that the action was prosecuted in good faith:

A.B. .... (constable or sheriff), actually and necessarily traveled in serving the .... herein, ... miles, and attended court .... days, and is entitled to $.... for other just and lawful services in the cause, and in all is entitled to $.....

Dated this .... day of ...., ... (year)

2. a. The clerk shall deliver the statement filed under subd. 1. to the district attorney, who shall examine the statement and make a report in writing thereon to the board, specifying the items in each for which the county is or is not liable, and the extent of its liability if it is liable for a part only of any item. The statement and report shall be laid before the board by the clerk and insofar as the items charged in the statement are approved by the district attorney the statement shall be prima facie evidence of the claims of the persons named in the statement.

b. The board shall examine the statement, allow the fees that are legal, and direct that orders be drawn for the amount allowed to each person named therein. If any person in whose favor any order is drawn under this subdivision shall not call for the fees within 2 years from the time the claim is allowed, the person's right to any compensation for services shall be considered waived and the board shall cancel the order.

(e) *Fees for statements and certificates.* Every circuit or supplemental court commissioner shall receive from the treasurer $1 per page for making statements and returns required by par. (c) and $1 for making each certificate required by par. (d). All such statements and certificates shall be transmitted to the clerk by certified mail and for transmitting the statements and certificates the circuit or supplemental court commissioner shall receive $1.

(f) *Circuit and supplemental court commissioners.* The board at any session thereof may as provided in par. (d) 2. examine and allow any statement, account or claim of any circuit or supplemental court commissioner which is on file with the clerk before the opening of the session of the board.

(g) *Payment of juror, witness, interpreter, attorney, guardian ad litem and transcript fees; penalty.* If a county is liable for juror fees or for witness, interpreter, attorney, guardian ad litem or transcript fees which are on the part of the state or of the defendant in any action or proceeding before a judge of the circuit court or before the medical examiner of the county, the procedure to secure payment of the fees shall be as follows:

1. The clerk of the respective court, the register of probate, or the medical examiner as the case may be shall issue to the person an order directing the treasurer to make payment of the fee. The order shall state the name of the person to whom payable, the time served, the number of miles traveled by the person, and the amount of compensation to which the person is entitled, together with the title of the action in which the person served, the capacity in which the person served and the date or dates of service, or in case of transcript fees, the title of the action and the dates on which the testimony for the transcript was taken.

2. The person to whom the certificate or order is issued shall be required to endorse it prior to receiving payment and thereby indicate that he or she is the person mentioned in the certificate or order, that the number of miles traveled and the capacity in which he or she served and the work which he or she performed is true and correct as stated and that he or she has not at any time received any compensation therefor.

3. Upon presentation of the certificate or order properly signed and endorsed, the treasurer shall pay to the holder, upon surrender of the certificate or order, the amount set forth in the cer-

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tificate or order, and the order or certificate shall in all other respects be handled by the treasurer in the same manner as all other county orders drawn upon him or her are handled.

4. Any judge or circuit or supplemental court commissioner, juror, witness, interpreter, attorney, guardian ad litem or recipient of transcript fees who makes, signs or endorses any such certificate or order which is untrue in respect to anything material, which he or she knows to be false, or which he or she does not have good reason to believe is true, shall be punished as provided in s. 946.12.

(2) SPECIAL COUNTIES; CLASSIFICATION OF CLAIMS. In counties with a population of more than 300,000, the county auditor shall classify all such claims according to the budgetary funds provided for in s. 59.60, against which they are chargeable, before such claims are laid before such board. The county auditor shall then submit with the claims chargeable against each fund, a statement of the balance in such fund against which no county orders have been issued. If such balance in any fund is less than the total of the claims chargeable against such fund, the auditor shall call the attention of the board to that fact, and such board shall not issue county orders in excess of such balance without previously appropriating to such fund an additional sum at least sufficient to cover such orders. If any claims are for a purpose for which no specific appropriation has been made in the budget, such claims shall be considered as chargeable against the contingent fund. When the county auditor countersigns any order on the treasurer for the payment of a claim allowed the auditor shall charge such order against the fund appropriated for that purpose.

(3) ACTION ON CLAIMS BY BOARD. The clerk shall, on the first day of any meeting of the board, lay before said board all such claims, statements of which have been filed in the clerk's office since the last meeting of such board, with a schedule of the same showing the amount thereof and the order in which the same were filed; and the board shall act upon all such claims before the adjournment of the next annual session of such board after such statements were filed with the clerk, and shall examine and allow or disallow the same in whole or in part unless withdrawn by leave of the board; and in case of the disallowance of a part of an account or other claim composed of separate items the board shall designate particularly each item disallowed; and when the amount allowed for any claim shall have been accepted and received by the claimant, and no action shall be brought to recover the remainder thereof, no further sum shall thereafter be allowed or paid thereon by the board. The board, or a committee of the board, for the purpose of ascertaining the facts in relation to any claim presented for the board's or committee's exemption and allowance, may take such testimony as it considers necessary.

(4) COUNTY ORDERS AND SCRIP. (a) *Issuance; limitations.* When any claim is allowed by a board, either in whole or in part, the board shall direct an order to be drawn upon the treasurer in favor of the claimant for the amount so allowed, but no order except for the per diem and mileage of the members of the board may be drawn in favor of any claimant within 5 days after the allowance of his or her claim. Any person whose claim has been allowed in part may receive the order drawn for the part so allowed without prejudice to his or her right to appeal as to the part disallowed. No board may issue a greater amount of orders, scrip and certificates of indebtedness than the amount of the county taxes levied in the county for that year. The board may authorize the issuance of orders, scrip or certificates of indebtedness at a rate of interest specified thereon, but not to exceed 6% per year; except that the orders, scrip and certificates of indebtedness shall bear no interest if paid and payable within one month from date of issuance, and shall bear no interest after date of publication of redemption notice as provided in this paragraph. The treasurer may publish a class 1 notice, under ch. 985, that the county will redeem certain outstanding orders, scrip or certificates, which notice shall specify the particular orders, scrip or certificates, or series thereof, then redeemable.

(b) *Disbursements on.* In all counties with a population of less than 300,000, all disbursements from the county treasury shall be made by the treasurer upon the written order of the clerk after proper vouchers have been filed in the office of the clerk; and in all cases where the statutes provide for payment by the treasurer without an order of the clerk, it shall be the duty of the clerk to draw and deliver to the treasurer an order for payment before or at the time when the payment is required to be made by the treasurer. The provisions of this paragraph shall apply to all special and general provisions of the statutes relative to the disbursement of money from the county treasury.

(c) *Special counties; countersigned by auditor.* In all counties with a population of 300,000 or more all orders and warrants drawn upon or against county funds shall be countersigned by the county auditor; and the treasurer of the county shall make no payments of county funds for any purpose unless the order, warrant, certificate, direction or authority given the treasurer for the payment is countersigned by the county auditor. This provision requiring the countersigning by the auditor shall apply to all laws and statutes, special and general, relative to the payment of county funds by the treasurer except certificates or orders issued for the payment of juror, witness, interpreter, attorney, guardian ad litem and transcript fees.

(d) *Examination of.* The board at its annual session, or more often if it considers it necessary, shall carefully examine the county orders returned paid by the treasurer by comparing each order with the record of orders in the clerk's office, and cause to be entered in the record opposite to the entry of each order issued the date when the order was canceled. The board shall also make a complete list of the orders so canceled, specifying the number, date, amount, and person to whom the same is made payable, except in counties having a population of more than 500,000, the name of the person to whom the same is made payable may be omitted, which statement shall be entered at length on the journal of the board; and immediately after the above requirements are complied with the orders so canceled shall be destroyed in the presence of the board.

(e) *Uncalled for orders; cancellation; reissue.* The clerk shall prepare and present to the board, at each annual session, a descriptive list giving the amount, date and payee of all county orders which have remained in the clerk's office for 2 years uncalled for by the payee. The board shall cause the orders to be compared with the list, and when found or made correct the list shall be entered at length on the journal of the board and filed in the office of the clerk; all the orders shall be canceled and destroyed. The person in whose favor the order was drawn, except those issued under sub. (1) (d), may, upon application to the chairperson of the board and clerk, made within 6 years from the date of the order, have a new order issued for the amount of the original, without interest.

History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433; 1995 a. 225 ss. 165 to 168; 1997 a. 27, 35, 250, 252, 253; 1999 a. 32; 2001 a. 61.

Section 803.08 is inapplicable to the procedure for making claims against a county. Multiple claims must identify each claimant and show each claimant's authorization. Hicks v. Milwaukee County, 71 Wis. 2d 401, 238 N.W.2d 509 (1976).

59.65 Publication of financial report. A board shall cause to be made out and published in the county, as a class 1 notice, under ch. 985, immediately after its annual meeting, a report of the receipts and expenditures of the immediately preceding year and the accounts allowed. The board may waive the publication of names of needy soldiers, sailors, marines and United States war veterans and the amount of aid provided under s. 45.81 (3) and shall publish in lieu thereof the total disbursements thereunder.

History: 1985 a. 29 s. 3202 (56); 1995 a. 201 s. 434; Stats. 1995 s. 59.65; 2005 a. 22.

59.66 Unclaimed funds. (1) DISPOSITION OF UNCLAIMED FUNDS BY COURT CLERKS. (a) On or before January 10 of every odd−numbered year the circuit court clerk shall file with the treasurer of his or her county a written report under oath of all moneys,

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securities or funds in his or her hands or under his or her possession or control where, for a period of 4 years or more, no order was made, or no step or proceeding had or taken in the case, action, or proceeding in, by or through which the moneys, securities or funds may have been deposited or left with the clerk or his or her predecessors in office, and where no valid claim was made upon or for any such moneys, securities or funds for a period of 4 years or more, and where the owner or ownership of the moneys, securities or funds is unknown, or undetermined, and the clerk or his or her successor in office shall hold the moneys, securities or funds, together with all interest or profits, until one year after the making of the report unless sooner demanded by and turned over to the legal owners thereof.

(b) One year after the filing of the report the clerk of any circuit court holding or having in his or her possession any such moneys, securities or funds shall turn them over to the treasurer, unless sooner demanded by and turned over to the legal owners thereof under order of the court in which the case, action or proceeding was pending.

(c) On or before March 1 of the same year the treasurer shall publish in the county, as a class 3 notice, under ch. 985, the fact that he or she has unclaimed moneys, securities or funds in his or her possession for disposition. If no legal claim is made for the moneys, securities or funds within 90 days after the last publication above provided for, then the treasurer shall deposit the moneys, securities or funds, together with all interest and profits thereon, in the general fund of the county treasury, and no action may thereafter be maintained by any person, firm or corporation against the county or the treasurer for the moneys, securities or funds.

(2) UNCLAIMED FUNDS IN PUBLIC TREASURY. (a) 1. On or before January 10 of every odd−numbered year, each officer of a municipality and county, and each clerk of every court of record, shall file with the treasurer of that person's county a written report under oath giving the names and the last−known addresses of all persons for whom any such officer or clerk holds money or security, and which has not been claimed for at least one year, and showing the amount of the money or the nature of the security in detail. A duplicate report shall also be mailed to the department of financial institutions. Upon receiving the reports the treasurer shall cause to be published a class 3 notice, under ch. 985, on or before February 1 of the same year, which contains the names and last−known addresses of the owners of the unclaimed money or security that has a value of at least $10, and shall state that unless the owners call for and prove their ownership of the money or security, within 6 months from the time of the completed publication, the treasurer will take possession or control of the money or security. At the end of the 6 months from the time of the completed publication, the treasurer shall also take possession or control of all money or security of persons for whom an officer of a municipality and county, and each clerk of every court of record, holds money or security, and which has not been claimed for at least one year, if the money or security has a value of less than $10.

2. In counties with a population of 500,000 or more, the treasurer shall distribute to as many community−based newspapers as possible, that are published in the county, a copy of the notice that is described in subd. 1. The treasurer shall distribute these copies of notices at the same time that he or she causes the notices to be published.

(am) Any money or security of which the treasurer has taken possession or control under par. (a) 1. and has had in his or her possession or control for more than one year shall, to the extent possible, be deposited in the county's general revenue fund. Money or security that is deposited under this paragraph may remain in the county's general revenue fund or may be used by the county until the money or security is paid or delivered to its owner, or becomes the property of the county, under par. (b).

(b) If within 10 years from the time any such money or security is delivered to the treasurer the owner of the money or security proves to the satisfaction of the treasurer the owner's right to the possession of the money or security, it shall be paid or delivered to the owner. If no such proof is made, then at the end of the 10−year period the money or property shall become the property of the county. Nothing in this subsection shall be construed to deprive the owner of any such property of the owner's right to proceed by court action for the recovery of such money or security from the treasurer.

(c) Any person violating this subsection shall, upon conviction, be fined not less than $50 nor more than $200 or imprisoned for not less than 30 days nor more than 6 months.

(3) DISPOSITION OF UNCLAIMED PERSONAL PROPERTY OTHER THAN MONEY OR SECURITIES HELD BY COUNTY INSTITUTIONS, CORONERS, MEDICAL EXAMINERS, OR SHERIFFS. All personal property other than money or securities of a deceased person who at the time of his or her death is a patient at any county institution or whose body is taken in charge by the coroner or medical examiner shall be preserved by the superintendent of the institution, the coroner, or the medical examiner for one year unless the property is claimed sooner by a person having the legal right to the property. Annually on July 1 the superintendent, coroner, or medical examiner shall make a verified written report listing all personal property which has remained in that person's custody for one year without being claimed and giving all facts as to ownership of the property as that person's records contain. The superintendent, coroner, or medical examiner shall file the report with the sheriff of the county and deliver the property to the sheriff, who shall issue a receipt for the property. Thereupon the superintendent, coroner, or medical examiner shall be discharged from further liability for the property, title to which shall then vest in the county. Any property which is left at the county jail for a period of one year after the prisoner has been discharged, transferred, or committed and any property, found or stolen, which comes into the hands of the sheriff and in any case remains unclaimed for a period of one year, shall be sold as prescribed in this subsection. The sheriff shall, on or before August 1 annually, post a notice in 3 public places in the county, briefly describing the property and stating that the sheriff will sell the property at public auction on a certain date and at a specified physical location or Internet site, which auction shall be held accordingly. Any of the property which is not disposed of at the auction shall be sold for the best price obtainable, and if the property cannot be disposed of by sale, shall be destroyed in the presence of the sheriff. The sheriff shall, on or before September 1 annually, remit the proceeds of the auction or general sale to the treasurer and shall file a verified report of the sheriff's action in connection therewith. The proceeds shall become a part of the general fund of the county.

History: 1995 a. 201 ss. 400, 458 to 462; 1995 a. 225 ss. 171, 172; 1997 a. 35; 1999 a. 93; 2009 a. 253.

A law enforcement agency may not retain unclaimed contraband money for its own use. In the absence of an asset forfeiture proceeding initiated by the state or a judicial determination that the money constitutes contraband, a local law enforcement agency should dispose of the money as unclaimed property under sub. (2). OAG 9−09.

SUBCHAPTER VII

LAND USE, INFORMATION AND REGULATION, ENVIRONMENTAL PROTECTION, SURVEYS, PLANNING AND ZONING

59.69 Planning and zoning authority. (1) PURPOSE. It is the purpose of this section to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage

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the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man−made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public funds. To accomplish this purpose the board may plan for the physical development and zoning of territory within the county as set forth in this section and shall incorporate therein the master plan adopted under s. 62.23 (2) or (3) and the official map of any city or village in the county adopted under s. 62.23 (6).

(2) PLANNING AND ZONING AGENCY OR COMMISSION. (a) 1. Except as provided under subd. 2., the board may create a planning and zoning committee as a county board agency or may create a planning and zoning commission consisting wholly or partially of persons who are not members of the board, designated the county zoning agency. In lieu of creating a committee or commission for this purpose, the board may designate a previously established committee or commission as the county zoning agency, authorized to act in all matters pertaining to county planning and zoning.

2. If the board in a county with a county executive authorizes the creation of a county planning and zoning commission, designated the county zoning agency, the county executive shall appoint the commission, subject to confirmation by the board.

3. If a county planning and zoning commission is created under subd. 2., the county executive may appoint, for staggered 3−year terms, 2 alternate members of the commission, who are subject to confirmation by the board. Annually, the county executive shall designate one of the alternate members as first alternate and the other as 2nd alternate. The first alternate shall act, with full power, only when a member of the commission refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the commission refuses to vote because of a conflict of interest or is absent.

(b) From its members, the county zoning agency shall elect a chairperson whose term shall be for 2 years, and the county zoning agency may create and fill other offices.

(bm) The head of the county zoning agency appointed under sub. (10) (b) 2. shall have the administrative powers and duties specified for the county zoning agency under this section, and the county zoning agency shall be only a policy−making body determining the broad outlines and principles governing such administrative powers and duties and shall be a quasi−judicial body with decision−making power that includes but is not limited to conditional use, planned unit development and rezoning. The building inspector shall enforce all laws, ordinances, rules and regulations under this section.

(c) Subject to change by the board, the county zoning agency may adopt such rules and regulations governing its procedure as it considers necessary or advisable. The county zoning agency shall keep a record of its planning and zoning studies, its resolutions, transactions, findings and determinations.

(cm) In addition to the members who serve on, or are appointed to, a planning and zoning committee, commission, or agency under par. (a), the committee, commission, or agency shall also include, as a nonvoting member, a representative from a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in the county, if the base's or installation's commanding officer appoints such a representative.

(d) The county may accept, review and expend funds, grants and services and may contract with respect thereto and may provide such information and reports as may be necessary to secure such financial aid and services, and within such funds as may be made available, the county zoning agency may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the county zoning agency.

(e) Wherever a public hearing is specified under this section, the hearing shall be conducted by the county zoning agency in the county courthouse or in such other appropriate place as may be selected by the county zoning agency. The county zoning agency shall give notice of the public hearing by publication in the county as a class 2 notice under ch. 985, and shall consider any comments made, or submitted by, the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the county.

(f) Whenever a county development plan, part thereof or amendment thereto is adopted by, or a zoning ordinance or amendment thereto is enacted by, the board, a duplicate copy shall be certified by the clerk and sent to the municipal clerks of the municipalities affected thereby, and also to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the county.

(g) Neither the board nor the county zoning agency may condition or withhold approval of a permit under this section based upon the property owner entering into a contract, or discontinuing, modifying, extending, or renewing any contract, with a 3rd party under which the 3rd party is engaging in a lawful use of the property.

(3) THE COUNTY DEVELOPMENT PLAN. (a) The county zoning agency may direct the preparation of a county development plan or parts of the plan for the physical development of the unincorporated territory within the county and areas within incorporated jurisdictions whose governing bodies by resolution agree to having their areas included in the county's development plan. The plan may be adopted in whole or in part and may be amended by the board and endorsed by the governing bodies of incorporated jurisdictions included in the plan. The county development plan, in whole or in part, in its original form or as amended, is hereafter referred to as the development plan. Beginning on January 1, 2010, or, if the county is exempt under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in any program or action described in s. 66.1001 (3), the development plan shall contain at least all of the elements specified in s. 66.1001 (2).

(b) The development plan shall include the master plan, if any, of any city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any, of such city or village, that was adopted under s. 62.23 (6) in the county, without change.

(c) The development plan may be in the form of descriptive material, reports, charts, diagrams or maps. Each element of the development plan shall describe its relationship to other elements of the plan and to statements of goals, objectives, principles, policies or standards.

(d) The county zoning agency shall hold a public hearing on the development plan before approving it. After approval of the plan the county zoning agency shall submit the plan to the board for its approval and adoption. The plan shall be adopted by resolution and when adopted it shall be certified as provided in sub. (2) (f). The development plan shall serve as a guide for public and private actions and decisions to assure the development of public and private property in appropriate relationships.

(e) A master plan adopted under s. 62.23 (2) and (3) and an official map that is established under s. 62.23 (6) shall control in unincorporated territory in a county affected thereby, whether or not such action occurs before the adoption of a development plan.

(4) EXTENT OF POWER. For the purpose of promoting the public health, safety and general welfare the board may by ordinance effective within the areas within such county outside the limits of incorporated villages and cities establish districts of such number, shape and area, and adopt such regulations for each such district as the board considers best suited to carry out the purposes of this

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section. The board may establish mixed−use districts that contain any combination of uses, such as industrial, commercial, public, or residential uses, in a compact urban form. The powers granted by this section shall be exercised through an ordinance which may, subject to sub. (4e), determine, establish, regulate and restrict:

(a) The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted, except that no ordinance enacted under this subsection may prohibit forestry operations that are in accordance with generally accepted forestry management practices, as defined under s. 823.075 (1) (d).

(b) The areas in which residential uses may be regulated or prohibited.

(c) The areas in and along, or in or along, natural watercourses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.

(d) Trailer or tourist camps, motels, and manufactured and mobile home communities.

(e) Designate certain areas, uses or purposes which may be subjected to special regulation.

(f) The location of buildings and structures that are designed for specific uses and designation of uses for which buildings and structures may not be used or altered.

(g) The location, height, bulk, number of stories and size of buildings and other structures.

(h) The location of roads and schools.

(i) Building setback lines.

(j) The density and distribution of population.

(k) The percentage of a lot which may be occupied, size of yards, courts and other open spaces.

(L) Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.

(m) Burial sites, as defined in s. 157.70 (1) (b).

(4c) CONSTRUCTION SITE ORDINANCE LIMITS. Except as provided in s. 101.1206 (5m), an ordinance that is enacted under sub. (4) may only include provisions that are related to construction site erosion control if those provisions are limited to sites where the construction activities do not include the construction of a building.

(4d) ANTENNA FACILITIES. The board may not enact an ordinance or adopt a resolution on or after May 6, 1994, or continue to enforce an ordinance or resolution on or after May 6, 1994, that affects satellite antennas with a diameter of 2 feet or less unless one of the following applies:

(a) The ordinance or resolution has a reasonable and clearly defined aesthetic or public health or safety objective.

(b) The ordinance or resolution does not impose an unreasonable limitation on, or prevent, the reception of satellite−delivered signals by a satellite antenna with a diameter of 2 feet or less.

(c) The ordinance or resolution does not impose costs on a user of a satellite antenna with a diameter of 2 feet or less that exceed 10% of the purchase price and installation fee of the antenna and associated equipment.

(4e) MIGRANT LABOR CAMPS. The board may not enact an ordinance or adopt a resolution that interferes with any of the following:

(a) Any repair or expansion of migrant labor camps, as defined in s. 103.90 (3). An ordinance or resolution of the county that is in effect on September 1, 2001, and that interferes with any construction, repair, or expansion of migrant labor camps is void.

(b) The construction of new migrant labor camps, as defined in s. 103.90 (3), that are built on or after September 1, 2001, on property that is adjacent to a food processing plant, as defined in s. 97.29 (1) (h), or on property owned by a producer of vegetables, as defined in s. 100.235 (1) (g), if the camp is located on or contiguous to property on which vegetables are produced or adjacent to land on which the producer resides.

