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CHAPTER 66

GENERAL MUNICIPALITY LAW

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NOTE: Chapter 66 was substantially revised by 1999 Wis. Act 150, which contained extensive explanatory notes. See Laws of Wisconsin, 1999.

SUBCHAPTER I

GENERAL POWERS; ADMINISTRATION

66.0101 Home rule; manner of exercise. (1) Under article XI, section 3, of the constitution, the method of determination of the local affairs and government of cities and villages shall be as prescribed in this section.

(1m) In this section, "charter ordinance" means an ordinance that enacts, amends or repeals the charter, or any part of the charter, of a city or village or that makes the election under sub. (4).

(2) (a) A city or village may enact a charter ordinance. A charter ordinance shall be designated as a charter ordinance, requires a two−thirds vote of the members−elect of the legislative body of the city or village, and is subject to referendum as provided in this section.

(b) A charter ordinance that amends or repeals a city or village charter shall designate specifically the portion of the charter that is amended or repealed. A charter ordinance that makes the election under sub. (4) shall designate specifically each enactment of the legislature or portion of the enactment that is made inapplicable to the city or village by the election.

(3) A charter ordinance shall be published as a class 1 notice, under ch. 985, and shall be recorded by the clerk in a permanent book kept for that purpose, with a statement of the manner of its adoption. A certified copy of the charter ordinance shall be filed by the clerk with the secretary of state. The secretary of state shall keep a separate index of all charter ordinances, arranged alphabetically by city and village and summarizing each ordinance, and annually shall issue the index of charter ordinances filed during the 12 months prior to July 1.

(4) A city or village may elect under this section that any law relating to the local affairs and government of the city or village other than those enactments of the legislature of statewide concern as shall with uniformity affect every city or every village shall not apply to the city or village, and when the election takes effect, the law ceases to be in effect in the city or village.

(5) A charter ordinance does not take effect until 60 days after its passage and publication. If within the 60−day period a petition conforming to the requirements of s. 8.40 and signed by a number of electors of the city or village equal to not less than 7% of the votes cast in the city or village for governor at the last general election is filed in the office of the clerk of the city or village demanding that the ordinance be submitted to a vote of the electors, it may not take effect until it is submitted to a referendum and approved by a majority of the electors voting in the referendum. The petition and the proceedings for its submission are governed by s. 9.20 (2) to (6).

(6) A charter ordinance may be initiated under s. 9.20 (1) to (6), but alternative adoption of the charter ordinance by the legislative body is subject to referendum under sub. (5).

(7) A charter ordinance may be submitted to a referendum by the legislative body, under s. 9.20 (4) to (6), without initiative peti-

tion, and becomes effective when approved by a majority of the electors voting in the referendum.

(8) A charter ordinance enacted or approved by a vote of the electors controls over any prior or subsequent act of the legislative body of the city or village. If the electors of any city or village by a majority vote have adopted or determined to continue to operate under either ch. 62 or 64, or have determined the method of selection of members of the governing board, the question shall not again be submitted to the electors, nor action taken on the question, within a period of 2 years. Any election to change or amend the charter of any city or village, other than a special election as provided in s. 9.20 (4), shall be held at the time provided by statute for holding the spring election.

(9) (a) The legislative body of a city or village, by resolution adopted by a two−thirds vote of its members−elect may, and upon petition complying with s. 9.20 shall, submit to the electors under s. 9.20 (4) to (6) the question of holding a charter convention under one or more plans proposed in the resolution or petition.

(b) The ballot shall be in substantially the following form:

Shall a charter convention be held?

YES ☐ NO ☐

If a charter convention is held what plan do you favor?

PLAN 1 ☐ PLAN 2 ☐

[Repeat for each plan proposed.]

Mark an [X] in the square to the RIGHT of the plan that you select.

(c) If a majority of the electors voting vote for a charter convention, the convention shall be held pursuant to the plan favored by a majority of the total votes cast for all plans. If no plan receives a majority, the 2 plans receiving the highest number of votes shall be again submitted to the electors and a convention shall be held pursuant to the plan favored by a majority of the votes cast.