(4f) AMATEUR RADIO ANTENNAS. The board may not enact an ordinance or adopt a resolution on or after April 17, 2002, or continue to enforce an ordinance or resolution on or after April 17, 2002, that affects the placement, screening, or height of antennas, or antenna support structures, that are used for amateur radio communications unless all of the following apply:

(a) The ordinance or resolution has a reasonable and clearly defined aesthetic, public health, or safety objective, and represents the minimum practical regulation that is necessary to accomplish the objectives.

(b) The ordinance or resolution reasonably accommodates amateur radio communications.

(4g) AIRPORT AREAS. In a county which has created a county zoning agency under sub. (2) (a), the county's development plan shall include the location of any part of an airport, as defined in s. 62.23 (6) (am) 1. a., that is located in the county and of any part of an airport affected area, as defined in s. 62.23 (6) (am) 1. b., that is located in the county.

(4h) PAYDAY LENDERS. (a) *Definitions.* In this subsection:

1. "Licensee" has the meaning given in s. 138.14 (1) (i).

2. "Payday lender" means a business, owned by a licensee, that makes payday loans.

3. "Payday loan" has the meaning given in s. 138.14 (1) (k).

(b) *Limits on locations of payday lenders.* Except as provided in par. (c), no payday lender may operate in a county unless it receives a permit to do so from the county zoning agency, and the county zoning agency may not issue a permit to a payday lender if any of the following applies:

1. The payday lender would be located within 1,500 feet of another payday lender.

2. The payday lender would be located within 150 feet of a single−family or 2−family residential zoning district.

(c) *Exceptions.* 1. Paragraph (b) only applies in the unincorporated parts of the county which have not adopted a zoning ordinance as authorized under s. 60.62 (1).

2. A county may regulate payday lenders by enacting a zoning ordinance that contains provisions that are more strict than those specified in par. (b).

3. If a county has enacted an ordinance regulating payday lenders that is in effect on January 1, 2011, the ordinance may continue to apply and the county may continue to enforce the ordinance, but only if the ordinance is at least as restrictive as the provisions of par. (b).

4. Notwithstanding the provisions of subd. 3., if a payday lender that is doing business on January 1, 2011, from a location that does not comply with the provisions of par. (b), the payday lender may continue to operate from that location notwithstanding the provisions of par. (b).

(4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The county may create a landmarks commission to designate historic landmarks and establish historic districts. The county may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

(5) FORMATION OF ZONING ORDINANCE; PROCEDURE. (a) When the county zoning agency has completed a draft of a proposed zoning ordinance, it shall hold a public hearing thereon, following publication in the county of a class 2 notice, under ch. 985. If the proposed ordinance has the effect of changing the allowable use

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of any property, the notice shall include either a map showing the property affected by the ordinance or a description of the property affected by the ordinance and a statement that a map may be obtained from the zoning agency. After such hearing the agency may make such revisions in the draft as it considers necessary, or it may submit the draft without revision to the board with recommendations for adoption. Proof of publication of the notice of the public hearing held by such agency shall be attached to its report to the board.

(b) When the draft of the ordinance, recommended for enactment by the zoning agency, is received by the board, it may enact the ordinance as submitted, or reject it, or return it to the agency with such recommendations as the board may see fit to make. In the event of such return subsequent procedure by the agency shall be as if the agency were acting under the original directions. When enacted, duplicate copies of the ordinance shall be submitted by the clerk by registered mail to each town clerk for consideration by the town board.

(c) A county ordinance enacted under this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance enacted by the county board, under this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town clerk. The ordinance shall become effective in the town as of the date of the filing, which filing shall be recorded by the county clerk in the clerk's office, reported to the town board and the county board, and printed in the proceedings of the county board. The ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.62.

(d) The board may by a single ordinance repeal an existing county zoning ordinance and reenact a comprehensive revision thereto in accordance with this section. "Comprehensive revision", in this paragraph, means a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts. The comprehensive revision may provide that the existing ordinance shall remain in effect in a town for a period of up to one year or until the comprehensive revision is approved by the town board, whichever period is shorter. If the town board fails to approve the comprehensive revision within a year neither the existing ordinance nor the comprehensive revision shall be in force in that town. Any repeal and reenactment prior to November 12, 1965, which would be valid under this paragraph is hereby validated.

(e) The board may amend an ordinance or change the district boundaries. The procedure for such amendments or changes is as follows:

1. A petition for amendment of a county zoning ordinance may be made by a property owner in the area to be affected by the amendment, by the town board of any town in which the ordinance is in effect; by any member of the board or by the agency designated by the board to consider county zoning matters as provided in sub. (2) (a). The petition shall be filed with the clerk who shall immediately refer it to the county zoning agency for its consideration, report and recommendations. Immediate notice of the petition shall be sent to the county supervisor of any affected district. A report of all petitions referred under this paragraph shall be made to the county board at its next succeeding meeting.

2. Upon receipt of the petition by the agency it shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in the county of a class 2 notice, under ch. 985. If an amendment to an ordinance, as described in the petition, has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the zoning agency. A copy of the notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing. If the petition is for any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or operator of the airport bordered by the airport affected area.

3. Except as provided under subd. 3m., if a town affected by the proposed amendment disapproves of the proposed amendment, the town board of the town may file a certified copy of the resolution adopted by the board disapproving of the petition with the agency before, at or within 10 days after the public hearing. If the town board of the town affected in the case of an ordinance relating to the location of boundaries of districts files such a resolution, or the town boards of a majority of the towns affected in the case of all other amendatory ordinances file such resolutions, the agency may not recommend approval of the petition without change, but may only recommend approval with change or recommend disapproval.

3m. A town may extend its time for disapproving any proposed amendment under subd. 3. by 20 days if the town board adopts a resolution providing for the extension and files a certified copy of the resolution with the clerk of the county in which the town is located. The 20−day extension shall remain in effect until the town board adopts a resolution rescinding the 20−day extension and files a certified copy of the resolution with the clerk of the county in which the town is located.

4. As soon as possible after the public hearing, the agency shall act, subject to subd. 3., on the petition either approving, modifying and approving, or disapproving it. If its action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit the proposed ordinance directly to the board with its recommendations. If the agency after its public hearing recommends denial of the petition it shall report its recommendation directly to the board with its reasons for the action. Proof of publication of the notice of the public hearing held by the agency and proof of the giving of notice to the town clerk of the hearing shall be attached to either report. Notification of town board resolutions filed under subd. 3. shall be attached to either such report.

5. Upon receipt of the agency report the board may enact the ordinance as drafted by the zoning agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the agency in which case it shall rerefer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the ordinance back to the board which may then enact or reject the ordinance.

5g. If a protest against a proposed amendment is filed with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on the ordinance may be deferred until the zoning agency has had a reasonable opportunity to ascertain and report to the board as to the authenticity of the ownership statements. Each signer shall state the amount of area or frontage owned by that signer and shall include a description of the lands owned by that signer. If the statements are found to be true, the ordinance may not be enacted except by the affirmative vote of three−fourths of the members of the board present and voting. If the statements are found to be untrue to the extent that the required frontage or area ownership is not present the protest may be disregarded.

5m. If a proposed amendment under this paragraph would make any change in an airport affected area, as defined under s. 62.23 (6) (am) 1. b., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, no ordinance which

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makes such a change may be enacted except by the affirmative vote of two−thirds of the members of the board present and voting.

6. If an amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved prior to, at or within 10 days under subd. 3. or 30 days under subd. 3m., whichever is applicable, after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by the ordinance of the effective date and also insert the effective date in the proceedings of the county board. Any other amendatory ordinance when enacted shall within 7 days thereafter be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by the ordinance are located. If after 40 days from the date of the enactment a majority of the towns have not filed certified copies of resolutions disapproving the amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall be in effect in all of the towns affected by the ordinance. Any ordinance relating to the location of boundaries of districts shall within 7 days after enactment by the county board be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by the change are located and shall become effective 40 days after enactment of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of the ordinance with the county clerk. If such town board approves the ordinance, the ordinance shall become effective upon the filing of the resolution of the town board approving the ordinance with the county clerk. The clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.

7. When any lands previously under the jurisdiction of a county zoning ordinance have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning ordinance have ceased to be effective as provided in sub. (7), the board may, on the recommendation of its zoning agency, enact amendatory ordinances that remove or delete the annexed lands from the official zoning map or written descriptions without following any of the procedures provided in subds. 1. to 6., and such amendatory ordinances shall become effective upon enactment and publication. A copy of the ordinance shall be forwarded by the clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede s. 66.1031.

(f) The county zoning agency shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the county zoning agency completes a draft of a proposed zoning ordinance under par. (a) or if the agency receives a petition under par. (e) 2., the agency shall send a notice, which contains a copy of the proposed ordinance or petition, to each person on the list whose property, the allowable use of which, may be affected by the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the agency. The agency may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the agency fails to send the notice that is required by this paragraph.

(6) OPTIONAL ADDITIONAL PROCEDURES. Nothing in this section shall be construed to prohibit the zoning agency, the board or a town board from adopting any procedures in addition to those prescribed in this section and not in conflict therewith. Such procedures may, but are not required to, provide for public hearings before the county board. The public hearing provided by sub. (5) (a) and (e) 2. is deemed to be sufficient for the requirements of due process whether or not the county board holds a further public hearing thereafter.

(7) CONTINUED EFFECT OF ORDINANCE. Whenever an area which has been subject to a county zoning ordinance petitions to become part of a city or village, the regulations imposed by the county zoning ordinance shall continue in effect, without change, and shall be enforced by the city or village until the regulations have been changed by official action of the governing body of the city or village, except that in the event an ordinance of annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(8) EXCHANGE OF TAX DEEDED LANDS. When a county acquires lands by tax deeds, the board may exchange such lands for other lands in the county for the purpose of promoting the regulation and restriction of agricultural and forestry lands and may exchange such lands for other lands for the purpose of creating a park or recreational area.

(9) ZONING OF COUNTY−OWNED LANDS. (a) The county board may by ordinance zone and rezone lands owned by the county without necessity of securing the approval of the town boards of the towns wherein the lands are situated and without following the procedure outlined in sub. (5), provided that the county board shall give written notice to the town board of the town wherein the lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of the hearing by posting in 5 public places in the town.

(b) This subsection does not apply to land that is subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under s. 289.01.

(10) NONCONFORMING USES. (ab) In this subsection "nonconforming use" means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.

(am) An ordinance enacted under this section may not prohibit the continuance of the lawful use of any building, premises, structure, or fixture for any trade or industry for which such building, premises, structure, or fixture is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50 percent of its assessed value of any existing building, premises, structure, or fixture for the purpose of carrying on any prohibited trade or new industry within the district where such buildings, premises, structures, or fixtures are located, may be prohibited. The continuance of the nonconforming use of a temporary structure may be prohibited. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance.

(b) 1. Except as provided under subd. 2., the board shall designate an officer to administer the zoning ordinance, who may be the secretary of the zoning agency, a building inspector appointed under s. 59.698 or other appropriate person.

2. Notwithstanding subd. 1. and s. 59.698, in a county with a county zoning agency and a county executive or county administrator, the county executive or county administrator shall appoint and supervise the head of the county zoning agency and the county building inspector, in separate or combined positions. The appointment is subject to confirmation by the board unless the board, by ordinance, elects to waive confirmation or unless the

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appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. The board, by resolution or ordinance, may provide that, notwithstanding s. 17.10 (6), the head of the county zoning agency and the county building inspector, whether serving in a separate or combined position, if appointed under this subdivision, may not be removed from his or her position except for cause.

3. The officer designated under subd. 1. or 2. shall cause a record to be made immediately after the enactment of an ordinance or amendment thereto, or change in district boundary, approved by the town board, of all lands, premises and buildings in the town used for purposes not conforming to the regulations applicable to the district in which they are situated. The record shall include the legal description of the lands, the nature and extent of the uses therein, and the names and addresses of the owner or occupant or both. Promptly on its completion the record shall be published in the county as a class 1 notice, under ch. 985. The record, as corrected, shall be on file with the register of deeds 60 days after the last publication and shall be prima facie evidence of the extent and number of nonconforming uses existing on the effective date of the ordinance in the town. Corrections before the filing of the record with the register of deeds may be made on the filing of sworn proof in writing, satisfactory to the officer administering the zoning ordinance.

(c) The board shall prescribe a procedure for the annual listing of nonconforming uses, discontinued or created, since the previous listing and for all other nonconforming uses. Discontinued and newly created nonconforming uses shall be recorded with the register of deeds immediately after the annual listing.

(d) Paragraphs (b) and (c) shall not apply to counties issuing building permits or occupancy permits as a means of enforcing the zoning ordinance or to counties which have provided other procedures for this purpose.

(e) 1. In this paragraph, "amortization ordinance" means an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used as described under par. (am), but only for a specified period of time, after which the lawful use of such building, premises, structure, or fixture must be discontinued without the payment of just compensation.

2. Subject to par. (am), an ordinance enacted under this section may not require the removal of a nonconforming building, premises, structure, or fixture by an amortization ordinance.

(10e) REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES. (a) In this subsection:

1. "Development regulations" means the part of a zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

2. "Nonconforming structure" means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

(b) An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

(10m) RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this section may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:

1. The nonconforming structure was damaged or destroyed on or after March 2, 2006.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(b) An ordinance enacted under this section to which par. (a) applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

(11) PROCEDURE FOR ENFORCEMENT OF COUNTY ZONING ORDINANCE. The board shall prescribe rules, regulations and administrative procedures, and provide such administrative personnel as it considers necessary for the enforcement of this section, and all ordinances enacted in pursuance thereof. The rules and regulations and the districts, setback building lines and regulations authorized by this section, shall be prescribed by ordinances which shall be declared to be for the purpose of promoting the public health, safety and general welfare. The ordinances shall be enforced by appropriate forfeitures. Compliance with such ordinances may also be enforced by injunctional order at the suit of the county or an owner of real estate within the district affected by the regulation.

(12) PRIOR ORDINANCES EFFECTIVE. Nothing in this section shall invalidate any county zoning ordinance enacted under statutes in effect before July 20, 1951.

(13) CONSTRUCTION OF SECTION. The powers granted in this section shall be liberally construed in favor of the county exercising them, and this section shall not be construed to limit or repeal any powers now possessed by a county.

(14) LIMITATION OF ACTIONS. A landowner, occupant or other person who is affected by a county zoning ordinance or amendment, who claims that the ordinance or amendment is invalid because procedures prescribed by the statutes or the ordinance were not followed, shall commence an action within the time provided by s. 893.73 (1), except this subsection and s. 893.73 (1) do not apply unless there has been at least one publication of a notice of a zoning hearing in a local newspaper of general circulation and unless there has been held a public hearing on the ordinance or amendment at the time and place specified in the notice.

(15) COMMUNITY AND OTHER LIVING ARRANGEMENTS. For purposes of this section, the location of a community living arrangement for adults, as defined in s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743 (1), a foster home, as defined in s. 48.02 (6), or an adult family home, as defined in s. 50.01 (1), in any municipality, shall be subject to the following criteria:

(a) No community living arrangement may be established after March 28, 1978, within 2,500 feet, or any lesser distance established by an ordinance of a municipality, of any other such facility. Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the municipality. Two community living arrangements may be adjacent if the municipality authorizes that arrangement and if both facilities comprise essential components of a single program.

(b) 1. Community living arrangements shall be permitted in each municipality without restriction as to the number of facilities, so long as the total capacity of the community living arrangements does not exceed 25 or 1% of the municipality's population, whichever is greater. When the capacity of the community living arrangements in the municipality reaches that total, the municipality may prohibit additional community living arrangements from locating in the municipality. In any municipality, when the capacity of community living arrangements in an aldermanic district in a city or a ward in a village or town reaches 25 or 1% of the population, whichever is greater, of the district or ward, the municipality may prohibit additional community living arrangements from being located within the district or ward. Agents of a facility may apply for an exception to the requirements of this subdivision, and such exceptions may be granted at the discretion of the municipality.

2. No community living arrangement may be established after January 1, 1995, within 2,500 feet, or any lesser distance established by an ordinance of the municipality, of any other such facil-

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ity. Agents of a facility may apply for an exception to this requirement, and exceptions may be granted at the discretion of the municipality. Two community living arrangements may be adjacent if the municipality authorizes that arrangement and if both facilities comprise essential components of a single program.

(bm) A foster home that is the primary domicile of a foster parent and that is licensed under s. 48.62 or an adult family home certified under s. 50.032 (1m) (b) shall be a permitted use in all residential areas and is not subject to pars. (a) and (b) except that foster homes operated by corporations, child welfare agencies, religious associations, as defined in s. 157.061 (15), associations, or public agencies shall be subject to pars. (a) and (b).

(br) 1. No adult family home described in s. 50.01 (1) (b) may be established within 2,500 feet, or any lesser distance established by an ordinance of the municipality, of any other adult family home described in s. 50.01 (1) (b) or any community living arrangement. An agent of an adult family home described in s. 50.01 (1) (b) may apply for an exception to this requirement, and the exception may be granted at the discretion of the municipality.

2. An adult family home described in s. 50.01 (1) (b) that meets the criteria specified in subd. 1. and that is licensed under s. 50.033 (1m) (b) is permitted in the municipality without restriction as to the number of adult family homes and may locate in any residential zone, without being required to obtain special zoning permission except as provided in par. (i).

(c) If the community living arrangement has capacity for 8 or fewer persons being served by the program, meets the criteria listed in pars. (a) and (b), and is licensed, operated, or permitted under the authority of the department of health services or the department of children and families, that facility is entitled to locate in any residential zone, without being required to obtain special zoning permission except as provided in par. (i).

(d) If the community living arrangement has capacity for 9 to 15 persons being served by the program, meets the criteria listed in pars. (a) and (b), and is licensed, or operated, or permitted under the authority of the department of health services or the department of children and families, the facility is entitled to locate in any residential area except areas zoned exclusively for single−family or 2−family residences, except as provided in par. (i), but is entitled to apply for special zoning permission to locate in those areas. The municipality may grant special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(e) If the community living arrangement has capacity for serving 16 or more persons, meets the criteria listed in pars. (a) and (b), and is licensed, operated, or permitted under the authority of the department of health services or the department of children and families, that facility is entitled to apply for special zoning permission to locate in areas zoned for residential use. The municipality may grant special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(f) The department of health services shall designate a single subunit within that department to maintain appropriate records indicating the location and the capacity of each community living arrangement for adults, and the information shall be available to the public. The department of children and families shall designate a single subunit within that department to maintain appropriate records indicating the location and the capacity of each community living arrangement for children, and the information shall be available to the public.

(g) In this subsection, "special zoning permission" includes, but is not limited to, the following: special exception, special permit, conditional use, zoning variance, conditional permit and words of similar intent.

(h) The attorney general shall take action, upon the request of the department of health services or the department of children and families, to enforce compliance with this subsection.

(i) Not less than 11 months nor more than 13 months after the first licensure of an adult family home under s. 50.033 or of a community living arrangement and every year thereafter, the common council or village or town board of a municipality in which a licensed adult family home or a community living arrangement is located may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the municipality. The determination shall be made according to the procedures provided under par. (j). If the common council or village or town board determines that the existence in the municipality of a licensed adult family home or a community living arrangement poses a threat to the health, safety or welfare of the residents of the municipality, the common council or village or town board may order the adult family home or community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the licensed adult family home or community living arrangement. The licensed adult family home or community living arrangement shall cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.

(im) The fact that an individual with acquired immunodeficiency syndrome or a positive HIV test, as defined in s. 252.01 (2m), resides in a community living arrangement with a capacity for 8 or fewer persons may not be used under par. (i) to assert or prove that the existence of the community living arrangement in the municipality poses a threat to the health, safety or welfare of the residents of the municipality.

(j) A determination under par. (i) shall be made after a hearing before the common council or village or town board. The municipality shall provide at least 30 days' notice to the licensed adult family home or the community living arrangement that such a hearing will be held. At the hearing, the licensed adult family home or the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross−examine other witnesses called. The common council or village or town board may call witnesses and may issue subpoenas. All witnesses shall be sworn by the common council, town board or village board. The common council or village or town board shall take notes of the testimony and shall mark and preserve all exhibits. The common council or village or town board may, and upon request of the licensed adult family home or the community living arrangement shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the municipality. Within 20 days after the hearing, the common council or village or town board shall mail or deliver to the licensed adult family home or the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; 2011 a. 170; s. 35.17 correction in (10) (e) 1.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

A zoning ordinance may distinguish between foster homes and therapeutic homes for the care of children. Browndale International v. Board of Adjustment, 60 Wis. 2d 182, 208 N.W.2d 121 (1973).

A plaintiff is not required to exhaust administrative remedies when his or her claim is that a zoning ordinance is unconstitutional, but may ask for a declaratory judgment. An ordinance classifying land as agricultural when it is unfit for agriculture is unreasonable and amounts to a taking of the land without compensation. Kmiec v. Town of Spider Lake, 60 Wis. 2d 640, 211 N.W.2d 471 (1973).

A property owner does not acquire a "vested interest" in the continuance of a nonconforming use, and such status will be denied if the specific use was casual and occasional, or if the use was merely accessory or incidental to the principal use. Walworth County v. Hartwell, 62 Wis. 2d 57, 214 N.W.2d 288 (1974).

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Under s. 59.97 [now s. 59.69] (5) (c), a county zoning ordinance becomes effective in a town upon approval of the text by the town board and the filing of the approving resolution with the town clerk and not when it merely adopts a zoning map. Racine County v. Alby, 65 Wis. 2d 574, 223 N.W.2d 438 (1974).

Zoning ordinances, being in derogation of common law, are to be construed in favor of the free use of private property. Cohen v. Dane County Board of Adjustment, 74 Wis. 2d 87, 246 N.W.2d 112 (1976).

A municipality is not required to show irreparable injury before obtaining an injunction under s. 59.97 [now s. 59.69] (11). County of Columbia v. Bylewski, 94 Wis. 2d 153, 288 N.W.2d 129 (1980).

Under s. 59.97 [now s. 59.69] (9) a county may rezone county−owned land contrary to town zoning laws and without town approval. Town of Ringle v. County of Marathon, 104 Wis. 2d 297, 311 N.W.2d 595 (1981).

The primary authority to enact, repeal, and amend a zoning ordinance is at the county, not town, level. The county is responsible for any liabilities that may arise from adoption. No liability arises to a town from the town's approval of a county ordinance enacted following the repeal of a prior effective ordinance. M & I Marshall Bank v. Town of Somers, 141 Wis. 2d 271, 414 N.W.2d 824 (1987).

When it is claimed that zoning resulted in a taking of land without compensation, there is no compensable taking unless the regulation resulted in a diminution of value so great that it amounts to a confiscation. M & I Marshall Bank v. Town of Somers, 141 Wis. 2d 271, 414 N.W.2d 824 (1987).

For purposes of determining a nonconforming use for a quarry site, all land that contains the mineral and is integral to the operation is included, although a particular portion may not be under actual excavation. Smart v. Dane County Board of Adjustment, 177 Wis. 2d 445, 501 N.W.2d 782 (1993).

The power to regulate nonconforming uses includes the power to limit the extension or expansion of the use if it results in a change in the character of the use. Waukesha County v. Pewaukee Marina, Inc. 187 Wis. 2d 18, 522 N.W.2d 536 (Ct. App. 1994).