(d) A charter convention may adopt a charter or amendments to the existing charter. The charter or charter amendments adopted by the convention shall be certified, as soon as practicable, by the presiding officer and secretary of the convention to the city or village clerk and shall be submitted to the electors as provided under s. 9.20 (4) to (6), without the alternative provided in s. 9.20 (4) to (6), and take effect when approved by a majority of the electors voting.

(10) Nothing in this section shall be construed to impair the right of cities or villages under existing or future authority to enact ordinances or resolutions other than charter ordinances.

(11) Sections 62.13 and 62.50 and chapter 589, laws of 1921, and chapter 423, laws of 1923, shall be construed as enactments of statewide concern for the purpose of providing uniform regulation of police, fire, and combined protective services departments.

(12) Every charter ordinance enacted under s. 66.01, 1943 stats., which was adopted by the governing body prior to December 31, 1944, and which also was published prior to that date in the official newspaper of the city or village, or, if there was none, in a newspaper having general circulation in the city or village, shall be valid as of the date of the original publication notwithstanding the failure to publish the ordinance under s. 10.43 (5) and (6), 1943 stats.

History: 1999 a. 150 ss. 18 to 27; Stats. 1999 s. 66.0101; 2011 a. 32.

A charter ordinance must be legislative in character before it can be validly initiated by direct legislation. Save Our Fire Department Paramedics Committee v. Appleton, 131 Wis. 2d 366, 389 N.W.2d 43 (Ct. App. 1986).

The city of Milwaukee cannot, by charter ordinance, adopt s. 62.13 (5) (b) since s. 62.13 deals with a subject of state−wide concern; it cannot do so under s. 62.03 since that requires the adoption of whole statute sections. 58 Atty. Gen. 59.

66.0103 Code of ordinances. (1) The governing body of a city, village, town or county may authorize the preparation of a code of some or all of its general ordinances. The code may be enacted by an ordinance that incorporates the code by reference. A copy of the code shall be available for public inspection not less than 2 weeks before it is enacted. After the code is enacted, a copy shall be maintained and available for public inspection in the office of the city, village, town or county clerk.

(2) Publication of a code enacted under sub. (1), in book or pamphlet form, meets the publication requirements of ss. 59.14, 60.80, 61.50 (1) and 62.11 (4) (a).

History: 1999 a. 150.

66.0104 Prohibiting ordinances that place certain limits or requirements on a landlord. (1) In this section:

(a) "Premises" has the meaning given in s. 704.01 (3).

(b) "Rental agreement" has the meaning given in s. 704.01 (3m).

(c) "Tenancy" has the meaning given in s. 704.01 (4).

(2) (a) No city, village, town, or county may enact an ordinance that places any of the following limitations on a residential landlord:

1. Prohibits a landlord from, or places limitations on a landlord with respect to, obtaining and using or attempting to obtain and use any of the following information with respect to a tenant or prospective tenant:

a. Monthly household income.

b. Occupation.

c. Rental history.

d. Credit information.

e. Court records, including arrest and conviction records, to which there is public access.

f. Social security number or other proof of identity.

2. Limits how far back in time a prospective tenant's credit information, conviction record, or previous housing may be taken into account by a landlord.

3. Prohibits a landlord from, or places limitations on a landlord with respect to, entering into a rental agreement for a premises with a prospective tenant during the tenancy of the current tenant of the premises.

4. Prohibits a landlord from, or places limitations on a landlord with respect to, showing a premises to a prospective tenant during the tenancy of the current tenant of the premises.

(b) No city, village, town, or county may enact an ordinance that places requirements on a residential landlord with respect to security deposits or earnest money or pretenancy or posttenancy inspections that are additional to the requirements under administrative rules related to residential rental practices.

(3) If a city, village, town, or county has in effect on December 21, 2011, an ordinance that is inconsistent with sub. (2), the ordinance does not apply and may not be enforced.

History: 2011 a. 108.

66.0105 Jurisdiction of overlapping extraterritorial powers. The extraterritorial powers granted to cities and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.0415, 236.10 and 254.57, may not be exercised within the corporate limits of another city or village. Wherever these statutory extraterritorial powers overlap, the jurisdiction over the overlapping area shall be divided on a line all points of which are equidistant from the boundaries of each municipality concerned so that not more than one municipality shall exercise power over any area.