When a zoning ordinance is changed, a builder may have a vested right, enforceable by mandamus, to build under the previously existing ordinance if the builder has submitted, prior to the change, an application for a permit in strict and complete conformance with the ordinance then in effect. Lake Bluff Housing Partners v. South Milwaukee, 197 Wis. 2d 157, 540 N.W.2d 189 (1995), 94−1155.

Unless the zoning ordinance provides otherwise, a court should measure the sufficiency of a conditional use application at the time that notice of the final public hearing is first given. Weber v. Town of Saukville, 209 Wis. 2d 214, 562 N.W.2d 412 (1997), 94−2336.

A permit issued for a use prohibited by a zoning ordinance is illegal per se. A conditional use permit only allows a property owner to put the property to a use that is expressly permitted as long as conditions have been met. A use begun under an illegal permit cannot be a prior nonconforming use. Foresight, Inc. v. Babl, 211 Wis. 2d 599, 565 N.W.2d 279 (Ct. App. 1997), 96−1964.

A nonconforming use, regardless of its duration, may be prohibited or restricted if it also constitutes a public nuisance or is harmful to public health, safety, or welfare. Town of Delafield v. Sharpley, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997), 96−2458.

A county executive's power to veto ordinances and resolutions extends to rezoning petitions that are in essence proposed amendments to the county zoning ordinance. The veto is subject to limited judicial review. Schmeling v. Phelps, 212 Wis. 2d 898, 569 N.W.2d 784 (Ct. App. 1997), 96−2661.

Sub. (11) does not eliminate the traditional equitable power of a circuit court. It is within the power of the court to deny a county's request for injunctive relief when a zoning ordinance violation is proven. The court should take evidence and weigh equitable considerations including that of the state's citizens. Forest County v. Goode, 219 Wis. 2d 654, 579 N.W.2d 715 (1998), 96−3592.

Construction in violation of zoning regulations, even when authorized by a voluntarily issued permit, is unlawful. However, in rare cases, there may be compelling equitable reasons when a requested order of abatement should not be issued. Lake Bluff Housing Partners v. City of South Milwaukee, 222 Wis. 2d 222, 588 N.W.2d 45 (Ct. App. 1998), 97−1339.

A conditional use permit did not impose a condition that the conditional use not be conducted outside the permitted area. It was improper to revoke the permit based on that use. An enforcement action in relation to the parcel where the use was not permitted was an appropriate remedy. Bettendorf v. St. Croix County Board of Adjustment, 224 Wis. 2d 735, 591 N.W.2d 916 (Ct. App.1999), 98−2327.

Once a municipality has shown an illegal change in use to a nonconforming use, the municipality is entitled to terminate the entire nonconforming use. The decision is not within the discretion of the court reviewing the order. Village of Menomonee Falls v. Preuss, 225 Wis. 2d 746, 593 N.W.2d 496 (Ct. App. 1999), 98−0384.

To violate substantive due process guarantees, a zoning decision must involve more than simple errors in law or an improper exercise of discretion; it must shock the conscience. The city's violation of a purported agreement regarding zoning was not a violation. A court cannot compel a political body to adhere to an agreement regrading zoning if that body has legitimate reasons for breaching. Eternalist Foundation, Inc. v. City of Platteville, 225 Wis. 2d 759, 593 N.W.2d 84 (Ct. App. 1999), 98−1944.

While the DNR has the authority to regulate the operation of game farms, its authority does not negate the power to enforce zoning ordinances against game farms. Both are applicable. Willow Creek Ranch v. Town of Shelby, 2000 WI 56, 235 Wis. 2d 409, 611 N.W.2d 693, 97−2075.

A change in method or quantity of production of a nonconforming use is not a new use when the original character of the use remains the same. The incorporation of modern technology into the business of the operator of a nonconforming use is allowed. Racine County v. Cape, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01−0740.

Financial investment is a factor to consider when determining whether a zoning violation must be abated, but it does not outweigh all other equitable factors to be considered. Lake Bluff Housing Partners v. City of South Milwaukee, 2001 WI App 150, 246 Wis. 2d 785, 632 N.W.2d 485, 00−1958.

While a mere increase in the volume, intensity, or frequency of a nonconforming use is not sufficient to invalidate it, if the increase in volume, intensity, or frequency of use is coupled with some identifiable change or extension, the enlargement will invalidate a legal nonconforming use. A proposed elimination of cabins and the expansion from 21 to 44 RV sites was an identifiable change in a campground and extension of the use for which it had been licensed. Lessard v. Burnett County Board of Adjustment, 2002 WI App 186, 256 Wis. 2d 821, 649 N.W.2d 728, 01−2986.

To find discontinuance of a nonconforming use, proof of intent to abandon the nonconforming use is not required. Lessard v. Burnett County Board of Adjustment, 2002 WI App 186, 256 Wis. 2d 821, 649 N.W.2d 728, 01−2986.

A conditional use permit (CUP) is not a contract. A CUP is issued under an ordinance. A municipality has discretion to issue a permit and the right to seek enforcement of it. Noncompliance with the terms of a CUP is tantamount to noncompliance with the ordinance. Town of Cedarburg v. Shewczyk, 2003 WI App 10, 259 Wis. 2d 818, 656 N.W.2d 491, 02−0902.

Spot zoning grants privileges to a single lot or area that are not granted or extended to other land in the same use district. Spot zoning is not per se illegal but, absent any showing that a refusal to rezone will in effect confiscate the property by depriving all beneficial use thereof should only be indulged in when it is in the public interest and not solely for the benefit of the property owner who requests the rezoning. Step Now Citizens Group v. Town of Utica, 2003 WI App 109, 264 Wis. 2d 662, 663 N.W.2d 833, 02−2760.

The failure to comply with an ordinance's notice requirements, when all statutory notice requirements were met, did not defeat the purpose of the ordinance's notice provision. Step Now Citizens Group v. Town of Utica, 2003 WI App 109, 264 Wis. 2d 662, 663 N.W.2d 833, 02−2760.

Under *Goode* a landowner may contest whether he or she is in violation of the zoning ordinance and, if so, can further contest on equitable grounds the enforcement of a sanction for the violation. Town of Delafield v. Winkelman, 2004 WI 17, 269 Wis. 2d 109, 675 N.W.2d 470, 02−0979.

A municipality cannot be estopped from seeking to enforce a zoning ordinance, but a circuit court has authority to exercise its discretion in deciding whether to grant enforcement. Upon the determination of an ordinance violation, the proper procedure for a circuit court is to grant an injunction enforcing the ordinance, except when it is presented with compelling equitable reasons to deny it. Village of Hobart v. Brown County, 2005 WI 78, 281 Wis. 2d 628, 698 N.W.2d 83, 03−1907.

An existing conditional use permit (CUP) is not a vested property right and the revocation of the permit is not an unconstitutional taking. A CUP merely represents a species of zoning designations. Because landowners have no property interest in zoning designations applicable to their properties, a CUP is not property and no taking occurs by virtue of a revocation. Rainbow Springs Golf Company, Inc. v. Town of Mukwonago, 2005 WI App 163, 284 Wis. 2d 519, 702 N.W.2d 40, 04−1771.

A municipality may not effect a zoning change by simply printing a new map marked "official map." Village of Hobart v. Brown County, 2007 WI App 250, 306 Wis. 2d 263, 742 N.W.2d 907, 07−0891.

Zoning that restricts land so that the landowner has no permitted use as of right must bear a substantial relation to the health, safety, morals, or general welfare of the public in order to withstand constitutional scrutiny. Town of Rhine v. Bizzell, 2008 WI 76, 311 Wis. 2d 1, 751 N.W.2d 780, 06−0450.

Having a vested interest in the continuance of a use is fundamental to protection of a nonconforming use. There can be no vested interest if the use is not actually and actively occurring at the time the ordinance amendment takes effect. However, it does not follow that any use that is actually occurring on the effective date of the amendment is sufficient to give the owner a vested interest in its continued use. To have a vested interest in the continuation of a use requires that if the continuance of the use were to be prohibited, substantial rights would be adversely affected, which will ordinarily mean that there has been a substantial investment in the use. The longevity of a use and the degree of development of a use are subsumed in an analysis of what investments an owner has made, rather than separate factors to be considered. Town of Cross Plains v. Kitt's "Field of Dreams" Korner, Inc. 2009 WI App 142, 321 Wis. 2d 671, 775 N.W.2d 283, 08−0546.

There must be reasonable reliance on the existing law in order to acquire a vested interest in a nonconforming use. Reasonable reliance on the existing law was not present when the owners knew the existing law was soon to change at the time the use was begun. Town of Cross Plains v. Kitt's "Field of Dreams" Korner, Inc. 2009 WI App 142, 321 Wis. 2d 671, 775 N.W.2d 283, 08−0546.

The town board's recommendation on a form that was signed by the town board and clerk and dated but not certified as a resolution by the town clerk did not effectively satisfy the statutory elements of a certified copy of a resolution under sub. (5) (e) 3. Although the legislature intended the town board to serve as a political check on the otherwise unfettered discretion of the county board in wielding its legislative zoning power, it prescribed a specific procedure by which towns perform that function. Johnson v. Washburn County, 2010 WI App 50, 324 Wis. 2d 366, 781 N.W.2d 706, 09−0371.

When a village eliminated the selling of cars as a conditional use in general business districts a previously granted conditional use permit (CUP) was voided, the property owner was left with a legal nonconforming use to sell cars, and the village could not enforce the strictures of the CUP against the property owner. Therefore, the owner could continue to sell cars in accordance with the historical use of the property, but if the use were to go beyond the historical use of the property, the village could seek to eliminate the property's status as a legal nonconforming use. Hussein v. Village of Germantown Board of Zoning Appeals, 2011 WI App 96, 334 Wis. 2d 764, 800 N.W.2d 551, 10−2178.

A county has the authority under both subs. (1) and (4) and s. 59.70 (22) to enact ordinances regulating billboards and other similar structures. When a town approves a county zoning ordinance under sub. (5) (c) that includes a billboard ordinance, the town's billboard ordinance adopted under s. 60.23 (29) does not preempt a county's authority to regulate billboards in that town. Adams Outdoor Advertising, L.P. v. County of Dane, 2012 WI App 28, 340 Wis. 2d 175, 811 N.W.2d 421, 10−0178.

The fact that a county is within a regional planning commission does not affect county zoning power. 61 Atty. Gen. 220.

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The authority of a county to regulate mobile homes under this section and other zoning questions are discussed. 62 Atty. Gen. 292.

Zoning ordinances utilizing definitions of "family" to restrict the number of unrelated persons who may live in a single family dwelling are of questionable constitutionality. 63 Atty. Gen. 34.

Under s. 59.97 [now s. 59.69] (5) (c), town board approval of a comprehensive county zoning ordinance must extend to the ordinance in its entirety and may not extend only to parts of the ordinance. 63 Atty. Gen. 199.

A county that has enacted a countywide comprehensive zoning ordinance under this section may not authorize the withdrawal of town approval of the ordinance or exclude any town from the ordinance. 67 Atty. Gen. 197.

The effect of s. 91.73 (4) on procedures to amend county comprehensive zoning ordinances under s. 59.97 [now s. 59.69] (5) (e) is discussed. 67 Atty. Gen. 290.

The office of county planning and zoning commission member is incompatible with the position of executive director of the county housing authority. 81 Atty. Gen. 90.

An amendment to a county zoning ordinance adding a new zoning district does not necessarily constitute a comprehensive revision requiring town board approval of the entire ordinance under s. 59.97 [now s. 59.69] (5) (d). 81 Atty. Gen. 98.

A county's power under sub. (4) is broad enough to encompass regulation of the storage of junked, unused, unlicensed, or abandoned motor vehicles on private property. Because sub. (10) protects "trade or industry," a county zoning ordinance could prohibit an existing non−commercial, nonconforming use or a use that is "casual and occasional." OAG 2−00.

Architectural Appearances Ordinances and the 1st Amendment. Rice. 76 MLR 439 (1992).

59.691 Required notice on certain approvals. (1) In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a county that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A county is not required to give the notice under par. (a) at the time that it issues a building permit if the county issues the building permit on a standard building permit form prescribed by the department of safety and professional services.

2. A county is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A county in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

History: 2009 a. 373; 2011 a. 32.

59.692 Zoning of shorelands on navigable waters. (1) In this section:

(a) "Department" means the department of natural resources.

(b) "Shorelands" means the area within the following distances from the ordinary high−water mark of navigable waters, as defined under s. 281.31 (2) (d):

1. One thousand feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high−water mark of the lake.

2. Three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(bn) "Shoreland setback area" means an area in a shoreland that is within a certain distance of the ordinary high−water mark in which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under this section.

(c) "Shoreland zoning standard" means a standard for ordinances enacted under this section that is promulgated as a rule by the department.

(d) "Special zoning permission" has the meaning given in s. 59.69 (15) (g).

(1m) To effect the purposes of s. 281.31 and to promote the public health, safety and general welfare, each county shall zone by ordinance all shorelands in its unincorporated area. This ordinance may be enacted separately from ordinances enacted under s. 59.69.

(1r) An ordinance enacted under this section may not prohibit the maintenance of stairs, platforms or decks that were constructed before August 15, 1991, and that are located in any of the following shorelands:

(a) The shoreland of Lake Wissota in Chippewa County.

(b) The shorelands of Lake Holcombe in Chippewa and Rusk counties.

(1s) (a) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this section may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location and use that it had immediately before the damage or destruction occurred or impose any limits on the costs of the repair, reconstruction or improvement if all of the following apply:

1. The nonconforming structure was damaged or destroyed after October 14, 1997.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(b) An ordinance enacted under this section to which par. (a) applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

(1t) A county or the department may not commence an enforcement action against a person who owns a building or structure that is in violation of a shoreland zoning standard or an ordinance enacted under this section if the building or structure has been in place for more than 10 years.

(1v) A county shall grant special zoning permission for the construction or placement of a structure on property in a shoreland setback area if all of the following apply:

(a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high−water mark.

(b) The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.

(c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

(d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

(2) (a) Except as otherwise specified, all provisions of s. 59.69 apply to ordinances and their amendments enacted under this section whether or not enacted separately from ordinances enacted under s. 59.69, but the ordinances and amendments shall not require approval or be subject to disapproval by any town or town board.

(b) If an existing town ordinance relating to shorelands is more restrictive than an ordinance later enacted under this section affecting the same shorelands, it continues as a town ordinance in all respects to the extent of the greater restrictions, but not otherwise.

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(c) Ordinances that are enacted under this section shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable to the enacting counties, so far as practicable.

(2m) (a) In this subsection:

1. "Development regulations" means the part of a shoreland zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

2. "Nonconforming structure" means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current shoreland zoning ordinance.

(b) A county may not enact, and a county, city, or village may not enforce, a provision in a county shoreland zoning ordinance that does any of the following:

1. Regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming structure if that provision is more restrictive than the shoreland zoning standards for nonconforming structures promulgated by the department under this section.

2. Regulates the construction of a structure or building on a substandard lot if that provision is more restrictive than the shoreland zoning standards for substandard lots promulgated by the department under this section.

(c) A city or village annexed as provided under sub. (7) (a) or incorporated as provided under sub. (7) (ad) may not enact or enforce a provision in a city or village shoreland zoning ordinance that does any of the following:

1. Regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming structure if that provision is more restrictive than the shoreland zoning standards for nonconforming structures promulgated by the department under this section.

2. Regulates the construction of a structure or building on a substandard lot if that provision is more restrictive than the shoreland zoning standards for substandard lots promulgated by the department by rule under this section.

(3) All powers granted to a county under s. 236.45 may be exercised by it with respect to shorelands, but the county must have or provide a planning agency as defined in s. 236.02 (3).

(4) (a) Section 66.0301 applies to this section, except that for the purposes of this section an agreement under s. 66.0301 shall be effected by ordinance. If the municipalities as defined in s. 281.31 are served by a regional planning commission under s. 66.0309, the commission may, with its consent, be empowered by the ordinance of agreement to administer each ordinance enacted hereunder throughout its enacting municipality, whether or not the area otherwise served by the commission includes all of that municipality.

(b) Variances and appeals regarding shorelands within a county are for the board of adjustment for that county under s. 59.694, and the procedures of that section apply.

(5) An ordinance enacted under this section supersedes all provisions of an ordinance enacted under s. 59.69 that relate to shorelands.

(6) If a county does not enact an ordinance by January 1, 1968, or if the department, after notice and hearing, determines that a county has enacted an ordinance that fails to meet the shoreland zoning standards, the department shall adopt such an ordinance for the county. As far as possible, s. 87.30 shall apply to this subsection.

(6m) For an amendment to an ordinance enacted under this section that affects an activity that meets all of the requirements under s. 281.165 (2), (3) (a), or (4) (a), the department may not proceed under sub. (6) or (7) (b) or (c), or otherwise review the amendment, to determine whether the ordinance, as amended, fails to meet the shoreland zoning standards.

(7) (a) Provisions of a county shoreland zoning ordinance that are enacted under this section that were applicable, prior to annexation, to any shoreland area annexed by a city or village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing city or village unless any of the following occurs:

1. The city or village enacts, administers and enforces a zoning ordinance, for the annexed area, that complies with the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

2. After annexation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the annexed area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance as it applies to the annexed area.

3. After annexation, the city or village requests that the county shoreland zoning ordinance, as it applies to the annexed area, continues to be in effect and enforced by the county and the county agrees to enforce the ordinance.

(ad) Provisions of a county shoreland zoning ordinance that are enacted under this section that were applicable, prior to incorporation, to any shoreland area that is part of a town that incorporates as a city or village under s. 66.0203, 66.0211, 66.0213 or 66.0215 after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated city or village unless any of the following occurs:

1. The city or village enacts, administers and enforces a zoning ordinance that complies with the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

2. After incorporation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the incorporated area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance.

3. After incorporation, the city or village requests that the county shoreland zoning ordinance, as it applies to the incorporated area, continues to be in effect and enforced by the county and the county agrees to enforce the ordinance.

(ag) For purposes of pars. (a) 2. and (ad) 2., the types of provisions that may be deleted or modified are those that establish specified land uses or requirements that are associated with those uses and that are not necessary to effect the purposes of s. 281.31 (1) that relate to the protection of navigable waters.

(ar) The county may not enact an amendment under par. (a) 2. or (ad) 2. that is less restrictive than the shoreland zoning standards.

(aw) Any amendment enacted under par. (a) 2. shall apply only to the annexed area of the city or village requesting the amendment.

(b) If the department determines that a zoning ordinance enacted by a city or village under par. (a) 1. or (ad) 1. does not meet the shoreland zoning standards or is not as restrictive as the county shoreland zoning ordinance, the department shall, after providing notice and conducting a hearing on the matter, either issue an order declaring the city or village ordinance void and reinstating the applicability of the county shoreland zoning ordinance to the annexed or incorporated area or issue an order declaring the city or village ordinance void and adopting an ordinance for the annexed or incorporated area for the city or village that does meet the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

(c) If the department determines that an amendment enacted by a county under par. (a) 2. or (ad) 2. does not meet the shoreland zoning standards, the department, after providing notice and conducting a hearing on the matter, shall issue an order declaring the amendment void and shall reinstate the applicability of the county

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shoreland zoning ordinance, that was in effect before amending the ordinance, to the annexed or incorporated area.

(d) As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

(e) Paragraphs (a) and (ad) do not apply to wetlands in shorelands that are governed by the provisions in s. 61.351 or 62.231.

History: 1979 c. 233; 1981 c. 330; 1983 a. 189 s. 329 (23); 1991 a. 39; 1993 a. 329; 1995 a. 201 s. 476; Stats. 1995 s. 59.692; 1995 a. 227; 1997 a. 27, 35, 252; 1999 a. 9; 1999 a. 150 s. 672; 2005 a. 112; 2011 a. 6, 170.

Cross−reference: See also ch. NR 115, Wis. adm. code.

The DNR, as trustee of navigable waters in the state, has standing to appeal shoreline zoning decisions. DNR v. Walworth County Board of Adjustment, 170 Wis. 2d 406, 489 N.W.2d 631 (Ct. App. 1992).

The private right to fill lakebeds granted under s. 30.11 does not preempt the zoning power of a county over shorelands under this section. State v. Land Concepts, Ltd. 177 Wis. 2d 24, 501 N.W.2d 817 (Ct. App. 1993).

The legal standard of unnecessary hardship requires that the property owner demonstrate that without a variance there is no reasonable use for the property. When the property owner has a reasonable use for the property, the statute takes precedence and the variance should be denied. State v. Kenosha County Board of Adjustment, 218 Wis. 2d 396, 577 N.W.2d 813 (1998), 96−1235. See also State v. Outagamie, 2001 WI 78, 244 Wis. 2d 613, 628 N.W.2d 376, 98−1046.

The burden is on the applicant for a variance to demonstrate through evidence that without the variance he or she is prevented from enjoying any reasonable use of the property. State ex rel. Spinner v. Kenosha County Board of Adjustment, 223 Wis. 2d 99, 588 N.W.2d 662 (Ct. App. 1998), 97−2094.

The state, in administering the Fair Housing Act, may not order a zoning board to issue a variance based on characteristics unique to the landowner rather than the land. County of Sawyer Zoning Board v. Department of Workforce Development, 231 Wis. 2d 534, 605 N.W.2d 627 (Ct. App. 1999), 99−0707.

In evaluating whether to grant an area variance to a zoning ordinance, a board of adjustment should focus on the purpose of the zoning law at issue in determining whether an unnecessary hardship exists for the property owner seeking the variance. The facts of the case should be analyzed in light of that purpose, and boards of adjustment must be afforded flexibility so that they may appropriately exercise their discretion. State v. Waushara County Board of Adjustment, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514, 02−2400.

The term "floor area" in sub. (1v) (b) unambiguously encompasses only the surface portion of a deck's floorboards and, therefore, does not include portions of the deck's support system that extend beyond the floorboards. If a portion of a structure is outside the setback area, that part is not in the setback area and it is not the portion "extending into" that area for purposes of calculating the 200 square foot restriction in sub. (1v) (b). Propp v. Sauk County Board of Adjustment, 2010 WI App 25, 323 Wis. 2d 495, 779 N.W.2d 705, 09−0209.

Appellants appropriately relied on the county's zoning map to identify the ordinary high water mark of a nearby lake and determine that the sign's proposed location was outside the county's 1,000 foot zone of shoreland authority. It was reasonable for the appellant to rely on the map rather than conduct on−site measurements. Oneida County v. Collins Outdoor Advertising, Inc. 2011 WI App 60, 333 Wis. 2d 216, 798 N.W.2d 724, 10−0084.

County floodplain zoning ordinances may be adopted under s. 59.971 [now 59.692] and do not require the approval of town boards in order to become effective within the unincorporated areas of the county. 62 Atty. Gen. 264.

Counties may zone lands located within 300 feet of an artificial ditch that is navigable in fact. 63 Atty. Gen. 57.

County shoreland zoning of unincorporated areas adopted under s. 59.971 [now 59.692] is not superseded by municipal extraterritorial zoning under 62.23 (7a). Sections 59.971, 62.23 (7), (7a) and 144.26 [now 281.31] are discussed. Municipal extraterritorial zoning within shorelands is effective insofar as it is consistent with, or more restrictive than, the county shoreland zoning regulations. 63 Atty. Gen. 69.