History: 1981 c. 222 s. 2; 1993 a. 27; 1999 a. 150 s. 368; Stats. 1999 s. 66.0105.

66.0107 Power of municipalities to prohibit criminal conduct. (1) The board or council of any town, village or city may:

(a) Prohibit all forms of gambling and fraudulent devices and practices.

(b) Seize anything devised solely for gambling or found in actual use for gambling and destroy the device after a judicial determination that it was used solely for gambling or found in actual use for gambling.

(bm) 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 paragraph.

(bn) Enact and enforce an ordinance to prohibit the possession of a 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 paragraph.

(bp) Enact and enforce 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.

(2) Except as provided in sub. (3), nothing in this section may be construed to preclude cities, villages and towns from prohibiting conduct which is the same as or similar to that prohibited by chs. 941 to 948.

(3) The board or council of a city, village or town may not, by ordinance, prohibit conduct which is the same as or similar to conduct prohibited by s. 944.21.

History: 1973 c. 198; 1979 c. 131 s. 4; 1987 a. 332 s. 64; 1987 a. 416; 1989 a. 121, 276; 1993 a. 246; 1995 a. 353, 448; 1999 a. 150 ss. 151, 153; Stats. 1999 s. 66.0107; 2005 a. 116, ss. 2 to 4; 2011 a. 31.

66.0109 Penalties under county and municipal ordinances. If a statute requires that the penalty under any county or municipal ordinance conform to the penalty provided by statute the ordinance may impose only a forfeiture and may provide for imprisonment if the forfeiture is not paid.

History: 1971 c. 278; 1999 a. 150 s. 272; Stats. 1999 s. 66.0109.

66.0111 Bond or cash deposit under municipal ordinances. (1) If a person is arrested for the violation of a city, village or town ordinance and the action is to be in circuit court, the chief of police or police officer designated by the chief, marshal or clerk of court may accept from the person a bond, in an amount not to exceed the maximum penalty for the violation, with sufficient sureties, or a cash deposit, for appearance in the court having jurisdiction of the offense. A receipt shall be issued for the bond or cash deposit.

(2) (a) If the person released fails to appear, personally or by an authorized attorney or agent, before the court at the time fixed for hearing the case, the bond and money deposited, or an amount that the court determines to be an adequate penalty, plus costs, including any applicable fees prescribed in ch. 814, may be declared forfeited by the court or may be ordered applied to the payment of any penalty which is imposed after an ex parte hearing, together with the costs. In either event, any surplus shall be refunded to the person who made the deposit.

(b) This subsection does not apply to violations of parking ordinances. Bond or cash deposit given for appearance to answer a charge under any parking ordinance may be forfeited in the manner determined by the governing body.

(3) This section shall not be construed as a limitation upon the general power of cities, villages and towns in all cases of alleged violations of city, village or town ordinances to authorize the acceptance of bonds or cash deposits or upon the general power to accept stipulations for forfeiture of bonds or deposits or pleas where arrest was had without warrant or where action has not been started in court.

(4) This section does not apply to ordinances enacted under ch. 349.

History: 1971 c. 278; 1977 c. 305; 1977 c. 449 s. 497; 1981 c. 317; 1987 a. 27, 399; 1993 a. 246; 1999 a. 150 s. 271; Stats. 1999 s. 66.0111.

A defendant arrested for an ordinance violation has the option to post either the required bond or the permitted cash bail. City of Madison v. Ricky Two Crow, 88 Wis. 2d 156, 276 N.W.2d 359 (Ct. App. 1979).

66.0113 Citations for certain ordinance violations. (1) ADOPTION; CONTENT. (a) Except as provided in sub. (5), the governing body of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district may by ordinance adopt and authorize the use of a citation under this section to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.

(b) An ordinance adopted under par. (a) shall prescribe the form of the citation which shall provide for the following:

1. The name and address of the alleged violator.

2. The factual allegations describing the alleged violation.

3. The time and place of the offense.

4. The section of the ordinance violated.

5. A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so.

6. The time at which the alleged violator may appear in court.

7. A statement which in essence informs the alleged violator:

a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.

b. That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.

c. That, if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

d. That, if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment under sub. (3) (d), or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093.

8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subd. 7. and shall send the signed statement with the cash deposit.