A county may not enact a shoreland zoning ordinance without a provision regulating nonconforming uses that have been discontinued for 12 months or longer. A county may enact an ordinance without the 50% provision under s. 59.69 (10) (a), in which case common law controls. OAG 2−97.

Wisconsin's Shoreland Management Program: An Assessment With Implications for Effective Natural Resources Management and Protection. Kuczenski. 1999 WLR 273.

The necessity of zoning variance or amendments notice to the Wisconsin department of natural resources under the shoreland zoning and navigable waters protection acts. Whipple, 57 MLR 25.

59.693 Construction site erosion control and storm water management zoning. (1) DEFINITION. In this section, "department" means the department of natural resources.

(2) AUTHORITY TO ENACT ORDINANCE. To effect the purposes of s. 281.33 and to promote the public health, safety and general welfare, a county may enact a zoning ordinance, that is applicable to all of its unincorporated area, except as provided in s. 60.627 (2) (b), for construction site erosion control at sites where the construction activities do not include the construction of a building and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 59.69.

(4) APPLICABILITY OF COUNTY ZONING PROVISIONS; TOWN APPROVAL. (a) Except as otherwise specified in this section, s. 59.69 applies to any ordinance or amendment to an ordinance enacted under this section, but an ordinance or amendment to an ordinance enacted under this section does not require approval and is not subject to disapproval by any town or town board.

(b) Variances and appeals regarding construction site erosion control and storm water management regulations under this section are to be determined by the board of adjustment for that county. Procedures under s. 59.694 apply to these determinations.

(c) An ordinance enacted under this section supersedes all provisions of an ordinance enacted under s. 59.69 that relate to construction site erosion control or storm water management regulation.

(6) APPLICABILITY OF COMPREHENSIVE ZONING PLAN OR GENERAL ZONING ORDINANCE. Ordinances that are enacted under this section shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable to the enacting counties, so far as practicable.

(7) APPLICABILITY OF LOCAL SUBDIVISION REGULATION. All powers granted to a county under s. 236.45 may be exercised by the county with respect to construction site erosion control at sites where the construction activities do not include the construction of a building or with respect to storm water management regulation, if the county has or provides a county planning agency as defined in s. 236.02 (1).

(8) APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES. An ordinance that is enacted under this section is applicable to activities conducted by a unit of local government and an agency of that unit of government. An ordinance that is enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2).

(9) INTERGOVERNMENTAL COOPERATION. (a) Except as provided in par. (c), s. 66.0301 applies to this section, but for the purposes of this section an agreement under s. 66.0301 shall be effected by ordinance.

(b) If a county is served by a regional planning commission under s. 66.0309 and if the commission consents, the county may empower the commission by ordinance to administer an ordinance that is enacted under this section throughout the county, whether or not the area otherwise served by the commission includes all of that county.

(c) If the board of commissioners of the Dane County Lakes and Watershed Commission consents, Dane County may empower the commission by ordinance to administer an ordinance that is enacted under this section whether or not the area otherwise served by the commission includes all of Dane County. Section 66.0301 does not apply to this paragraph.

(10) VALIDITY UPON ANNEXATION. An ordinance that is enacted under this section by a county that is in effect in an area immediately before the area is annexed by a city or village continues in effect in the area after annexation unless the city or village enacts, maintains and enforces a city or village ordinance which complies with minimum standards established by the department and which is at least as restrictive as the county ordinance enacted under this section. If, after providing notice and conducting a hearing on the matter, the department determines that an ordinance that is enacted by a city or village which is applicable to the annexed area does not meet these standards or is not as restrictive as the county ordinance, the department shall issue an order declaring the city or village ordinance void and reinstating the applicability of the county ordinance to the annexed area.

History: 1983 a. 416; 1983 a. 538 s. 271; 1989 a. 31, 324; 1993 a. 16, 246; 1995 a. 201 s. 478; Stats. 1995 s. 59.693.; 1995 a. 227; 1997 a. 35; 1999 a. 150 s. 672.

59.694 County zoning, adjustment board. (1) APPOINTMENT, POWER. The county board may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted under s. 59.69 may provide that the board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in

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accordance with general or specific rules therein contained. Nothing in this subsection precludes the granting of special exceptions by the county zoning agency designated under s. 59.69 (2) (a) or the county board in accordance with regulations and restrictions adopted under s. 59.69 which were in effect on July 7, 1973, or adopted after that date.

(2) PERSONNEL. (a) In counties with a population of less than 500,000, the board of adjustment shall consist of not more than 5 members as determined by resolution of the county board. The chairperson of the county board shall appoint the members with the approval of the county board for terms of 3 years beginning July 1. The incumbent members shall continue to serve until their terms expire. The county board resolution increasing the size of the board of adjustment shall indicate how many members shall be appointed for 1, 2 and 3 years prior to July 1 of the year in which the change takes effect in making the first appointments. If the county board, by resolution, determines to reduce the membership of the board of adjustment below 5 but not less than 3, one of the positions for which the term expires as determined by lot shall not be filled each year until the requisite number of positions has been reached.

(am) The chairperson of the county board to which par. (a) applies shall appoint, for staggered 3−year terms, 2 alternate members of the board of adjustment, who are subject to the approval of the county board. Annually, the chairperson of the county board shall designate one of the alternate members as the first alternate and the other as 2nd alternate. The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the board of adjustment refuses to vote because of a conflict of interest or is absent.

(b) In counties with a population of 500,000 or more, the board of adjustment shall consist of 3 members who are residents of the county, elected by the county board for terms of 1, 2 and 3 years, respectively, and until their successors are elected and qualify.

(bm) The chairperson of the county board to which par. (b) applies shall appoint, for staggered 3−year terms, 2 alternate members of the board of adjustment, who are subject to the approval of the county board. Annually, the chairperson of the county board shall designate one of the alternate members as the first alternate and the other as 2nd alternate. The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the board of adjustment refuses to vote because of a conflict of interest or is absent.

(c) The members of the board of adjustment, including alternate members, shall all reside within the county and outside of the limits of incorporated cities and villages; provided, however, that no 2 members shall reside in the same town. The board of adjustment shall choose its own chairperson. Office room shall be provided by the county board, and the actual and necessary expenses incurred by the board of adjustment in the performance of its duties shall be paid and allowed as in cases of other claims against the county. The county board may likewise compensate the members of the board of adjustment, including alternate members, and the assistants as may be authorized by the county board. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(3) RULES, MEETINGS, MINUTES. The county board shall adopt rules for the conduct of the business of the board of adjustment, in accordance with the provisions of any ordinance enacted under s. 59.69. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the county board. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be a public record.

(3m) QUORUM REQUIREMENTS. If a quorum is present, the board of adjustment may take action under this section by a majority vote of the members present.

(4) APPEALS TO BOARD. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(5) STAYS. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of adjustment after the notice of appeal shall have been filed with that officer that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted upon application to the board of adjustment or by petition to a court of record, with notice to the officer from whom the appeal is taken.

(6) HEARING APPEALS. The board of adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, a party may appear in person or by agent or attorney. In an action involving a historic property, as defined in s. 44.31 (3), the board of adjustment shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning and zoning committee or commission.

(7) POWERS OF BOARD. The board of adjustment shall have all of the following powers:

(a) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of s. 59.69 or of any ordinance enacted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. A county board may enact an ordinance specifying an expiration date for a variance granted under this paragraph if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of adjustment does not specify an expiration date for the variance, a variance granted under this paragraph does not expire unless, at the time it is granted, the board of adjustment specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012. A variance granted under this paragraph runs with the land.

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(d) To grant special exceptions and variances for renewable energy resource systems. If the board denies an application for a special exception or variance for such a system, the board shall provide a written statement of its reasons for denying the application. In this paragraph, "renewable energy resource system" means a solar energy system, a waste conversion energy system, a wind energy system or any other energy system which relies on a renewable energy resource.

(8) ORDER ON APPEAL. In exercising the powers under this section, the board of adjustment may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(9) MAJORITY RULE. A majority vote of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(10) CERTIORARI. A person aggrieved by any decision of the board of adjustment, or a taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the board, commence an action seeking the remedy available by certiorari. The court shall not stay the decision appealed from, but may, with notice to the board, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

(14) COSTS. Costs shall not be allowed against the board of adjustment unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

History: 1973 c. 60, 336; 1981 c. 289, 354; 1983 a. 192 ss. 132, 133, 303 (2); 1987 a. 395; 1991 a. 316; 1993 a. 171; 1995 a. 201 s. 479; Stats. 1995 s. 59.694; 1997 a. 35; 2005 a. 34; 2011 a. 135.

Judicial Council Note, 1981: Subsections (11), (12) and (13) have been repealed as unnecessary because in large part they merely describe the remedy of certiorari, which is now available in an ordinary action. See s. 781.01, stats., and the note thereto. Those provisions of the repealed subsections which permit departure from ordinary certiorari procedures, such as augmentation of the record by the court, have been placed in sub. (10). No substantive change in the scope or standard of review is intended. [Bill 613−A]

There is no significant difference between "unnecessary hardship" under s. 59.99 [now s. 59.694] (7) (c) and "practical difficulties." Grounds for variances are discussed. Snyder v. Waukesha County Zoning Board, 74 Wis. 2d 468, 247 N.W.2d 98 (1976).

An aggrieved person has the right to appeal to the board of adjustment from a zoning committee's decision to grant conditional use permits. League of Women Voters v. Outagamie County, 113 Wis. 2d 313, 334 N.W.2d 887 (1983).

Aggrieved residents had the right to appeal even though they did not appear at committee hearings. Commencement of construction, not publication of hearing notices, constituted notice to residents that a permit had been issued. The standard of review is discussed. State ex rel. Brookside v. Jefferson County Board of Adjustment, 131 Wis. 2d 101, 388 N.W.2d 593 (1986).

Filing of a petition for a writ of certiorari, without more, did not satisfy the requirement under s. 59.99 [now s. 59.694] (10) that an action be commenced within 30 days. Schwochert v. Marquette County Board, 132 Wis. 2d 196, 389 N.W.2d 841 (Ct. App. 1986).

A trial court must exercise discretion when taking additional evidence pursuant to s. 59.99 [now s. 59.694] (10). If evidence taken is substantially similar to that which the board received, review is confined to a certiorari standard. Klinger v. Oneida County, 149 Wis. 2d 838, 440 N.W.2d 348 (1989).

Under *Brookside*, the appeal time begins to run at the time notice is given, if the zoning ordinance has a notice provision, and if there is no notice provision, when the aggrieved parties find out about the decision. DNR v. Walworth County Board of Adjustment, 170 Wis. 2d 406, 489 N.W.2d 631 (Ct. App. 1992).

The 30−day limitation period for commencing a certiorari action under s. 59.99 [now s. 59.694] (10) applies to the time allowed for filing an action that is commenced by a complaint and applies to the time allowed for service when commenced by writ. DNR v. Walworth County Board of Adjustment, 170 Wis. 2d 406, 489 N.W.2d 631 (Ct. App. 1992).

General, rather than explicit, standards regarding the granting of special exceptions may be adopted and applied by a governing body. The applicant has the burden of formulating conditions showing that the proposed use meets the standards. Upon approval, additional conditions may be imposed by the governing body. Kraemer & Sons v. Sauk County Adjustment Board, 183 Wis. 2d 1, 515 N.W.2d 256 (1994).

The 30−day period to appeal a decision under s. 59.99 [now s. 59.694] (10) runs from the entry of the original decision in a matter and is not extended by filing a motion to reconsider unless the motion raises a new issue. Bettendorf v. St. Croix County Bd. of Adjustment, 188 Wis. 2d 311, 525 N.W.2d 89 (Ct. App. 1994).

A variance may be granted if application of the zoning ordinance results in unnecessary hardship and the condition is unique to the parcel. Concerns over the most profitable use of a parcel are not proper grounds for granting variances. State v. Winnebago County, 196 Wis. 2d 836, 540 N.W.2d 6 (Ct. App. 1995), 94−3199.

The legal standard of unnecessary hardship requires that the property owner demonstrate that without a variance there is no reasonable use for the property. When the property owner has a reasonable use for the property, the statute takes precedence and the variance should be denied. State v. Kenosha County Board of Adjustment, 218 Wis. 2d 396, 577 N.W.2d 813 (1998), 96−1235. See also State v. Outagamie, 2001 WI 78, 244 Wis. 2d 613, 628 N.W.2d 376, 98−1046.

Failure to join an indispensable party in a certiorari action under sub. (10) is not jurisdictional. Filing the certiorari action tolls the 30−day period of limitations. Failure to name the party within the 30−day statutory period does not require dismissal. County of Rusk v. Rusk County Board of Adjustment, 221 Wis. 2d 526, 585 N.W.2d 706 (Ct. App. 1998), 98−0298.

The burden is on the applicant for a variance to demonstrate through evidence that without the variance he or she is prevented from enjoying any reasonable use of the property. State ex rel. Spinner v. Kenosha County Board of Adjustment, 223 Wis. 2d 99, 588 N.W.2d 662 (Ct. App. 1998), 97−2094.

The notice of claim provisions of s. 893.80 do not apply to certiorari actions under sub. (10). Kapischke v. County of Walworth, 226 Wis. 2d 320, 595 N.W.2d 42 (Ct. App. 1999), 98−0796.

Review of a certiorari action is limited to determining: 1) whether the board kept within its jurisdiction; 2) whether the board proceeded on a correct theory of law; 3) whether the board's action was arbitrary, oppressive, or unreasonable; and 4) whether the evidence was such that the board might reasonably make its order. Kapischke v. County of Walworth, 226 Wis. 2d 320, 595 N.W.2d 42 (Ct. App. 1999), 98−0796.

The state, in administering the Fair Housing Act, may not order a zoning board to issue a variance based on characteristics unique to the landowner rather than the land. County of Sawyer Zoning Board v. Department of Workforce Development, 231 Wis. 2d 534, 605 N.W.2d 627 (Ct. App. 1999), 99−0707.

A variance authorizes a landowner to establish or maintain a use prohibited by zoning regulations. A special exception allows the landowner to put the property to a use expressly permitted but that conflicts with some requirement of the ordinance. The grant of a special exception does not require the showing of hardship required for a variance. Fabyan v. Waukesha County Board of Adjustment, 2001 WI App 162, 246 Wis. 2d 851, 632 N.W.2d 116, 00−3103.

The public policy of promoting confidence in impartial tribunals may justify expansion of the certiorari record when evidence outside of the record demonstrates procedural unfairness. However, before a circuit court may authorize expansion, the party alleging bias must make a prima facie showing of wrongdoing. Sills v. Walworth Cty Land, 2002 WI App 111, 254 Wis. 2d 538, 648 N.W.2d 878, 01−0901.

An ordinance requirement that no special use permit will be granted unless it is "necessary for the public convenience" meant that the petitioner had to present sufficient evidence that the proposed use was essential to the community as a whole. Hearst−Argyle Stations v. Board of Zoning Appeals of the City of Milwaukee, 2003 WI App 48, 260 Wis. 2d 494, 659 N.W.2d 424, 02−0596.

Area variance applicants need not meet the no reasonable use of the property standard that is applicable to use variance applications. The standard for unnecessary hardship required in area variance cases is whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with those restrictions unnecessarily burdensome. Ziervogel v. Washington County Board of Adjustment, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401, 02−1618.

In evaluating whether to grant an area variance to a zoning ordinance, a board of adjustment should focus on the purpose of the zoning law at issue in determining whether an unnecessary hardship exists for the property owner seeking the variance. The facts of the case should be analyzed in light of that purpose, and boards of adjustment must be afforded flexibility so that they may appropriately exercise their discretion. State v. Waushara County Board of Adjustment, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514, 02−2400.

When reviewing a decision to grant or deny a conditional use permit, a county board of adjustment has the authority to conduct a de novo review of the record and substitute its judgment for the county zoning committee's judgment. Moreover, under the applicable state statute, a board has authority to take new evidence. Osterhues v. Board of Adjustment for Washburn County, 2005 WI 92, 282 Wis. 2d 228, 698 N.W.2d 701, 03−2194.

A board of appeals may not simply grant or deny an application with conclusory statements that the application does or does not satisfy the statutory criteria, but shall express, on the record, its reasoning why an application does or does not meet the statutory criteria. Even when a board's decision is dictated by a minority, these controlling members of the board ought to be able to articulate why an applicant has not satisfied its burden of proof on unnecessary hardship or why the facts of record cannot be reconciled with some requirement of the ordinance or statute. A written decision is not required as long as a board's reasoning is clear from the transcript of its proceedings. Lamar Central Outdoor, Inc. v. Board of Zoning Appeals of the City of Milwaukee, 2005 WI 117, 284 Wis. 2d 1, 700 N.W.2d 87, 01−3105.

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Although a county's ordinance used the term "variance" to describe an exception to the setback standard, it did not have the technical legal meaning commonly used in a zoning context. Rather, under the terms of the ordinance, a "variance" could be granted as part of the conditional use permit process, not as a separate determination based on the demonstration of a hardship. Roberts v. Manitowoc County Board of Adjustment, 2006 WI App 169, 295 Wis. 2d 522, 721 N.W.2d 499, 05−2111.

The court's opinion that a deck was optimally located in its current position was not the relevant inquiry in regard to the granting of an area variance. The board of adjustment was justified in determining that the property owner's desire for the variance to retain their nonconforming deck was based on a personal inconvenience rather than an unnecessary hardship. Block v. Waupaca County Board of Zoning Adjustment, 2007 WI App 199, 305 Wis. 2d 325, 738 N.W.2d 132, 06−3067.

Ziervogel did not state that use cannot be a factor in an area variance analysis. It stated that use cannot overwhelm all other considerations in the analysis, rendering irrelevant any inquiry into the uniqueness of the property, the purpose of the ordinance, and the effect of a variance on the public interest. Here, the board properly considered the purpose of the zoning code, the effect on neighboring properties, and the hardship alleged. Driehaus v. Walworth County, 2009 WI App 63, 317 Wis. 2d 734, 767 N.W.2d 343, 08−0947.

City or village residents are not eligible for service on a county zoning board of adjustment. 61 Atty. Gen. 262.

A self−created or self−imposed hardship does not constitute an unnecessary hardship for which a county zoning board of adjustment may grant a variance under the provisions of s. 59.99 [now s. 59.694] (7) (c). 62 Atty. Gen. 111.

The extent to which this section authorizes a county board of adjustment to grant zoning variances and review decisions of a county planning and zoning committee is discussed. 69 Atty. Gen. 146.

A county cannot exercise its home rule authority in such a way as to appoint one regular member and one alternate member who reside in the same town to a county board of adjustment. OAG 2−07.

A New Uncertainty in Local Land Use: A Comparative Institutional Analysis of *State v. Outagamie County Board of Adjustment.* Friebus. 2003 WLR 571.

The necessity of zoning variance or amendments notice to the Wisconsin department of natural resources under the shoreland zoning and navigable waters protection acts. Whipple, 57 MLR 25.

59.696 Zoning; filing fees. The board may enact ordinances establishing schedules of reasonable filing fees for the filing of petitions to amend county zoning ordinances and notices of appeal to the board of adjustment from determinations of county zoning authorities and providing for the charging and collection of such filing fees; such fees to be used to partially defray the expenses of holding hearings and giving notices of hearings prescribed in ss. 59.69 and 59.694.

History: 1995 a. 201 s. 126.

59.697 Fees for zoning appeals. The board may establish a schedule of fees to be charged for the filing of petitions for amendment and notices of appeal under ss. 59.69 and 59.694, relating to zoning ordinances.

History: 1995 a. 201 s. 182.

59.698 Zoning, building inspector. Except as provided under s. 59.69 (2) (bm), for the enforcement of all laws, ordinances, rules and regulations enacted under s. 59.69, the board may appoint a building inspector, define the building inspector's duties and fix the building inspector's term of office and compensation.

History: 1995 a. 201 s. 125.

59.70 Environmental protection and land use. (1) BUILDING AND SANITARY CODES. The board may enact building and sanitary codes, make necessary rules and regulations in relation thereto and provide for enforcement of the codes, rules and regulations by forfeiture or otherwise. The codes, rules and regulations do not apply within municipalities which have enacted ordinances or codes concerning the same subject matter. "Sanitary code" does not include a private on−site wastewater treatment system ordinance enacted under sub. (5). "Building and sanitary codes" does not include well code ordinances enacted under sub. (6).

NOTE: Sub. (1) is shown below as affected by 2011 Wis. Acts 146 and 150 and as merged by the legislative reference bureau under s. 13.92 (2) (i) effective 4−1−15:

(1) BUILDING AND SANITARY CODES. The board may enact building and sanitary codes, make necessary rules and regulations in relation thereto and provide for enforcement of the codes, rules and regulations by forfeiture or otherwise. The codes, rules and regulations do not apply within municipalities which have enacted ordinances or codes concerning the same subject matter. "Sanitary code" does not include a private on−site wastewater treatment system ordinance enacted under sub. (5). "Building and sanitary codes" does not include well or heat exchange drillhole ordinances enacted under sub. (6).

(2) SOLID WASTE MANAGEMENT. The board of any county may establish and operate a solid waste management system or participate in such system jointly with other counties or municipalities. Except in counties having a population of 500,000 or more, the board of a county or the boards of a combination of counties establishing a solid waste management system may create a solid waste management board to operate the system and such board, in a county that does not combine with another county, shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of solid waste management, but not more than 5 of the board members may be appointed from the county board of supervisors. In any combination of counties, the solid waste management board shall be composed of 11 members with 3 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of supervisors of the combining counties in a manner acceptable to the combining counties, but each of the combining counties may appoint to the solid waste management board not more than 3 members from its county board of supervisors. The term of office of any member of the solid waste management board shall be 3 years, but of the members first appointed, at least one−third shall be appointed for one year; at least one−third for 2 years; and the remainder for 3 years. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any solid waste management board member may be removed from office by a two−thirds vote of the appointing authority. The solid waste management board may employ a manager for the system. The manager shall be trained and experienced in solid waste management. For the purpose of operating the solid waste management system, the solid waste management board may exercise the following powers:

(a) Develop a plan for a solid waste management system.

(b) Within such county or joint county, collect, transport, dispose of, destroy or transform wastes, including, without limitation because of enumeration, garbage, ashes, or incinerator residue, municipal, domestic, agricultural, industrial and commercial rubbish, waste or refuse material, including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes.

(c) Acquire lands within the county by purchase, lease, donation or eminent domain, within the county, for use in the solid waste management system.

(d) Authorize employees or agents to enter lands to conduct reasonable and necessary investigations and tests to determine the suitability of sites for solid waste management activities whenever permission is obtained from the property owner.

(e) Acquire by purchase, lease, donation or eminent domain easements or other limited interests in lands that are desired or needed to assure compatible land uses in the environs of any site that is part of the solid waste disposal system.

(f) Establish operations and methods of waste management that are considered appropriate. Waste burial operations shall be in accordance with sanitary landfill methods and the sites shall, insofar as practicable, be restored and made suitable for attractive recreational or productive use upon completion of waste disposal operations.

(g) Acquire the necessary equipment, use such equipment and facilities of the county highway agency, and construct, equip and operate incinerators or other structures to be used in the solid waste management system.

(h) Enact and enforce ordinances necessary for the conduct of the solid waste management system and provide forfeitures for violations.

(i) Contract with private collectors, transporters or municipalities to receive and dispose of wastes.

(j) Engage in, sponsor or cosponsor research and demonstration projects that are intended to improve the techniques of solid waste management or to increase the extent of reuse or recycling of materials and resources included within the wastes.

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(k) Accept funds that are derived from state or federal grant or assistance programs and enter into necessary contracts or agreements.

(L) Appropriate funds and levy taxes to provide funds for acquisition or lease of sites, easements, necessary facilities and equipment and for all other costs required for the solid waste management system except that no municipality which operates its own solid waste management program under s. 287.09 (2) (a) or waste collection and disposal facility, or property therein, shall be subject to any tax levied hereunder to cover the capital and operating costs of these functions. Such appropriations may be treated as a revolving capital fund to be reimbursed from proceeds of the system.

(m) Make payments to any municipality in which county disposal sites or facilities are located to cover the reasonable costs of services that are rendered to such sites or facilities.

(n) Charge or assess reasonable fees, approximately commensurate with the costs of services rendered to persons using the services of the county solid waste management system. The fees may include a reasonable charge for depreciation which shall create a reserve for future capital outlays for waste disposal facilities or equipment. All assessments for liquid waste shall be assessed by volume.

(o) Create service districts which provide different types of solid waste collection or disposal services. Different regulations and cost allocations may be applied to each service district. Costs allocated to such service districts may be provided by general tax upon the property of the respective districts or by allocation of charges to the municipalities whose territory is included within such districts.

(p) Utilize or dispose of by sale or otherwise all products or by−products of the solid waste management system.

(q) Impose fees, in addition to the fees imposed under ch. 289, upon persons who dispose of solid waste at publicly owned solid waste disposal sites in the county for the purpose of cleaning up closed or abandoned solid waste disposal sites within the county, subject to all of the following conditions:

1. The fees are based on the amount of solid waste that is disposed of by each person.

2. The fees may not exceed 20% of the amount that is charged for the disposal of the solid waste.

3. The effective date of the fees and any increase in the fees is January 1 and such effective date is at least 120 days after the date on which the board adopts the fee increase.

4. The cleanup of the site is conducted under the supervision of the department of natural resources.

5. The board may prevent the implementation of, or may terminate, fees imposed by the solid waste management board.

(3) RECYCLING OR RESOURCE RECOVERY FACILITIES. The board may establish and require use of facilities for the recycling of solid waste or for the recovery of resources from solid waste as provided under s. 287.13.

(5) PRIVATE ON−SITE WASTEWATER TREATMENT SYSTEM ORDINANCE. (a) Every governmental unit responsible for the regulation of private on−site wastewater treatment systems, as defined under s. 145.01 (5), shall enact an ordinance governing private on−site wastewater treatment systems, as defined in s. 145.01 (12), which conforms with the state plumbing code. The ordinance shall apply to the entire area of the governmental unit responsible for the regulation of private on−site wastewater treatment systems, as defined under s. 145.01 (5). After July 1, 1980, no municipality may enact or enforce a private e on−site wastewater treatment system ordinance unless it is a governmental unit responsible for the regulation of private on−site wastewater treatment systems, as defined under s. 145.01 (5).

(b) The governmental unit responsible for the regulation of private on−site wastewater treatment systems, as defined under s. 145.01 (5), shall administer the private on−site wastewater treatment system ordinance under s. 145.20 and the rules promulgated under s. 145.20.

(6) OPTIONAL WELL CODE ORDINANCES. (a) *Definitions.* In this subsection:

NOTE: Sub. (6) (title) is amended eff. 4−1−15 by 2011 Wis. Act 150 to read:

(6) OPTIONAL WELL AND HEAT EXCHANGE DRILLHOLE ORDINANCES.

1. "Department" means the department of natural resources.

2. "Private well" has the meaning specified by rule by the department under s. 280.21 (2).

3. "Well" has the meaning specified under s. 280.01 (6).

(b) *Permits.* If authorized by the department under s. 280.21 (1), a county may enact and enforce a well construction or pump installation ordinance or both. Provisions of the ordinance shall be in strict conformity with ch. 280 and with rules of the department under ch. 280. The ordinance may require that a permit be obtained before construction, installation, reconstruction or rehabilitation of a private well or installation or substantial modification of a pump on a private well, other than replacement of a pump with a substantially similar pump. The county may establish a schedule of fees for issuance of the permits and for related inspections. The department, under s. 280.21 (4), may revoke the authority of a county to enforce its ordinance if the department finds that the ordinance or enforcement of the ordinance does not conform to ch. 280 and rules of the department under ch. 280.

NOTE: Par. (b) is amended eff. 4−1−15 by 2011 Wis. Act 150 to read:

(b) *Permits.* If authorized by the department under s. 280.21 (1), a county may enact and enforce a well construction, heat exchange drillhole construction, or pump installation ordinance or both. Provisions of the ordinance shall be in strict conformity with ch. 280 and with rules of the department under ch. 280. The ordinance may require that a permit be obtained before construction, installation, reconstruction or rehabilitation of a private well or installation or substantial modification of a pump on a private well, other than replacement of a pump with a substantially similar pump. The county may establish a schedule of fees for issuance of the permits and for related inspections. The department, under s. 280.21 (4), may revoke the authority of a county to enforce its ordinance if the department finds that the ordinance or enforcement of the ordinance does not conform to ch. 280 and rules of the department under ch. 280.

(c) *Existing wells.* With the approval of the department under s. 280.21 (1), a county may enact and enforce an ordinance in strict conformity with ch. 280 and with department rules under ch. 280, as they relate to existing private wells. The department, under s. 280.21 (4), may revoke the authority of a county to enforce its ordinance if the department finds that the ordinance or enforcement of the ordinance does not conform to ch. 280 and rules of the department under ch. 280.

(d) *Enforcement.* A county may provide for enforcement of ordinances enacted under this subsection by forfeiture or injunction or both. The district attorney or county corporation counsel may bring enforcement actions.

(e) *Other municipalities.* No municipality may enact or enforce an ordinance regulating matters covered by ch. 280 or by department rules under ch. 280.

(7) SOIL CONSERVATION. The board may contract to do soil conservation work on privately owned land either directly or through a committee designated by it.

(8) INLAND LAKE PROTECTION AND REHABILITATION. The board may establish an inland lake protection and rehabilitation program and may create, develop and implement inland lake protection and rehabilitation projects similar to projects which an inland lake protection and rehabilitation district is authorized to create, develop and implement under ch. 33. In this subsection, "lake rehabilitation", "program", "project" and "lake" have the meanings specified under s. 33.01 (4), (6), (7) and (8), respectively.

(8m) HARBOR IMPROVEMENT. The board may establish, own, operate, lease, equip and improve harbor facilities on land owned by the county that is located in this state or in another state, subject to the laws of the state in which the land is located, and may appropriate money for the activities specified in this subsection.

(9) IMPROVEMENT OF ARTIFICIAL LAKES. The board may appropriate money for the purpose of maintaining, dredging and improving any artificial lake existing on July 1, 1955, all or a por-

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tion of which is adjacent to or within a county park, and for the acquisition of land required in connection therewith.

(10) DRAINAGE DISTRICT BONDS. The board may purchase drainage district bonds at market value or at a discount to salvage the equity of the county in the lands affected and to secure resumption of tax payments thereon and so permit the dissolution of the district.

(11) ACQUISITION OF RECYCLING OR RESOURCE RECOVERY FACILITIES WITHOUT BIDS. The board may contract for the acquisition of any element of a recycling or resource recovery facility without submitting the contract for bids as required under s. 59.52 (29) if the board invites developers to submit proposals to provide a completed project and evaluates proposals according to site, cost, design and the developers' experience in other similar projects.

(12) MOSQUITO CONTROL DISTRICTS. (a) A county or 2 or more contiguous counties may establish a district to control mosquitoes, upon a majority vote of each board.

(b) 1. If a county establishes a district, the board shall elect 3 county supervisors to a commission. If 2 or more contiguous counties establish a district, each board in the district shall elect 2 county supervisors to a commission. The elected county supervisors shall serve as members of the commission until the expiration of their terms as county supervisors, as provided in s. 59.10 (1) (b), (2) (b), (3) (d) or (5). Each board in the district shall elect supervisors as replacements when vacancies occur in the commission. The commission shall operate the mosquito control district.

2. The commission shall elect a chairperson, vice chairperson and secretary at its first meeting each year as provided under subd. 3. The chairperson, or vice chairperson, in the chairperson's absence, shall preside at meetings and shall sign contracts and other written instruments of the commission. The secretary shall keep a record of the minutes of each meeting that is available for public inspection at all reasonable times, and shall mail notices to all members of the time and place of meetings.

3. The commission shall meet on the first Thursday after the first Monday in January to select officers of the commission and to conduct other organizational business. The commission shall also meet if the chairperson calls a meeting, or within 48 hours if a majority of the members of the commission request a meeting in writing, specifying the time and place for the meeting. The commission shall give adequate public notice of the time, place and purpose of each meeting. All business of the commission shall be open to the public.

4. The board of each county in the district shall reimburse commissioners representing that county in the manner provided in s. 59.13 for board committee members.

(13) COMMISSION; POWERS AND DUTIES. (a) The commission may:

1. Adopt bylaws to regulate its proceedings.

2. Employ the persons and contract for services to carry out the mosquito control program. The commission may not employ any person who is related to a commissioner.

3. Reimburse employees for expenses that are incurred or paid in the performance of their duties, and provide a reasonable daily reimbursement.

4. Purchase the materials, supplies and equipment to carry out the mosquito control program.

5. Take measures to control mosquitoes in accordance with expert and technical plans.

6. Accept gifts of property to control mosquitoes.

7. Dispose of property of the commission or mosquito control district, if it is no longer needed to control mosquitoes, by selling the property on competitive bids after 2 weeks' published notice.

8. Obtain public liability insurance and worker's compensation insurance.

9. Enter into agreements with other political subdivisions of the state outside the mosquito control district to conduct mosquito control activities within these political subdivisions, to promote mosquito control in the district.

10. Enter into agreements with contiguous states or political subdivisions in contiguous states, as provided in s. 66.0303, to conduct mosquito control activities within those states or political subdivisions, to promote mosquito control in the mosquito control district.

11. Collect money from all counties in the district for operation of the district.

12. Require the employees of the commission who handle commission funds to furnish surety bonds, in amounts the commission may determine.

13. Perform other acts that are reasonable and necessary to carry out the functions of the commission.

(b) Members or employees of the commission may request admission onto any property within the district at reasonable times to determine if mosquito breeding is present. If the owner or occupant refuses admission, the commission member or employee shall seek a warrant to inspect the property as a potential mosquito breeding ground. Commission members or employees may enter upon property to clean up stagnant pools of water or shores of lakes or streams, and may spray mosquito breeding areas with insecticides subject to the approval of the district director and the department of natural resources. The commission shall notify the property owner of any pending action under this paragraph and shall provide the property owner with a hearing prior to acting under this paragraph if the owner objects to the commission's actions.

(c) The commission shall:

1. Submit to the board of each county that is participating in the mosquito control district, at the end of each year, a complete audit of the financial transactions concluded and a progress report indicating the actions taken to control mosquitoes.

2. Publish a notice for general circulation in each of the counties in the district for bids at least 10 days prior to purchasing materials or services costing more than $2,500. The notice shall state the nature of the work or purchase, the terms and conditions upon which the contract will be awarded, and the time and place where bids will be received, opened and read publicly. The commission may reject all bids after the reading or shall award the contract to the lowest responsible bidder. The commission may award the contract to any unit of government without the intervention of bidding, under s. 66.0131 (2). The district business administrator shall execute all contracts in writing, and may require the contracting party to provide a bond to ensure performance of the contract. The commission may direct the business administrator to purchase materials or services costing $5,000 or less on the open market at the lowest price available, without securing competitive bids, if the commission declares that an emergency exists by an affirmative vote of five−sixths of the commission. In this subdivision, an "emergency" is an unforeseen circumstance that jeopardizes life or property.

3. Employ and fix the duties and compensation of a full−time or part−time entomologist to act as director of the mosquito control program, who shall develop and supervise the program.

4. Employ and fix the duties and compensation of a full−time or part−time business administrator, who shall administer the business affairs of the commission and who shall keep an account of all receipts and disbursements by date, source and amount.

(14) ADVERSE INTEREST OF COMMISSIONERS. No commissioner may have any personal or financial interest in any contract made by the commission. Any violation of this subsection resulting in a conviction shall void the contract, and shall disqualify the commissioner convicted of the violation from membership on the commission.

(15) FINANCING. On or before October 1 of each year, the commission shall require each county within the mosquito control district to contribute an amount per resident of the county to carry out the purposes of subs. (12) to (16). The commission shall deter-

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mine the amount to charge per resident. The commission shall certify in writing to the clerk of each county participating in the mosquito control district, the total amount of the county's contribution to the mosquito control district.

(16) DISSOLUTION OF THE DISTRICT. (a) 1. A county may terminate its participation in the district upon a majority vote of the board and 12 months' notice to the chairperson of the commission. If a county terminates its participation in the district, a board of appraisers as established in subd. 2. shall appraise the property of the commission.

2. The board of appraisers shall consist of 3 members, one who is appointed by the terminating county, one by the commission and one by the other 2 members of the appraisal board. If the 2 appraisers cannot agree on the appointment of the 3rd appraiser within 30 days, the commission may appoint the 3rd appraiser. The commission shall pay to the treasurer of the terminating county an amount equal to that county's share in the net assets of the commission, proportionate to the county's financial contribution to the mosquito control district. The terminating county shall remain liable for its allocated share of the contractual obligations of the mosquito control district.

(b) If the district dissolves, the commission shall sell all of its property. The proceeds of the sale remaining after payment of all debts, obligations and liabilities of the district, plus any balance in the fund, shall be divided and paid to the treasurers of the member counties in proportion to each county's financial contribution to the district. Member counties shall remain liable for unpaid debts after the dissolution of the district.

(17) WORMS, INSECTS, WEEDS, ANIMAL DISEASES, APPROPRIATION. (a) The board may appropriate money for the control of insect and worm pests, weeds, or plant or animal diseases within the county, and select from its members a committee which, upon advice from the county agent that an emergency exists because of the destruction which is being or may be wrought to farmlands, livestock or crops in the county by any such pests, may take steps necessary to suppress and control such pests. The clerk shall within 10 days notify the department of agriculture, trade and consumer protection of such appropriation and of the members of such committee. The state entomologist and said department shall cooperate with such committee in the execution of measures necessary for the suppression and control of such pests.

(b) When such an emergency exists the committee may draw on the contingent fund, if available, an amount not to exceed $5,000 which shall be disbursed upon certification of the committee for the purposes specified in par. (a) as they relate to worm or insect pests; the treasurer shall pay the amounts so certified. No disbursement shall be made by the committee unless the owner of the premises affected has requested the committee to take steps to suppress or control the pests or when steps have been undertaken by another authority.

(18) LAND CLEARING AND WEED CONTROL. The board may purchase or accept by gift or grant tractors, bulldozers and other equipment for clearing and draining land and controlling weeds on same, and for such purposes to operate or lease the same for work on private lands. The board may charge fees for such service and for rental of such equipment on a cost basis.

(19) LAND CONSERVATION COMMITTEE. Each board shall create a land conservation committee.

(20) LAND CONSERVATION. (a) *Soil and water conservation.* Each board is responsible for developing and implementing a soil and water conservation program, that is specified under ch. 92, through its land conservation committee.

(b) *Committee powers and duties.* The land conservation committee created by the board has the powers and duties that are specified for that committee under ch. 92.

(c) *Appropriation of funds.* The board may appropriate funds for soil and water conservation and for other purposes that relate to land conservation.

(d) *Land use and land management.* The board may enact ordinances under s. 92.11 that regulate land use and land management practices to promote soil and water conservation.

(21) CONSERVATION CONGRESS. The board may appropriate money to defray the expenses of county delegates to the annual convention and other activities of the Wisconsin conservation congress.

(22) BILLBOARD REGULATION. The board may regulate, by ordinance, the maintenance and construction of billboards and other similar structures on premises abutting on highways maintained by the county so as to promote the safety of public travel thereon. Such ordinances shall not apply within cities, villages and towns which have enacted ordinances regulating the same subject matter.

(23) COUNTY NATURAL BEAUTY COUNCILS. The board may create a county natural beauty council as a committee of the board, composed of such board members, public members and governmental personnel as the board designates. The council shall advise governmental bodies and citizens in the county on matters affecting the preservation and enhancement of the county's natural beauty, and aid and facilitate the aims and objectives of the natural beauty council described in s. 144.76 (3) (intro.), 1973 stats.

(24) LIME TO FARMERS. The board may manufacture agricultural lime and sell and distribute it at cost to farmers and may acquire lands for such purposes.

History: 1995 a. 201 ss. 108, 109, 133, 150, 161, 163, 172, 214 to 216, 218 to 221, 437 to 442, 438, 449 to 451, 455, 456; 1995 a. 227; 1997 a. 35; 1999 a. 150 s. 672; 2005 a. 149; 2011 a. 146, 150; s. 13.92 (2) (i).

The authority of a county to enact and enforce a minimum standards housing code is discussed. 59 Atty. Gen. 248.

Section 59.07 (49) [now s. 59.70 (22)] authorizes billboard regulations relating solely to highway safety. 61 Atty. Gen. 191.

The county board may delegate relatively broad powers to the land conservation committee in connection with the lease or purchase of real property for the purposes of soil and water conservation, but such property transactions are subject to the approval of the county board. 74 Atty. Gen. 227.

A board established under s. 59.07 (135) [now s. 59.70 (2)] is restricted to performing advisory, policy−making, or legislative functions. 77 Atty. Gen. 98.

Section 59.07 (135) (L) [now 59.70 (2) (L)] authorizes counties that are "responsible units of government" under s. 159.01 to levy taxes for capital and operating expenses incurred in the operation of the county's recycling program only upon local governments that are not "responsible units of government." Counties may levy taxes for both operating and capital expenses incurred in connection with any other form of solid waste management activity only on local governments participating in that activity. 80 Atty. Gen. 312.

Section 59.18 (2) (b) transfers the authority to supervise the administration of county departments from boards and commissions to department heads appointed by the county administrator. Section 59.18 (2) therefore entirely negates sub. (2) insofar as it provides that the board may "employ" a system manager. In a county with a county administrator, the solid waste management board is purely an advisory body to the county administrator and to the county board and a policy−making body for the solid waste management department as a whole. OAG 1−12.

59.71 Special counties; record keeping. (1) In this section, "eminent domain proceedings" means the laying out, widening, extending or vacating of any street, alley, water channel, park, highway or other public place by any court, legislature, county board, common council, village board or town board.

(2) When the county board of a county with a population of 250,000 or more, according to the last state or United States census, prepares and compiles in book form an eminent domain record containing an abstract of facts relating to eminent domain proceedings and makes an order that the record, with an index thereto, be thereafter maintained and kept up, and provides a suitable book for that purpose, the register of deeds shall thereafter maintain and keep up the record and index.

(3) The register of deeds shall enter an abstract of all eminent domain proceedings in the record maintained under sub. (2). The abstract shall substantially contain the facts as to the filing of a notice of lis pendens, the date of filing, the description, the court in which or the body before whom the proceeding is pending, the result of the proceedings, the action taken and the date thereof and briefly state all of the essential facts of the proceeding. The index to the record shall be a practical index, with reference to the num-

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ber and page of the volume where such abstracts are entered respectively.

(4) The abstracts and records to be kept by the register of deeds shall be certified by the register to be true and correct and when so certified shall be prima facie evidence of the facts therein recited and shall be received in all courts and places with the same effect as the original proceedings; and the record so prepared and compiled by the county board shall be prima facie evidence of the facts therein recited and shall also be received in all courts and places with the same effect as the original proceedings.

History: 1991 a. 316; 1995 a. 201 s. 371; Stats. 1995 s. 59.71; 1995 a. 225 s. 161; 1997 a. 35.

59.72 Land information. (1) DEFINITIONS. In this section:

(a) "Land information" means any physical, legal, economic or environmental information or characteristics concerning land, water, groundwater, subsurface resources or air in this state. "Land information" includes information relating to topography, soil, soil erosion, geology, minerals, vegetation, land cover, wildlife, associated natural resources, land ownership, land use, land use controls and restriction, jurisdictional boundaries, tax assessment, land value, land survey records and references, geodetic control networks, aerial photographs, maps, planimetric data, remote sensing data, historic and prehistoric sites and economic projections.

(b) "Land records" means maps, documents, computer files and any other storage medium in which land information is recorded.

(c) "Local governmental unit" means a municipality, regional planning commission, special purpose district or local governmental association, authority, board, commission, department, independent agency, institution or office.

(2) DUTIES. (a) If the county has established a county assessor system under s. 70.99, the board shall provide Internet access to countywide property tax assessment data, and, if the county maintains land records that identify the zoning classification of individual parcels, the board shall post on the Internet land records that identify the zoning classification of individual parcels.

(b) No later than June 30 following the end of any year in which a county that accepts a grant under s. 16.967 (7) or retains any fees under sub. (5) (b), the county land information office shall submit to the department of administration a report describing the expenditures made with the moneys derived from those grants or retained fees.

(3) LAND INFORMATION OFFICE. The board may establish a county land information office or may direct that the functions and duties of the office be performed by an existing department, board, commission, agency, institution, authority, or office. If the board establishes a county land information office, the office shall:

(a) Coordinate land information projects within the county, between the county and local governmental units, between the state and local governmental units and among local governmental units, the federal government and the private sector.

(b) Within 2 years after the land information office is established, develop and receive approval for a countywide plan for land records modernization. For any county in which land records are not accessible on the Internet, the plan shall include a goal of providing access to public land records on the Internet. The plan shall be submitted for approval to the department of administration under s. 16.967 (3) (e).

(c) Review and recommend projects from local governmental units for grants from the department of administration under s. 16.967 (7).

(3m) LAND INFORMATION COUNCIL. (a) If the board has established a land information office under sub. (3), the board shall have a land information council consisting of not less than 8 members. The council shall consist of the register of deeds, the treasurer, and, if one has been appointed, the real property lister or their designees and the following members appointed by the board for terms prescribed by the board:

1. A member of the board.

2. A representative of the land information office.

3. A realtor or a member of the Realtors Association employed within the county.

4. A public safety or emergency communications representative employed within the county.

4m. The county surveyor or a registered professional land surveyor employed within the county.

5. Any other members of the board or public that the board designates.

(am) Notwithstanding par. (a), if no person is willing to serve under par. (a) 3., 4., or 4m., the board may create or maintain the council without the member designated under par. (a) 3., 4., or 4m.

(b) The land information council shall review the priorities, needs, policies, and expenditures of a land information office established by the board under sub. (3) and advise the county on matters affecting the land information office.

(4) AID TO COUNTIES. (a) A board that has established a land information office under sub. (3) and a land information council under sub. (3m) may apply to the department of administration for a grant for a land information project under s. 16.967 (7).

(b) A board shall use any grant received by the county under s. 16.967 (7) (a) and any fees retained under sub. (5) (b) to design, develop, and implement a land information system under s. 16.967 (7) (a) 1. and to make public records in the system accessible on the Internet before using these funds for any other purpose.

(5) LAND RECORD MODERNIZATION FUNDING. (a) Before the 16th day of each month a register of deeds shall submit to the department of administration $10 from the fee for recording or filing each instrument that is recorded or filed under s. 59.43 (2) (ag) 1. or (e), less any amount retained by the county under par. (b).

(b) Except as provided in s. 16.967 (7m), a county may retain $8 of the $10 submitted under par. (a) from the fee for recording or filing each instrument that is recorded or filed under s. 59.43 (2) (ag) 1. or (e) if all of the following conditions are met:

1. The county has established a land information office under sub. (3).

1m. The county has created a land information council under sub. (3m).

2. A land information office has been established for less than 2 years or has received approval for a countywide plan for land records modernization under sub. (3) (b).

3. The county uses $6 of each $8 fee retained under this paragraph to develop, implement, and maintain the countywide plan for land records modernization and $2 of each $8 fee retained under this paragraph for the provision of land information on the Internet, including the county's land information records relating to housing.

(6) LAND RECORDS MODERNIZATION. With regard to land records modernization as described in sub. (3) (b), if a register of deeds transfers an instrument that was filed or recorded with the register of deeds before April 1, 2006, to an electronic format, as described in s. 59.43 (4), the register of deeds shall make a reasonable effort to make social security numbers from the transferred instrument's electronic format not viewable or accessible on the Internet.

History: 1989 a. 31, 339; 1995 a. 201 s. 457; Stats. 1995 s. 59.72; 1997 a. 27 ss. 2175aj to 2175c, 9456 (3m); 2001 a. 16, 104; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 ss. 8 to 9, 23, 24; 2005 a. 25 ss. 1236 to 1238, 2493; 2009 a. 314.

59.73 Surveys; expressing bearings, subdividing sections. (1) HOW BEARINGS EXPRESSED IN SURVEYS. In all surveys the bearings shall be expressed with reference to a magnetic, true or other identifiable line of the public land survey, recorded and filed subdivision or to the Wisconsin coordinate system. In all cases the reference selected shall be so noted as set forth in s. 59.45

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(1) (a) 2. and if magnetic must be retraceable and identifiable by reference to a monumented line.

(2) SUBDIVIDING SECTIONS. Whenever a surveyor is required to subdivide a section or smaller subdivision of land established by the United States survey, the surveyor shall proceed according to the statutes of the United States and the rules and regulations made by the secretary of the interior in conformity to the federal statutes. While so engaged a surveyor and the surveyor's assistants shall not be liable as a trespasser and shall be liable only for any actual damage done to land or property.

History: 1995 a. 201 ss. 393, 394, 421; 1999 a. 96.

The exemption from liability for trespass in sub (2) did not prevent the DNR from issuing a citation against a surveyor for violating an administrative rule prohibiting operating vehicles on park land. DNR v. Bowden, 2002 WI App 129, 254 Wis. 2d 625, 647 N.W.2d 865, 01−2820.

Resurveys of public lands are discussed. United States v. Citko, 517 F. Supp. 233 (1981).

59.74 Perpetuation of section corners, landmarks. **(1)** RELOCATION AND PERPETUATION OF SECTION CORNERS AND DIVISION LINES. (a) If a majority of all the resident landowners in any section of land within this state desire to establish, relocate or perpetuate any section or other corner of any section, or in the same section a division line of the section, they may make a formal application in writing to the circuit judge for the county in which the land is situated. The circuit judge shall file the application in his or her court and shall within a reasonable time give at least 10 days' notice in writing to the owners of all adjoining lands, if those owners reside in the county where the land is situated and if not, by publication of a class 3 notice, under ch. 985, stating the day and hour when the circuit judge will consider and pass upon such application. The circuit judge shall hear all interested parties and approve or reject the application at that time. If the application is approved, the clerk shall notify the county surveyor who shall within a reasonable time proceed to make the required survey and location. If a corner is to be perpetuated, the surveyor shall deposit in the proper place a stone or other equally durable material of the dimensions and in the manner and with the markings provided under s. 60.84 (3) (c), and shall also erect witness monuments as provided under sub. (2). The surveyor shall be paid the cost of the perpetuation from the general fund of the county.

(b) All expense and cost of the publication of the notice and of the survey and perpetuation shall be apportioned by the clerk among the several parcels of land in the section upon the basis of the area surveyed, shall be included by the clerk in the next tax roll and shall be collected in the same manner as other taxes are collected.

(2) PERPETUATION OF LANDMARKS. (a) 1. No landmark, monument, corner post of the government survey or survey made by the county surveyor or survey of public record may be destroyed, removed, or covered by any material that will make the landmark, monument, or corner post inaccessible for use, without first having erected witness or reference monuments as provided in subd. 2. for the purpose of identifying the location of the landmark and making a certified copy of the field notes of the survey setting forth all the particulars of the location of the landmark with relation to the reference or witness monuments so that its location can be determined after its destruction or removal. The certified copy of the field notes shall be filed as provided under par. (b) 2.

2. Witness monuments shall be made of durable material, including cement, natural stone, iron or other equally durable material, except wood. If iron pipe monuments are used, they shall be made of 2 inch or more galvanized iron pipe not less than 30 inches in length having an iron or brass cap fastened to the top and marked with a cross cut on the top of the cap where the point of measurement is taken. If witness monuments are made of cement, stone or similar material, they shall be not less than 30 inches in length nor less than 5 inches in diameter along the shortest diagonal marked on the top with a cross where the point of measurement is taken.

(b) 1. Whenever it becomes necessary to destroy, remove or cover up in such a way that will make it inaccessible for use, any landmark, monument of survey, or corner post within the meaning of this subsection, the person including employees of governmental agencies who intend to commit such act shall serve written notice at least 30 days prior to the act upon the county surveyor of the county within which the landmark is located. Notice shall also be served upon the municipality's engineer if the landmark is located within the corporate limits of a municipality. The notice shall include a description of the landmark, monument of survey or corner post and the reason for removing or covering it. In this paragraph, removal of a landmark includes the removal of railroad track by the owner of the track. In a county having a population of less than 500,000 where there is no county surveyor, notice shall be served upon the clerk. In a county with a population of 500,000 or more where there is no county surveyor, notice shall be served upon the executive director of the regional planning commission which acts in the capacity of county surveyor for the county. Notwithstanding par. (c), upon receipt of the notice the clerk shall appoint a registered land surveyor to perform the duties of a county surveyor under subd. 2.

2. The county surveyor or executive director of the regional planning commission, upon receipt of notice under subd. 1., shall within a period of not to exceed 30 working days, either personally or by a deputy, or by the municipality's engineer make an inspection of the landmark, and, if he or she considers it necessary because of the public interest to erect witness monuments to the landmark, he or she shall erect 4 or more witness monuments or, if within a municipality, may make 2 or more offset marks at places near the landmark where they will not be disturbed. The county surveyor shall make a survey and field notes giving a description of the landmark and the witness monuments or offset marks, stating the material and size of the witness monuments and locating the offset marks, the horizontal distance and courses in terms of the references set forth in s. 59.45 (1) (a) 2. that the witness monuments bear from the landmark and, also, of each witness monument to all of the other witness monuments. The county surveyor may also make notes as to such other objects, natural or artificial, that will enable anyone to locate the position of the landmark. The county surveyor upon completing the survey shall make a certified copy of the field notes of the survey and record it as provided under s. 59.45 (1). The municipality's engineer upon completing the survey shall record the notes in his or her office, open to the inspection of the public, and shall file a true and correct copy with the county surveyor. In a county with a population of 500,000 or more, the certified copy of the field notes of the survey shall be filed in the office of the regional planning commission which acts in the capacity of county surveyor for the county.

(c) In those counties where there are no county surveyors a petition can be made to the board by any resident of this state requesting the board to appoint a land surveyor to act in the capacity of the county surveyor. The board, upon receipt of this petition, shall appoint a land surveyor to act in the capacity of the county surveyor. In counties with a population of 500,000 or more, the board may appoint a governmental agency to act in the capacity of county surveyor.

(d) The cost of the work of perpetuating the evidence of any landmark under the scope of this subsection shall be borne by the county or counties proportionally, in which said landmark is located.

(e) 1. Except as provided in subd. 2., any person who removes, destroys or makes inaccessible any landmark, monument of survey, corner post of government survey, survey made by the county surveyor or survey of public record without first complying with this subsection shall be fined not to exceed $1,000 or imprisoned in the county jail for not more than one year.

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2. Any person who removes railroad track as provided in par. (b) 1. without first complying with par. (b) 1. shall be subject to a forfeiture not to exceed $1,000.

(f) Any person who destroys, removes or covers any landmark, monument or corner post rendering them inaccessible for use, without first complying with pars. (a) 1. and (b) 1. shall be liable in damages to the county in which the landmark is located, for the amount of any additional expense incurred by the county because of such destruction, removal or covering.

(g) Every land surveyor and every officer of the department of natural resources and the district attorney shall enforce this subsection.

(h) Any registered land surveyor employed by the department of transportation or by a county highway department, may, incident to employment as such, assume and perform the duties and act in the capacity of the county surveyor under this subsection with respect to preservation and perpetuation of landmarks, witness monuments and corner posts upon and along state trunk, county trunk and town highways. Upon completing a survey and perpetuating landmarks and witness monuments under par. (b) 2., a land surveyor employed by the state shall file the field notes and records in the district office or main office of the department of transportation, and a land surveyor employed by a county shall file the field notes and records in the office of the county highway commissioner, open to inspection by the public, and in either case a true and correct copy of the field notes and records shall be filed with the county surveyor. In a county with a population of 500,000 or more where there is no county surveyor, a copy of the field notes and records shall also be filed in the office of the regional planning commission which acts in the capacity of county surveyor for the county.

(i) The records of the corners of the public land survey may be established and perpetuated in the following manner: commencing on January 1, 1970, and in each calendar year thereafter, the county surveyor or a deputy may check and establish or reestablish and reference at least 5% of all corners originally established in the county by government surveyors, so that within 20 years or less all the original corners will be established or reestablished and thereafter perpetuated.

(j) The county surveyor may employ other land surveyors to assist in this work and may accept reference checks for these corners from any land surveyor.

(k) The cost of perpetuating these corners shall be paid out of the county road and bridge fund or other county fund under s. 83.11.

History: 1995 a. 201 ss. 395, 396, 423.

Resurveys of the public lands under s. 59.635 (8) [now 59.74 (2) (i)] are discussed. 66 Atty. Gen. 134.

A city or village engineer acting under s. 59.635 (2) [now 59.74 (2) (b) 2.] need not be registered as a land surveyor. 68 Atty. Gen. 185.

59.75 Certificates and records as evidence. The certificate and also the official record of the county surveyor when produced by the legal custodian thereof, or any of the county surveyor's deputies, when duly signed by the county surveyor in his or her official capacity, shall be admitted as evidence in any court within the state, but the same may be explained or rebutted by other evidence. If any county surveyor or any of his or her deputies are interested in any tract of land a survey of which becomes necessary, such survey may be executed by any land surveyor appointed by the board.

History: 1977 c. 449; 1995 a. 201 s. 398; Stats. 1995 s. 59.75.

59.76 Registration of farms. (1) The owner of any farm or country estate, or that person's authorized agent, may register the name of the farm or estate in the office of the register of deeds of the county in which the farm or estate is situated. The owner or purchaser of the farm or any part of the farm may change or release the name from that person's respective interest in the farm by recording a certificate stating that the original registered name is released. A new name of the farm or any parts of the farm may then be registered. Every register of deeds shall index all registrations of farm documents and make the index available upon request. The index shall contain the name of the owner of the farm or estate and the name for the farm or estate that the owner or agent may designate, if no other farm or estate in the county has been previously registered under the same name. The fee for recording an instrument under this subsection shall be the fee specified under s. 59.43 (2) (ag).

(2) Any register of deeds who fails or refuses to register farms under sub. (1), or who charges or collects more than the fee specified under s. 59.43 (2) (ag) for recording any such registration, or recording such certificate, or who knowingly registers a farm or estate under a name previously adopted and registered for some other farm or estate in the county, or any person who uses, by way of advertisement or otherwise, the name of any farm or estate registered as provided in this section, to designate or as the name of any farm or estate in the county other than the farm or estate for which the name was registered, unless the name was adopted for and used as the name of the other farm or estate prior to April 6, 1905, shall be fined not less than $5 nor more than $25 or imprisoned for not less than 10 days nor more than 30 days, or both.

History: 1971 c. 211; 1981 c. 245; 1991 a. 316; 1993 a. 301; 1995 a. 201 s. 463; Stats. 1995 s. 59.76.

59.78 Special counties; classification of claims. In counties containing a population of more than three hundred thousand, the county auditor shall classify all such claims according to the budgetary funds provided for in s. 59.84, against which they are chargeable, before such claims are laid before such board. The county auditor shall then submit with the claims chargeable against each fund, a statement of the balance in such fund against which no county orders have been issued. If such balance in any fund is less than the total of the claims chargeable against such fund, the auditor shall call the attention of the board to that fact, and such board shall not issue county orders in excess of such balance without previously appropriating to such fund an additional sum at least sufficient to cover such orders. If any claims or claim shall be for a purpose for which no specific appropriation has been made in the budget, such claim or claims shall be considered as chargeable against the contingent fund. When the county auditor countersigns any order on the county treasurer for the payment of a claim allowed the auditor shall charge such order against the fund appropriated for that purpose.

History: 1991 a. 316.

SUBCHAPTER VIII

POPULOUS COUNTIES

59.79 Milwaukee County. In a county with a population of 500,000 or more, the board may:

(1) HOUSING FACILITIES. Build, furnish and rent housing facilities to residents of the county. Such a county may borrow money or accept grants from the federal government for or in aid of any project to build, furnish and rent such housing facilities, to take over any federal lands and to such ends enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require. It is the intent of this subsection to authorize such a county to do anything necessary to secure the financial aid and the cooperation of the federal government in any undertaking by the county authorized by this subsection, including the authority to provide housing subsidies or allowances by participation in federal government housing programs.

(2) INTERGOVERNMENTAL COMMITTEES; APPROPRIATION. Appropriate money to defray the expenses of any intergovernmental committee organized in the county with participation by the board to study countywide governmental problems, and make recommendations thereon. All items of expense paid out of the appropriations shall be presented on vouchers signed by the chairperson and secretary of the intergovernmental committee.

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(3) TRANSPORTATION STUDIES. Undertake the necessary studies and planning, alone or with other urban planning activities, to determine the total transportation needs of the county areas; to formulate a program for the most efficient and economical coordination, integration and joint use of all existing transportation facilities; and to study the interrelationship between metropolitan county area growth and the establishment of various transportation systems for such area in order to promote the most comprehensive planning and development of both. In pursuance of such undertaking the board may employ the services of consultants to furnish surveys and plans, and may appropriate funds for the payment of the cost of such work and the hiring of consultants.

(4) HEATING AND AIR CONDITIONING CONTRACTORS. For the purpose of protecting and promoting the general health and welfare of county residents, provide by ordinance for the regulation, control, prohibition and licensing of heating and air conditioning contractors engaged in either soliciting work or any actual installation, maintenance or repair work within the geographic limits of such a county. The board may revoke any license after the filing of charges and notice of hearing thereon. Such ordinance in addition may impose a forfeiture of not to exceed $100 for any violation or, in default of payment thereof, imprisonment for not to exceed 30 days and each day's failure to comply with any provision of the ordinance shall constitute a separate offense. In addition the county may institute injunctive proceedings to enforce any provision of the ordinance. The board may also, within the ordinance, provide for the creation of an advisory board and prescribe its powers. Such ordinance shall apply within cities and villages which may have enacted ordinances regulating the same subject matter but the county ordinance shall not have jurisdiction over any building code matter in any municipality, nor shall the ordinance be applicable to licensed electrical contractors engaged in the installation, maintenance or repair of electrical heating and air conditioning systems or to a public utility which is subject to ch. 196.

NOTE: Sub. (4) is repealed eff. 4−1−13 by 2007 Wis. Act 63.

(5) FEE FOR CERTAIN MARRIAGE CEREMONIES. Enact an ordinance imposing a fee to be paid in advance to the clerk for each marriage ceremony performed by a judge or a circuit or supplemental court commissioner specified in s. 765.16 (5) in the courthouse, safety building or children's court center during hours when any office in those public buildings is open for the transaction of business. The amount of the fee shall be determined by the board.

(6) WORLD FESTIVAL CELEBRATION. Appropriate money for planning and participation in a world festival celebration, or any similar program or activity designed to promote international commerce and culture.

(7) LAKEFRONT PARKING FACILITY. (a) Contract with the state to use and pay reasonable charges for the use of all or a portion of the parking facility authorized under s. 13.485 and to guaranty all or a portion of the debt service for revenue obligations issued under s. 13.485 as compensation for benefits to be derived by the county and the public from the facility funded by the issuance.

(b) Take any action that is necessary to facilitate contracting with the state under par. (a), including the levying of any direct annual tax for that purpose.

(8) CONTRACTUAL PERSONNEL SERVICES. Enter into a contract for a period not to exceed 2 years for the services of retired county employees, provided such services shall not replace or duplicate an existing office or position in the classified or unclassified service nor be considered an office or position under s. 63.03.

(10) COUNTY HOSPITAL. Determine policy for the operation, maintenance and improvement of the county hospital under s. 49.71 (2) and, notwithstanding the powers and duties specified under s. 46.21 (2) (k), (3r) and (6) with respect to the county hospital and the administrator and specified under s. 46.21 (2) (b), (L), (m), (n), (nm), (o), (p) and (q) and (3g), provide for the management of the county hospital as the board considers appropriate, except that the employee positions at the hospital will be county employee positions. If the board acts under this subsection, the board may not discontinue operation, maintenance and improvement of the county hospital under s. 49.71 (2) and shall exercise the duties under s. 46.21 (4m). This subsection does not apply if the board acts under s. 46.21 with respect to the county hospital under s. 49.71 (2).

(11) BASEBALL. Own and operate a professional baseball team, appropriate money for the purchase of a franchise for such team, and in the discretion of the board organize and maintain a nonprofit corporation for such team ownership and operation or participate with others in the formation and operation of such corporation.

(12) LICENSES FOR CATS. Enact an ordinance requiring licenses for cats. The ordinance may require a person who owns or keeps a cat within the county's boundaries to pay a license fee, obtain a license tag and otherwise control the cat. An ordinance enacted under this subsection shall require the owner of a cat to present evidence that the cat is currently immunized against rabies before a license may be issued. All proceeds from cat licenses shall be used for licensing, regulating and impounding cats.

(13) DESIGN−BUILD CONSTRUCTION PROCESS. Let a contract for the construction of a sheriff's department training academy, that is located in the county, using the design−build construction process.

History: 1995 a. 201 ss. 137, 164, 166, 168, 170, 184, 189, 194 to 196, 223, 225, 235, 236, 431, 454; 1999 a. 9, 83; 2001 a. 61; 2007 a. 63.

Milwaukee County has authority to acquire vacant land on the open market and to resell it at a reduced price to private parties under a contract of sale that requires purchasers to build low− and middle−income housing, especially for persons displaced by expressway construction. 60 Atty. Gen. 242.

59.792 Milwaukee County; sewage, waste, refuse.

(1) In this section:

(a) "County" means a county with a population of 500,000 or more.

(b) "Waste" includes, without limitation because of enumeration, garbage, ashes, municipal, domestic, industrial and commercial rubbish, waste or refuse material.

(2) The county's board may provide for the transmission and disposal of sewage from any county buildings. The county shall annually pay to the municipality in which the buildings are situated its proportion of the expense of the transmission and disposal of the sewage by the municipality, as certified under s. 200.55 (5). The county's proportionate expense shall be determined by the ratio that the amount of sewage contributed by any county buildings bears to the total amount of sewage contributed by the municipality to the sewage system. Each municipality in which county buildings are located, if payment is to be made, shall provide and furnish meters to determine the amount of sewage so contributed. This subsection shall not apply to user charges billed to the county under s. 200.59.

(3) (a) The county's board may do any of the following:

1. Engage in the function of the destruction or disposal of waste by providing dumpage facilities.

2. Acquire lands by purchase, lease, donation or right of eminent domain within the county and use the lands as dumpage sites for depositing, salvaging, processing, burning or otherwise disposing of waste.

3. Acquire land by purchase, lease or donation outside the county for purposes described in subd. 2. where state and local regulations permit.

4. Construct and equip incinerators and other structures to be used for disposal of waste.

5. Maintain, control and operate dumpage sites.

6. Maintain, control and operate incinerators for burning waste.

7. Utilize or dispose of by sale or otherwise heat or power reclaimed from incinerator facilities.

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8. Sell all salvageable waste materials and by−products.

9. Levy a tax to create a working capital fund to maintain and operate dumpage facilities, construct, equip and operate incinerators and other structures for disposal of wastes.

10. Charge or assess reasonable fees to persons making use of such sites, incinerators or other structures for the disposal of waste.

11. Make charges approximately commensurate with the cost of services rendered to any municipality using the county waste disposal facilities.

12. Authorize payment to any municipality, in which county waste disposal facilities, including incinerators, are located, to cover the reasonable cost of fire fighting services rendered to the county when fire fighting service is required.

13. Contract with private collectors and municipalities and transporters to receive and dispose of waste other than garbage at dumpage and incinerator sites.

14. Levy taxes to provide funds to acquire sites and to construct and equip incinerators and other structures for disposal of wastes.

15. Enact and enforce ordinances, and adopt and enforce rules and regulations, necessary for the orderly conduct of providing dumpage facilities and services and provide forfeitures for the violation thereof.

(b) The charges for waste disposal services shall be determined by the board and shall include a reasonable charge for depreciation. In the determination of the charges the board shall give full consideration to any fees directly collected for the service. Waste disposal charges shall be apportioned under s. 70.63 to the respective municipalities receiving the service. The depreciation charges shall create a reserve for future capital outlays for waste disposal facilities.

(c) Before acquiring any site in the county to be used for dumping or the erection of an incinerator or other structure for the disposal of waste, a public hearing shall be held in the county following notice of hearing by publication as a class 3 notice, under ch. 985.

(d) The powers conferred by this subsection are declared to be necessary to the preservation of the public health, welfare and convenience of the county.

History: 1999 a. 83; 1999 a. 150 s. 672.

59.80 Milwaukee County; city−county crime commission. The board of any county with a population of 500,000 or more or the common council of any 1st class city however organized in such county may appropriate money to defray in whole or in part the expenses of a city−county crime commission organized and functioning to determine methods of crime prevention in such county. All items of expense paid out of such appropriation shall be presented and paid on board vouchers as are claims against counties.

History: 1995 a. 201 s. 167.

59.81 Cash flow, Milwaukee. In counties having a population of 500,000 or more, the treasurer may be designated as the custodian for all cash received in an escrow, trust, bailment or safekeeping capacity by any other department of the county. This section is not applicable to the clerk of circuit court or any other depository specifically designated by a court of law or by a donor or other bailor even if the other depository retains control over such funds and the ultimate disposition. The treasurer may commingle this cash with general revenue cash and subject these funds to a common investment policy. Any interest earned on such investment reverts to the general fund of the county.

History: 1975 c. 41; 1995 a. 201 s. 271; Stats. 1995 s. 59.81.

59.82 Milwaukee County Research and Technology Park. (1) Counties with a population of 500,000 or more may participate in the development of a research and technology park under sub. (2) if all of the following apply:

(a) A nonstock corporation is organized under ch. 181, and that corporation is a nonprofit corporation as defined in s. 181.0103 (17), organized for the sole purpose of developing a research and technology park under sub. (2).

(b) The research and technology park is located on land designated by the board for that purpose and owned by the county.

(c) The board determines that participation is for a public purpose and that participation will benefit the Milwaukee regional medical center, Milwaukee County and this state.

(2) A county may participate with the nonstock, nonprofit corporation under sub. (1) (a) in the development of a research and technology park by doing any of the following on terms approved by the board:

(a) Leasing or otherwise making available to the nonprofit corporation property for a research and technology park.

(b) Making grants or loans to the nonprofit corporation for the operations of the nonprofit corporation and for the development of a research and technology park.

(c) Borrowing money to be used for the development of a research and technology park and by issuing notes, bonds or other evidence of indebtedness for this purpose.

(d) Entering into contracts or exercising any other authority that is necessary for the development of a research and technology park.

(3) Officers, officials and employees of the county may be members of the board of directors of the nonstock, nonprofit corporation under sub. (1) (a) but may not receive compensation for serving as a member of the board.

(4) The nonstock, nonprofit corporation under sub. (1) (a) shall give a 45−day written notice to a municipality that is located in the county whenever the nonprofit corporation intends to enter into a transaction that entails moving a research or technology business or facility from the municipality to the research and technology park.

History: 1995 a. 201 s. 230; 1997 a. 79.

59.84 Expressways and mass transit facilities in populous counties. (1) DEFINITIONS. In this section, unless the context indicates otherwise:

(a) "Board" means the county board of supervisors in any county with a population of 500,000 or more.

(b) "Expressway" means a divided arterial highway for through traffic with full or partial control of access and, generally, with grade separations at intersections.

(bm) "Full control of access" means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

(c) "Expressway project" means an integral portion of the expressway that may be put to public use independently of other expressway projects.

(d) "Expressway project budget" means the plan of financial operation embodying an estimate of proposed expenditures for an expressway project and the proposed means of financing them.

(e) "Mass transit" includes, without limitation because of enumeration, exclusive or preferential bus lanes if those lanes are limited to abandoned railroad rights−of−way or existing expressways constructed before May 17, 1978, highway control devices, bus passenger loading areas and terminal facilities, including shelters, and fringe and corridor parking facilities to serve bus and other public mass transportation passengers, together with the acquisition, construction, reconstruction and maintenance of lands and facilities for the development, improvement and use of public mass transportation systems for the transportation of passengers.

(em) "Partial control of access" means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected pub-

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lic roads, there may be some crossings at grade and some private driveway connections.

(f) "Prior expressway project expenditures" means obligations incurred and expenditures financed from funds obtained from local tax levy sources, or from the proceeds of the sale of bonds, by a municipality in the county for the acquisition and clearing of the right−of−way and construction of expressway projects which are incomplete and have not been substantially put to public use at the time the county expressway commission was created and the transfer of the function to the commission was effectuated under s. 59.965, 1977 stats., together with any funds so financed in the state treasury under control of the department of transportation to the credit of an expressway project, any funds which the municipality, subsequent to the creation of the county expressway commission under s. 59.965, 1977 stats., and prior to May 17, 1980, transmitted to the department of transportation for credit to an expressway project that is authorized by the county expressway commission and any funds which the municipality may, subsequent to May 17, 1980, transmit to the department of transportation for credit to an expressway project authorized by the board.

(2) POWERS AND DUTIES. The board is charged with the duty and vested with all powers necessary to plan, acquire the right−of−way for and construct an expressway system and mass transit facilities in the county and to administer each expressway and mass transit project until it is certified as completed; to coordinate planning of expressways and mass transit facilities by other public agencies to the extent required to ensure that an acceptable general plan of expressways and mass transit facilities to serve the entire county will be achieved; to determine whether full control of access or partial control of access shall be exercised; to cooperate with public and private agencies in mass transit and expressway applications; including, without limitation because of enumeration, the power to contract and the following powers and duties:

(a) *Plans for expressways.* The board shall consider and tentatively adopt a general plan of expressways to serve the entire county. The plan shall be presented to the governing body of each municipality through which a part of the expressway system is routed for its consideration and approval. The board may by formal action modify the general plan to meet objections raised by the governing body of any municipality through which a route of the expressway passes. If the approval of the governing body is not granted within 60 days from the date of submission, the board shall present the general plan to the department of transportation, which shall hold a public hearing on that part of the plan which is located in such municipality. After the hearing, the department of transportation shall make recommendations to the board with reference to the matters objected to by the municipal governing body. Thereafter the board shall incorporate the recommendations in its general plan. When the approval of the necessary local governing bodies has been obtained or the recommendation of the department of transportation has been obtained in lieu thereof, the general plan shall be finally adopted by the board. Thereafter, the board may amend the general plan as it considers proper.

(b) *Procedure upon adoption of plan.* The board shall adopt tentative expressway project budgets for the units of the comprehensive plan adopted under par. (a) and in order of construction as the board considers proper. Each budget shall give reasonably detailed estimates of expenditures required to complete the expressway project and shall also give an estimate of the state and federal aid which will become available for the project. The board shall determine the amount of the county's share of the cost of the project and the financing thereof, either from the authorization of county expressway bonds under s. 67.04, or by determining the amounts to be included in the budgets during the construction years, or by transfer from unappropriated surplus under s. 59.60 (5), or by any combination of the foregoing. When the board determines that county funds for an expressway project shall be financed in whole or in part from current budgets, the county auditor shall include such amounts in the proper proposed budget under s. 59.60 (5). The board shall adopt expressway project budgets with such changes as it considers proper. When adopted, the county contribution to the expressway project shall constitute a legal appropriation and shall be expendable to the extent that expressway bonds have been authorized or money otherwise provided. The board may amend any expressway project budget and may transfer appropriations from one expressway project to another.

(c) *Acceptance of gifts.* The board may accept grants, conveyances and devises of land, improvements thereon and all interests whatsoever therein and bequests and donations of money to be used for expressway purposes.

(d) *Acquisition of lands and interests therein.* 1. The board may acquire in the name of the county or in the name of the state when so directed by the department of transportation, by donation, purchase, condemnation or otherwise, such lands, including any improvements on the lands, and any interests, easements, franchises, rights and privileges in or pertaining to lands, of whatever nature and by whomsoever owned, as the board considers necessary and required for expressway purposes, and to dispose of such lands. The board may use expressway lands for the location or relocation of any facility for mass transportation, including private or public utilities. The board may purchase or accept donation of remnants of tracts or parcels of land remaining at the time or after it has acquired by condemnation or after or coincident with its acquisition by purchase or donation portions of such tracts or parcels for expressway purposes where in the judgment of the board such action would assist in rendering just compensation to a landowner, a part of whose lands are required for expressway purposes, and would serve to minimize the overall cost of such necessary taking by the public. The county may dispose of such remnants. No lands or interest in lands that are acquired as provided in this paragraph shall be disposed of by the county without the consent of the board, and all money that is received for any such lands, improvements or interests in land, so disposed of, shall be credited to the land acquisition account as an abatement of expense. No lands acquired by the board, as provided in this subsection, in the name of or in trust for the state, shall be disposed of by the county without prior approval of the state, and the proceeds of the sale shall be remitted to the state or retained and used for expressway purposes when so directed by the department of transportation.

2. After the general plan of expressways has been adopted, the board may, for specific approved highway projects or otherwise, acquire lands and interests therein of the nature and in the manner specified in this paragraph for the right−of−way of the expressways in advance of the time of the adoption of an expressway project budget including the lands and interests. Such power may be exercised when in the judgment of the board the public interest will be served and economy effected by forestalling development of the lands which will entail greater acquisition costs if acquired at a later date. Upon such acquisition the board may improve, use, maintain or lease the lands until the same are required for expressway construction. It is recognized that there may necessarily be a period of time between the acquisition of needed lands for right−of−way and the commencement of actual site clearance and construction, but such fact shall not minimize the public purpose of the acquisition. The owners of the lands at the time of the acquisition shall have the first right to enter into leases thereof with the county until the lands are needed for expressway construction. Lands so leased for more than one year shall be subject to general property taxation during the term of the lease. All rentals shall be credited to the project or to the expressway land acquisition account. The board may provide out of funds acquired by bond issue or otherwise a land acquisition fund not in excess of $5,000,000 of expendable funds at any one time, to be used primarily for the acquisition of lands, improvements thereon and interests therein as specified in this subsection prior to the approval of the specific expressway project for which the lands or interests will be required. The fund shall be adjusted to reflect

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acquisition costs for lands and interests therein thereafter incorporated in specific approved expressway projects by transferring both the appropriations and the acquisition costs therefor to the proper expressway improvement expenditures account.

3. When an expressways project for which lands, improvements thereon and all interests therein have been paid for from any expressway land acquisition fund or account becomes activated by the board, the department of transportation may reimburse the expressway land acquisition fund by allocation of funds which may be made available under any state or federal statute to reimburse prior disbursements from the land acquisition fund to acquire the lands, improvements thereon or interests therein or appurtenant thereto. All state or federal funds thus received shall be used for expressway purposes.

4. The board, in acquiring lands, improvements on lands and interests in lands and appurtenant to lands, as provided in this subsection, may acquire the lands in fee simple or by easement for highway purposes as it may by order determine. In any such acquisition, the board may, and shall when requested by the department of transportation, act in the name of the state as the agent of the department of transportation and in other cases shall act in the name of the county. The board in making the acquisition may proceed under ch. 32.

5. Whenever, before actual expressway project construction, a saving is shown to be probable in the cost of constructing a proposed new municipal or privately owned public utility, which, if presently installed in a public way in a proposed normal manner, would ultimately be interfered with by expressway construction, by initially constructing the municipal or privately owned public utility in other than a normal manner to accommodate future expressway construction, in order to effect savings by avoiding reconstruction and relocating at a later date, the board may contract with the municipal government or utility company involved for the construction of the public utility in other than normal manner and to pay to the municipal government or utility company the portion of the cost of the special construction in excess of the cost if constructed in the proposed normal manner, the funds for which may be taken from the land acquisition fund authorized in subd. 2.

6. When the board has acquired title to lands in fee either for the county or the state, the county or a person authorized by the county may use and develop any portion of the lands not directly needed for expressway−roadway purposes and which do not interfere with the primary expressway purpose, and without limitation because of enumeration may use the subsoil beneath the ground, the ground level area or air space above the ground, for parking, storage or building purposes subject to municipal land use zoning regulations except as to parking, but if the expressway right−of−way area is either on the federal interstate system or on a state trunk highway, the county shall obtain the consent of the department of transportation to the development and use prior to construction or initiation of that use. The state shall receive a share of the rentals or sale price derived from the use in the proportion that the amount of federal or state funds used in the purchase of the site bears to the total cost of the land and improvement which is the subject of the sale or rental. Such sharing shall not be made until the county or the person authorized by the county has been reimbursed for all sums expended by it, in the developments referred to in this paragraph, and such sharing shall terminate when the fair proportion of the federal and state funds allocable to the purchase of the area so developed has been reimbursed. In lieu of sharing in the proportion of the amount of federal or state funds used in the purchase of the site to the total cost of the land and improvement which is the subject of the sale or rental, the state and the county or the person authorized by the county may share the rentals or sale price on the basis of a different formula for such sharing if the department of transportation and the county agree to a different formula.

7. Before the county authorizes any person to use or develop lands under subd. 6., the county shall make a reasonable effort to determine whether any institution of higher education in the vicinity of the lands has demonstrated to the county an interest in the use or development of the lands. The county shall give preference to proposals for the use or development of lands under subd. 6. which are submitted by an institution of higher education in the vicinity of those lands and which provide for reasonable payment to the county under a lease of or other authority to use or develop those lands.

(e) *Contracts.* The board may construct and administer projects under its jurisdiction, and may contract in the name of the county with the department of transportation as may be necessary under state and federal statutes to secure state and federal aid on expressway projects.

(f) *Vacation, relocation, reconstruction of streets, alleys, etc.* 1. Whenever the board determines that it is necessary for the proper construction of an expressway project that streets or alleys be vacated in whole or in part, or be dead−ended at the expressway right−of−way line; that existing streets or alleys be relocated; that new streets or alleys be laid out and opened; that accessory streets or ramps to serve as approaches to the expressway be constructed; that existing streets leading to or from expressway ramps be designated as one−way streets for such reasonable distance as is necessary for the proper operation of the facility; that the grade of existing streets be changed or that the traveled portion of existing streets be widened and improved so as to facilitate entrance to the expressway, it shall formulate a tentative order evidencing such requirement and file a certified copy thereof with the municipal clerk of each municipality affected by the tentative order for consideration thereof by the governing body of the municipality.

2. The governing body or the committee which the governing body designates shall hold a public hearing to consider the tentative order and shall publish in the county a class 2 notice, under ch. 985, of the hearing.

3. If the tentative order is not approved within 90 days from the date of the filing, the board shall present the tentative order to the department of transportation, which shall hold a public hearing on the order, of which hearing the municipality in question shall be given notice. The department of transportation shall have jurisdiction to pass upon the necessity and reasonableness of the proposed tentative order, and it may approve, modify and approve or disapprove the order. The department's decision shall be final, with no review allowed under ch. 227.

4. If the tentative order is approved by the governing body of the municipality affected, or if it is approved or modified and approved by the department of transportation, the board may thereafter issue a final order identical with the original tentative order as modified by the department's decision. A certified copy of the final order shall be filed with the municipal clerk of the municipality affected. Notice of the making of the order shall be published in the county as a class 1 notice, under ch. 985.

5. The governing body of the municipality shall, within 30 days after filing, take the necessary action to comply with the order and in so doing shall not be limited by the objections of an abutting owner, and s. 66.1005 (2) shall not be applicable to any vacation or discontinuance required by the order, and any such municipality may act upon the initiative of its governing body without the necessity of obtaining the consent of an abutting owner, notwithstanding chs. 60, 61, 62 and 66 and s. 66.1005 (2) and any other provisions of law to the contrary.

6. If the municipality does not comply with the order within a reasonable time, the board may perform the work required by the order with its own forces or by contract and in so doing and for such purpose shall have the same powers and freedom from limitations as are vested by chs. 60, 61, 62 and 66 and this subsection in the governing body of the municipality.

7. The plans, specifications, proposed contracts and the appraisal of damages, if any, caused to abutting owners by compliance with the order shall be subject to approval by the board before the commencement of any work under the order but the

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requirement for approval of the order shall not affect the abutting property owners' rights of appeal from the determination of damages by the commissioner of public works of the city or by any other authorized person or body.

8. The cost of performing such work as may be required by any order of the board under this subsection, including damages granted for changes of legally established grade or necessary acquisition of lands, shall be paid by the county from expressway funds as an item of the particular expressway project budget upon presentation of vouchers which have been approved for payment by the governing body of the municipality and the board. If the payment made by the county has been increased by reason of the municipality requesting an expenditure in excess of replacement or termination costs, the municipality shall reimburse the county for the excess cost. The reimbursement shall be credited by the county to abatement of the respective expense for which it was received.

(g) *Relocation of municipal utilities.* 1. The board, subject to approval by the public service commission after public hearing to all interested parties in cases in which the public service commission would have jurisdiction, may by order require any municipality through which an expressway project is to be constructed to remove, relocate and replace in kind or with equal facilities, or if the municipality shall request enlarged facilities, any sewer, street lighting or other like utility service the location of which interferes with construction of an expressway project. If enlarged facilities are requested the municipality shall bear that part of the cost of the improvement which exceeds the cost of the replacement of the existing facility in kind or with equal materials or facilities. However the board shall bear the excess cost where the installation of the enlarged facility is caused by designed construction and use of the expressway. A certified copy of the order shall be filed with the municipal clerk of each municipality affected and upon the filing each municipality shall within 30 days take the necessary action to comply with the order. All plans, specifications and contracts for any of the work shall be subject to approval by the board. When the work under specific contracts has been completed and approved by the governing body of the municipality and the board, the county shall pay for the work from expressway funds as an item of the particular expressway project budget. If the payments made by the county exceed the replacement costs and the additional cost was incurred at the specific request of the municipality, the municipality shall reimburse the county therefor. The reimbursement shall be credited by the county as an abatement of the expenses for which the reimbursement is received. If considered feasible and desirable by the board any work provided for in this paragraph may be performed by the board or directly by contract. In such cases the municipality in which the work is performed shall cooperate with the board.

2. With respect to any water utility of any municipality which utility, in addition to providing water for human consumption, performs governmental functions in the way of providing water for fire protection, sewerage operation, street sanitation, park bathing pools and the like, the board shall have the same powers and be subject to the same obligations as are provided in subd. 1. However, water storage tanks, water pumping stations and water reservoirs may be removed, relocated and replaced by the board only with the consent and approval of the municipality owning and operating the facilities.

(h) *Private occupancy of streets; relocation.* 1. All persons other than those mentioned in par. (g) lawfully having buildings, structures, works, conduits, mains, pipes, wires, poles, tracks or any other physical facilities in, over or under the public lands, streets, highways, alleys, parks or parkways of the county, or of any municipality therein, which in the opinion of the board in any manner interfere with the construction of an expressway project or the relocation or maintenance of such a project, shall upon order by the board promptly so accommodate, relocate or remove the interfering physical facilities.

2. Whenever the board proposes to consider adoption of an expressway project, it shall give notice of the proposal to each privately owned public utility or other person affected by the project indicating in the notice the action which it desires the utility or person to take, and the utility or person shall within 90 days after receipt of the notice furnish to the board its plan to comply with the request.

3. When the utility, under the board's order, proceeds with the work in a manner satisfactory to the board, the county shall pay the utility from expressways funds upon monthly estimates of work performed and submitted for payment by the utility, two−thirds of the net cost incurred by the utility in performing the work, after deducting reasonable and fair credits for items salvaged, for any betterments made at the option of the company and for the value as carried on the utility's books, of the used life of a facility retired from use if the service life of the new facility will extend beyond the expectancy of the one removed. The county shall not be liable to pay any value for utility facilities where use of the facilities has been abandoned for reasons other than the construction or proposed construction of an expressway project even though the installation is intact.

4. The board and any utility that is required to accommodate, relocate or remove a utility facility described in subd. 1. may by agreement provide for the respective amounts of the cost to be borne by each so as to resolve a dispute as to the allowance of charges and credits set forth in this paragraph. When the agreement has been concluded, the county shall pay out of expressway funds its share of the cost upon monthly estimates of work performed and submitted for payment by the utility.

5. If the board and any privately owned public utility are unable to agree as to the division of the costs, either may appeal to the public service commission, which shall determine the proper amounts of reimbursement according to the provisions expressed in this paragraph. Either party may petition the circuit court for review of the public service commission's decision in the manner provided in s. 227.53. If it is determined upon such review that the county has paid more than two−thirds of the net cost of compliance by a utility with the board's order, any overage shall be reimbursed to the county by the utility.

6. No appeal shall delay the construction of the expressway project or compliance by the privately owned public utilities with the orders of the board. Compliance shall not prejudice the rights of either the board or the utilities in any pending appeal.

7. If a person refuses to comply with an order of the board as promulgated under this paragraph, the board may apply to the circuit court for a writ of assistance to compel compliance, and the person shall be liable for all damages caused to the board by the delay.

8. If a railroad track and an expressway project cross, ss. 195.28 to 195.29 shall apply.

9. The reimbursement of private utilities under this paragraph shall be limited to expressway projects as provided in this section.

(i) *Entry on private lands.* The board, its agents or servants, may enter any land in the county for the purpose of making surveys, test borings or any other type of examination necessary in the performance of its duties and shall be liable to restore the surface of the lands to the same or as good condition as existed at the time of the entry and for any other actual and demonstrable damage caused to the lands by the entry.

(j) *Traffic types and speed limits.* After an expressway project has been certified as completed, the public body having jurisdiction over the maintenance thereof shall have the power to regulate the type of vehicular use of such portion of the expressway except as limited by federal and state laws and regulations, and the power to fix speed limits thereon not in excess of the maximum speed limits for state trunk highways, and to provide and enforce reasonable penalties for infraction of such vehicular use regulation or speed limits. Notwithstanding s. 346.16 (2), the use of the

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expressways by pedestrians, mopeds, motor bicycles, motor scooters, bicycles, electric personal assistive mobility devices, off−road utility vehicles, lightweight utility vehicles as defined in s. 346.94 (21) (a) 2. except when used to cross an expressway, funeral processions, and animals on foot and the hauling of oversized equipment without special permit shall be prohibited when an ordinance in conformity with this section and, with respect to prohibiting the use of electric personal assistive mobility devices, in conformity with s. 349.236 (1) (a) or (b) is enacted by the board, but a forfeiture provided therein shall not exceed the maximum forfeiture under s. 346.17 (2). The board may not prohibit the towing of disabled vehicles on expressways, except that the board may prohibit the towing of disabled vehicles during the peak hours of 7 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m. as established under county ordinance and except that the board may establish procedures for and may contract for the towing of vehicles which have become disabled on the expressway.

(k) *Building permits on lands in expressway routes.* Each municipality through which a route of the approved expressway plan, as amended from time to time, shall pass, shall be given a formal notice of the route and a map thereof. Thereafter, when an owner of land within the right−of−way of an expressway indicated on the map applies for a building permit affecting such lands, final action on the application shall be deferred for a reasonable time not exceeding 60 days and the municipality shall within 5 days after receipt of the application notify the board thereof.

(L) *Forces to construct expressway projects.* The board may use its own employees to construct expressway projects in whole or in part.

(m) *Rules and regulations.* The board shall have power to make all rules and regulations concerning its work.

(n) *Meetings; reports.* The board shall hold meetings for the transaction of business under this section and all such meetings shall be open to the public. The board shall prepare annually a report of its official transactions and expenditures under this section and shall mail the statement to the governor, to the mayor of the largest city in the county and to the chief executive officer of the governing bodies of all municipalities in the county.

(o) *Applicability of pars. (a) to (n).* Paragraphs (a) to (n) also apply, as far as applicable, to the exercise of the powers and duties of the board in the planning and construction of mass transit facilities.

(4) TRANSFER OF PRIOR EXPRESSWAY STUDIES AND REPORTS. The county expressway and transportation commission that is created under s. 59.965 (2), 1977 stats., and the governmental authorities of the largest city in the county shall transfer and deliver to the board the original or certified copy of all maps and engineering studies and reports pertaining to an expressways system in the city and county, together with all contracts pertaining to the creation and construction of expressways. Upon demand by the board the largest city in the county with the approval of the common council shall execute and deliver to the county quitclaim deeds of all lands acquired, dedicated or owned by the city and needed for the purpose of right−of−way for the expressways, if the cost of the lands was included in the determination of prior expressway expenditures.

(6) REIMBURSEMENT FOR PRIOR EXPRESSWAY FINANCING. Municipalities shall be reimbursed for prior expressway project expenditures. Expressway projects under construction at the time the county expressway and transportation commission was created and the transfer of functions to the commission was effectuated under s. 59.965, 1977 stats., shall be completed by the board. Such municipalities shall be reimbursed for prior expressway expenditures and obligations incurred for the cost of right−of−way acquisition and clearance, construction engineering, and actual construction to the extent of the municipalities' contribution from tax levy or bond funds. Each such municipality shall calculate its contribution and certify the contribution with full data to the board. It shall then be subject to consideration, audit and approval by the board. If approved by the board, reimbursement shall be made on a 10−year installment basis by levying a tax against all the municipalities of the county on an equalized valuation basis, and offsetting the amount thereof to the municipalities entitled to reimbursement.

(7) AGREEMENTS FOR USE OF FEDERAL AID TO RETIRE MATURITIES. The department of transportation and the board may enter into an agreement providing that when the proceeds of bonds issued by the county are expended in the improvement of a portion of the federal aid highway system as a part of the comprehensive expressway system in the county, and are so expended under ch. 84, and in compliance with section 5 of the federal aid highway act of 1950, or acts amendatory to such section, and regulations applicable thereto, the sum of money derived from federal aid for highways which may be authorized by the congress and apportioned to this state for any fiscal year as shall be stipulated in the agreement may be applied to aid in retirement of annual maturities of the principal indebtedness of such bonds, and that to the extent that federal aid can be claimed and received by the state for such purpose, it will upon receipt be paid to the county. Any money so paid shall be deposited by the county in the sinking fund provided for the retirement of the bond issue of which the bonds formed a part.

(8) AGREEMENTS FOR STATE AID TO RETIRE MATURITIES. The department of transportation may enter into a contract with the board providing that, to the extent that the proceeds of bonds issued by the county are expended under ch. 84 in the improvement of state trunk highways or connecting highways, in addition to the agreed county share of the improvement and for which the county has not been or will not be reimbursed with federal funds, such sum as may be approved by the department of transportation in any fiscal year will be paid to the county to aid in retirement of the annual maturities of the principal indebtedness of the bonds from funds appropriated and available to the department of transportation for the improvement of state trunk highways or connecting highways. Payments may be made under the agreement, before or after the bonds mature, from funds appropriated and available to the department of transportation for the improvement of state trunk highways or connecting highways after making provision for adequate maintenance and traffic service, but this section or the agreement shall not constitute a commitment on the part of this state or the county to provide the funds. Any money so paid shall be deposited by the county in its sinking fund created for the purpose of payment of the bond issue of which the bonds formed a part.

(9) STAFF. (a) *Other departments and officers.* The staff of the county highway department, under the direction of the county highway commissioner, shall perform all technical work required by the board. Any municipality having an expressway staff shall, upon request of the county board, transfer the staff to the county, and the agents and employees of the municipal staff shall thereupon become integrated into county civil service in the county highway department. The board may hire upon a contract basis such expert consultant services as it considers necessary to assist in the planning of the expressway system.

(b) *Records and equipment.* The board shall provide a suitable place where the maps, plans, documents, and records of the board that relate to this section shall be kept, subject to public inspection at all reasonable hours and under reasonable regulations that the board may prescribe.

(10) MAINTENANCE AND OPERATION. (a) *Maintenance and operation.* Whenever any expressway project is opened to traffic, the certification of such fact shall be filed with the clerk of the municipality in which the project is located. The notice shall be filed by the department of transportation in all cases where the construction contract has been awarded by the department of transportation, or by the board where the construction contract has been awarded by the board. Thereafter the portion of the expressway system included in such opening shall be operated and maintained by the county, but if an expressway project is selected and designated as a state trunk or interstate highway that portion of the

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expressway shall be maintained by the state. The maintenance responsibility of the county or state shall include all areas within the right−of−way fence lines and between the right−of−way fence lines and the curb lines of adjacent streets, except that connecting ramps constructed as a part of the expressway system shall be included in such maintenance to the near curb lines of the street with which they connect. All areas not specifically included within these described limits shall be maintained by the municipality in which the expressway is located, except that the state or county shall maintain the structural parts of bridges carrying local traffic over the expressway, including generally the footings, piers, columns, abutments and structural girders.

(b) *Policing of expressways.* Expressways shall be policed by the sheriff who may, when necessary, request and shall receive cooperation and assistance from the police departments of each municipality in which expressways are located, but nothing in this paragraph shall be construed to deprive such police departments of the power of exercising law enforcement on such expressways within their respective jurisdictions.

(11) DESIGNATED STANDING COMMITTEE. The board may designate a standing committee to perform the duties and to exercise the powers of the board under this section, except those powers and duties in sub. (2) (a) and (b). All actions of the standing committee under this section may be modified and shall be approved or disapproved by the board.

History: 1971 c. 164; 1973 c. 333 s. 201w; 1977 c. 29 ss. 673, 1654 (3), (8) (c), (d), (e); 1977 c. 70, 203, 338; 1979 c. 310 ss. 3 to 8, 10, 12; 1981 c. 347 s. 80 (2), (3); 1981 c. 390; 1983 a. 207 s. 95; 1983 a. 243; 1983 a. 501 s. 16; 1985 a. 29, 187; 1987 a. 27; 1993 a. 16; 1995 a. 201 s. 464; Stats. 1995 s. 59.84; 1995 a. 225 s. 173; 1997 a. 35; 1999 a. 83; 2001 a. 90; 2003 a. 192, 214; 2009 a. 157.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

59.85 Appropriation bonds for payment of employee retirement system liability in populous counties.

(1) DEFINITIONS. In this section:

(a) "Appropriation bond" means a bond issued by a county to evidence its obligation to repay a certain amount of borrowed money that is payable from all of the following:

1. Moneys annually appropriated by law for debt service due with respect to such appropriation bond in that year.

2. Proceeds of the sale of such appropriation bonds.

3. Payments received for that purpose under agreements and ancillary arrangements described in s. 59.86.

4. Investment earnings on amounts in subds. 1. to 3.

(b) "Board" means the county board of supervisors in any county.

(c) "Bond" means any bond, note, or other obligation of a county issued under this section.

(d) "County" means any county having a population of 500,000 or more.

(e) "Refunding bond" means an appropriation bond issued to fund or refund all or any part of one or more outstanding pension−related bonds.

(1m) LEGISLATIVE FINDING AND DETERMINATION. Recognizing that a county, by prepaying part or all of the county's unfunded prior service liability with respect to an employee retirement system of the county, may reduce its costs and better ensure the timely and full payment of retirement benefits to participants and their beneficiaries under the employee retirement system, the legislature finds and determines that it is in the public interest for the county to issue appropriation bonds to obtain proceeds to pay its unfunded prior service liability.

(2) AUTHORIZATION OF APPROPRIATION BONDS. (a) A board shall have all powers necessary and convenient to carry out its duties, and to exercise its authority, under this section.

(b) Subject to pars. (c) and (d), a county may issue appropriation bonds under this section to pay all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county, or to fund or refund outstanding appropriation bonds issued under this section. A county may use proceeds of appropriation bonds to pay issuance or administrative expenses, to make deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit enhancement, to make payments under other agreements entered into under s. 59.86, or to make deposits to stabilization funds established under s. 59.87.

(c) Other than refunding bonds issued under sub. (6), all bonds must be issued simultaneously.

(d) 1. Before a county may issue appropriation bonds under par. (b), its board shall enact an ordinance that establishes a 5−year strategic and financial plan related to the payment of all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county. The strategic and financial plan shall provide that future annual pension liabilities are funded on a current basis. The strategic and financial plan shall contain quantifiable benchmarks to measure compliance with the plan. The board shall make a determination that the ordinance meets the requirements of this subdivision and, absent manifest error, the board's determination shall be conclusive. The board shall submit to the governor and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a copy of the strategic and financial plan.

2. Annually, the county comptroller under s. 59.255 shall submit to the governor, the department of revenue, and the department of administration, and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report that includes all of the following:

a. The county's progress in meeting the benchmarks in the strategic and financial plan.

b. Any proposed modifications to the plan.

c. The status of any stabilization fund that is established under s. 59.87 (3).

d. The most current actuarial report related to the county's employee retirement system.

e. The amount, if any, by which the county's contributions to the employee retirement system for the prior year is less than the normal cost contribution for that year as specified in the initial actuarial report for the county's employee retirement system for that year.

f. The amount that the actuary determines is the county's required contribution to the employee retirement system for that year.

(2m) PENALTY FOR INADEQUATE CONTRIBUTION. If the county's contributions to the employee retirement system for the prior year is less than the lower of the required contribution for that year, as described in sub. (2) (d) 2. f., or the normal cost for that year, the department of revenue shall reduce and withhold the amount of the shared revenue payments to the county under subch. I of ch. 79, in the following year, by an amount equal to the difference between the required cost contribution for that prior year and the county's actual contribution in that prior year. The department of revenue shall deposit the amount of the reduced and withheld shared revenue payment into the county's employee retirement system.

(3) TERMS. (a) A county may borrow moneys and issue appropriation bonds in evidence of the borrowing pursuant to one or more written authorizing resolutions under sub. (4). Unless otherwise provided in an authorizing resolution, the county may issue appropriation bonds at any time, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner, and having any other terms or conditions that the board considers necessary or desirable. Appropriation bonds may bear interest at variable or fixed rates, bear no interest, or bear interest payable only at maturity or upon redemption prior to maturity.

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(b) The board may authorize appropriation bonds having any provisions for prepayment the board considers necessary or desirable, including the payment of any premium.

(c) Interest shall cease to accrue on an appropriation bond on the date that the appropriation bond becomes due for payment if payment is made or duly provided for.

(d) All moneys borrowed by a county that is evidenced by appropriation bonds issued under this section shall be lawful money of the United States, and all appropriation bonds shall be payable in such money.

(e) All appropriation bonds owned or held by a fund of the county are outstanding in all respects and the board or other governing body controlling the fund shall have the same rights with respect to an appropriation bond as a private party, but if any sinking fund acquires appropriation bonds that gave rise to such fund, the appropriation bonds are considered paid for all purposes and no longer outstanding and shall be canceled as provided in sub. (7) (d).

(f) A county shall not be generally liable on appropriation bonds, and appropriation bonds shall not be a debt of the county for any purpose whatsoever. Appropriation bonds, including the principal thereof and interest thereon, shall be payable only from amounts that the board may, from year to year, appropriate for the payment thereof.

(4) PROCEDURES. (a) No appropriation bonds may be issued by a county unless the issuance is pursuant to a written authorizing resolution adopted by a majority of a quorum of the board. The resolution may be in the form of a resolution or trust indenture, and shall set forth the aggregate principal amount of appropriation bonds authorized thereby, the manner of their sale, and the form and terms thereof. The resolution or trust indenture may establish such funds and accounts, including a reserve fund, as the board determines.

(b) Appropriation bonds may be sold at either public or private sale and may be sold at any price or percentage of par value. All appropriation bonds sold at public sale shall be noticed as provided in the authorizing resolution. Any bid received at public sale may be rejected.

(5) FORM. (a) As determined by the board, appropriation bonds may be issued in book−entry form or in certificated form. Notwithstanding s. 403.104 (1), every evidence of appropriation bond is a negotiable instrument.

(b) Every appropriation bond shall be executed in the name of and for the county by the chairperson of the board and county clerk, and shall be sealed with the seal of the county, if any. Facsimile signatures of either officer may be imprinted in lieu of manual signatures, but the signature of at least one such officer shall be manual. An appropriation bond bearing the manual or facsimile signature of a person in office at the same time the signature was signed or imprinted shall be fully valid notwithstanding that before or after the delivery of such appropriation bond the person ceased to hold such office.

(c) Every appropriation bond shall be dated not later than the date it is issued, shall contain a reference by date to the appropriate authorizing resolution, shall state the limitation established in sub. (3) (f), and shall be in accordance with the appropriate authorizing resolution in all respects.

(d) An appropriation bond shall be substantially in such form and contain such statements or terms as determined by the board, and may not conflict with law or with the appropriate authorizing resolution.

(6) REFUNDING BONDS. (a) 1. A board may authorize the issuance of refunding appropriation bonds. Refunding appropriation bonds may be issued, subject to any contract rights vested in owners of the appropriation bonds being refunded, to refund all or any part of one or more issues of appropriation bonds notwithstanding that the appropriation bonds may have been issued at different times or issues of general obligation promissory notes under s. 67.12 (12) were issued to pay unfunded prior service liability with respect to an employee retirement system. The principal amount of the refunding appropriation bonds may not exceed the sum of: the principal amount of the appropriation bonds or general obligation promissory notes being refunded; applicable redemption premiums; unpaid interest on the refunded appropriation bonds or general obligation promissory notes to the date of delivery or exchange of the refunding appropriation bonds; in the event the proceeds are to be deposited in trust as provided in par. (c), interest to accrue on the appropriation bonds or general obligation promissory notes to be refunded from the date of delivery to the date of maturity or to the redemption date selected by the board, whichever is earlier; and the expenses incurred in the issuance of the refunding appropriation bonds and the payment of the refunded appropriation bonds or general obligation promissory notes.

2. A board may authorize the issuance of general obligation promissory notes under s. 67.12 (12) (a) to refund appropriation bonds, notwithstanding s. 67.01 (9) (intro.).

(b) If a board determines to exchange refunding appropriation bonds, they may be exchanged privately for, and in payment and discharge of, any of the outstanding appropriation bonds being refunded. Refunding appropriation bonds may be exchanged for such principal amount of the appropriation bonds being exchanged therefor as may be determined by the board to be necessary or desirable. The owners of the appropriation bonds being refunded who elect to exchange need not pay accrued interest on the refunding appropriation bonds if and to the extent that interest is accrued and unpaid on the appropriation bonds being refunded and to be surrendered. If any of the appropriation bonds to be refunded are to be called for redemption, the board shall determine which redemption dates are to be used, if more than one date is applicable and shall, prior to the issuance of the refunding appropriation bonds, provide for notice of redemption to be given in the manner and at the times required by the resolution authorizing the appropriation bonds to be refunded.

(c) 1. The principal proceeds from the sale of any refunding appropriation bonds shall be applied either to the immediate payment and retirement of the appropriation bonds or general obligation promissory notes being refunded or, if the bonds or general obligation promissory notes have not matured and are not presently redeemable, to the creation of a trust for, and shall be pledged to the payment of, the appropriation bonds or general obligation promissory notes being refunded.

2. If a trust is created, a separate deposit shall be made for each issue of appropriation bonds or general obligation promissory notes being refunded. Each deposit shall be with a bank or trust company authorized by the laws of the United States or of a state in which it is located to conduct banking or trust company business. If the total amount of any deposit, including moneys other than sale proceeds but legally available for such purpose, is less than the principal amount of the appropriation bonds or general obligation promissory notes being refunded and for the payment of which the deposit has been created and pledged, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then the application of the sale proceeds shall be legally sufficient only if the moneys deposited are invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States, and only if the principal amount of the securities at maturity and the income therefrom to maturity will be sufficient and available, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of the appropriation bonds or general obligation promissory notes being refunded together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of the securities shall be applied solely to the payment of the principal of and interest and redemption premiums on the appropriation bonds or

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general obligation promissory notes being refunded, but provision may be made for the pledging and disposition of any surplus.

3. Nothing in this paragraph may be construed as a limitation on the duration of any deposit in trust for the retirement of appropriation bonds or general obligation promissory notes being refunded that have not matured and that are not presently redeemable. Nothing in this paragraph may be constructed to prohibit reinvestment of the income of a trust if the reinvestments will mature at such times that sufficient moneys will be available to pay interest, applicable premiums, and principal on the appropriation bonds or general obligation promissory notes being refunded.

(7) FISCAL REGULATIONS. (a) All appropriation bonds shall be registered by the county clerk or county treasurer of the county issuing the appropriation bonds, or such other officers or agents, including fiscal agents, as the board may determine. After registration, no transfer of an appropriation bond is valid unless made by the registered owner's duly authorized attorney, on the records of the county and similarly noted on the appropriation bond. The county may treat the registered owner as the owner of the appropriation bond for all purposes. Payments of principal and interest shall be by electronic funds transfer, check, share draft, or other draft to the registered owner at the owner's address as it appears on the register, unless the board has otherwise provided. Information in the register is not available for inspection and copying under s. 19.35 (1). The board may make any other provision respecting registration as it considers necessary or desirable.

(b) The board may appoint one or more trustees or fiscal agents for each issue of appropriation bonds. The county treasurer may be designated as the trustee and the sole fiscal agent or as cofiscal agent for any issue of appropriation bonds. Every other fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to conduct banking or trust company business. There may be deposited with a trustee, in a special account, moneys to be used only for the purposes expressly provided in the resolution authorizing the issuance of appropriation bonds or an agreement between the county and the trustee. The board may make other provisions respecting trustees and fiscal agents as the board considers necessary or desirable and may enter into contracts with any trustee or fiscal agent containing such terms, including compensation, and conditions in regard to the trustee or fiscal agent as the board considers necessary or desirable.

(c) If any appropriation bond is destroyed, lost, or stolen, the county shall execute and deliver a new appropriation bond, upon filing with the board evidence satisfactory to the board that the appropriation bond has been destroyed, lost, or stolen, upon providing proof of ownership thereof, and upon furnishing the board with indemnity satisfactory to it and complying with such other rules of the county and paying any expenses that the county may incur. The board shall cancel the appropriation bond surrendered to the county.

(d) Unless otherwise directed by the board, every appropriation bond paid or otherwise retired shall be marked "canceled" and delivered to the county treasurer, or to such other fiscal agent as applicable with respect to the appropriation bond, who shall destroy them and deliver a certificate to that effect to the county clerk.

(8) APPROPRIATION BONDS AS LEGAL INVESTMENTS. Any of the following may legally invest any sinking funds, moneys, or other funds belonging to them or under their control in any appropriation bonds issued under this section:

(a) The state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies.

(b) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business.

(c) Personal representatives, guardians, trustees, and other fiduciaries.

(9) MORAL OBLIGATION PLEDGE. If the board considers it necessary or desirable to do so, it may express in a resolution authorizing appropriation bonds its expectation and aspiration to make timely appropriations sufficient to pay the principal and interest due with respect to such appropriation bonds, to make deposits into a reserve fund created under sub. (4) (a) with respect to such appropriation bonds, to make payments under any agreement or ancillary arrangement entered into under s. 59.86 with respect to such appropriation bonds, to make deposits into any stabilization fund established or continued under s. 59.87 with respect to such appropriation bonds, or to pay related issuance or administrative expenses.

(10) PENSION STUDY COMMITTEE. The 2 public members of the pension study committee, created by chapter 405, laws of 1965, shall have at least 10 years of financial experience.

(11) APPLICABILITY. This section does not apply if a county does not issue appropriation bonds as authorized under sub. (2).

History: 2007 a. 115; 2011 a. 62.

59.86 Agreements and ancillary arrangements for certain notes and appropriation bonds. At the time of issuance or in anticipation of the issuance of appropriation bonds under s. 59.85, or general obligation promissory notes under s. 67.12 (12), to pay unfunded prior service liability with respect to an employee retirement system, or at any time thereafter so long as the appropriation bonds or general obligation promissory notes are outstanding, a county having a population of 500,000 or more may enter into agreements or ancillary arrangements relating to the appropriation bonds or general obligation promissory notes, including trust indentures, liquidity facilities, remarketing or dealer agreements, letters of credit, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, and interest exchange agreements. Any payments made or amounts received with respect to any such agreement or ancillary arrangement shall be made from or deposited as provided in the agreement or ancillary arrangement.

History: 2007 a. 115.

59.87 Employee retirement system liability financing in populous counties; additional powers. (1) DEFINITIONS. In this section:

(a) "Board" means the county board of supervisors in any county.

(b) "County" means any county having a population of 500,000 or more.

(c) "Pension funding plan" means a strategic and financial plan related to the payment of all or part of a county's unfunded prior service liability with respect to an employee retirement system.

(d) "Trust" means a common law trust organized under the laws of this state, by the county, as settlor, pursuant to a formal, written, declaration of trust.

(2) SPECIAL FINANCING ENTITIES, FUNDS, AND ACCOUNTS. (a) To facilitate a pension funding plan and in furtherance thereof, a board may create one or more of the following:

1. A trust.
2. A nonstock corporation under ch. 181.
3. A limited liability company under ch. 183.
4. A special fund or account of the county.

(b) An entity described under par. (a) has all of the powers provided to it under applicable law and the documents pursuant to which it is created and established. The powers shall be construed broadly in favor of effectuating the purposes for which the entity is created. A county may appropriate funds to such entities and to such funds and accounts, under terms and conditions established by the board, consistent with the purposes for which they are created and established.

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(3) STABILIZATION FUNDS. (a) To facilitate a pension funding plan a board may establish a stabilization fund. Any such fund may be created as a trust, a special fund or account of the county established by a separate resolution or ordinance, or a fund or account created under an authorizing resolution or trust indenture in connection with the authorization and issuance of appropriation bonds under s. 59.85 or general obligation promissory notes under s. 67.12 (12). A county may appropriate funds for deposit to a stabilization fund established under this subsection.

(b) Moneys in a stabilization fund established under this subsection may be used, subject to annual appropriation by the board, solely to pay principal or interest on appropriation bonds issued under s. 59.85 and general obligation promissory notes under s. 67.12 (12) issued in connection with a pension funding plan, for the redemption or repurchase of such appropriation bonds or general obligation promissory notes, to make payments under any agreement or ancillary arrangement entered into under s. 59.86 with respect to such appropriation bonds or general obligation promissory notes, or to pay annual pension costs other than normal costs. Moneys on deposit in a stabilization fund may not be subject to any claims, demands, or actions by, or transfers or assignments to, any creditor of the county, any beneficiary of the county's employee retirement system, or any other person, on terms other than as may be established in the resolution or ordinance creating the stabilization fund. Moneys on deposit in a stabilization fund established under this subsection may be invested and reinvested in the manner directed by the board or pursuant to delegation by the board as provided under s. 66.0603 (5).

History: 2007 a. 115.

59.875 Payment of contributions in an employee retirement system of populous counties. (1) In this section, "county" means any county having a population of 500,000 or more.

(2) (a) Beginning on July 1. 2011, in any employee retirement system of a county, except as otherwise provided in a collective bargaining agreement entered into under subch. IV of ch. 111 and except as provided in par. (b), employees shall pay half of all actuarially required contributions for funding benefits under the retirement system. The employer may not pay on behalf of an employee any of the employee's share of the actuarially required contributions.

(b) 1. An employer shall pay, on behalf of a nonrepresented law enforcement or fire fighting managerial employee, who was initially employed by the employer before July 1, 2011, the same contributions required by par. (a) that are paid by the employer for represented law enforcement or fire fighting personnel who were initially employed by the employer before July 1, 2011.

2. An employer shall pay, on behalf of a represented law enforcement or fire fighting employee, who was initially employed by the employer before July 1, 2011, and who on or after July 1, 2011, became employed in a nonrepresented law enforcement or fire fighting managerial position with the employer, or a successor employer in the event of a combined department that is created on or after July 1, 2011, the same contributions required by par. (a) that are paid by the employer for represented law enforcement or fire fighting personnel who were initially employed by the employer before July 1, 2011.

History: 2011 a. 10, 32.

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