9. Such other information as may be deemed necessary.

(c) An ordinance adopted under par. (a) shall contain a schedule of cash deposits that are to be required for the various ordinance violations, plus costs, fees, and surcharges imposed under ch. 814, for which a citation may be issued. The ordinance shall also specify the court, clerk of court, or other official to whom cash deposits are to be made and shall require that receipts be given for cash deposits.

(2) ISSUANCE; FILING. (a) Citations authorized under this section may be issued by law enforcement officers of the county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district. In addition, the governing body of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district may designate by ordinance or resolution other county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of

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the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee shall be revoked in the same manner by which it is conferred.

(b) The issuance of a citation by a person authorized to do so under par. (a) shall be deemed adequate process to give the appropriate court jurisdiction over the subject matter of the offense for the purpose of receiving cash deposits, if directed to do so, and for the purposes of sub. (3) (b) and (c). Issuance and filing of a citation does not constitute commencement of an action. Issuance of a citation does not violate s. 946.68.

(3) VIOLATOR'S OPTIONS; PROCEDURE ON DEFAULT. (a) The person named as the alleged violator in a citation may appear in court at the time specified in the citation or may mail or deliver personally a cash deposit in the amount, within the time, and to the court, clerk of court, or other official specified in the citation. If a person makes a cash deposit, the person may nevertheless appear in court at the time specified in the citation, but the cash deposit may be retained for application against any forfeiture or restitution, plus costs, fees, and surcharges imposed under ch. 814 that may be imposed.

(b) If a person appears in court in response to a citation, the citation may be used as the initial pleading, unless the court directs that a formal complaint be made, and the appearance confers personal jurisdiction over the person. The person may plead guilty, no contest, or not guilty. If the person pleads guilty or no contest, the court shall accept the plea, enter a judgment of guilty, and impose a forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may order restitution under s. 800.093. A plea of not guilty shall put all matters in the case at issue, and the matter shall be set for trial.

(c) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be considered to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for the appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no additional costs, fees, or surcharges may be imposed against the violator under s. 814.78. If the court rejects the plea of no contest, an action for collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, may be commenced. A city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence action under s. 66.0114 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

(d) If the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, the court may issue a summons or warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment accordingly if service was completed as provided under par. (e) or the county, town, city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence an action for collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814. A city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence action under s. 66.0114 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 days from the date of the judgment to pay any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall reopen the judgment, accept a not guilty plea and set a trial date.

(e) A judgment may be entered under par. (d) if the summons or citation was served as provided under s. 968.04 (3) (b) 2. or by personal service by a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district employee.

(4) RELATIONSHIP TO OTHER LAWS. The adoption and authorization for use of a citation under this section does not preclude the governing body from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this section does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this section.

(5) MUNICIPAL COURT. If the action is to be in municipal court, the citation under s. 800.02 (2) shall be used.

History: 1975 c. 201, 421; 1977 c. 29, 305; 1979 c. 32 s. 92 (8), (17); 1979 c. 151, 355; 1987 a. 27, 389; 1989 a. 107; 1991 a. 39, 40, 128, 189, 315; 1993 a. 16, 167; 1995 a. 349; 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 274 to 277; Stats. 1999 s. 66.0113; 2001 a. 16; 2003 a. 139.

Cross−reference: As to (3) (d), see s. 800.093 regarding municipal court authority to order restitution.

Sub. (3) (b) only authorizes the use of citations for violations of ordinances other than those for which a statutory counterpart exists. 76 Atty. Gen. 211.

A judgment for payment of a forfeiture can be docketed, accumulates interest at 12%, and may be enforced through collection remedies available in other civil proceedings. OAG 2−95.

66.0114 Actions for violation of ordinances. **(1)** COLLECTION OF FORFEITURES AND PENALTIES. (a) An action for violation of an ordinance or bylaw enacted by a city, village, town sanitary district or public inland lake protection and rehabilitation district is a civil action. All forfeitures and penalties imposed by an ordinance or bylaw of the city, village, town sanitary district or public inland lake protection and rehabilitation district, except as provided in ss. 345.20 to 345.53, may be collected in an action in the name of the city or village before the municipal court or in an action in the name of the city, village, town sanitary district or public inland lake protection and rehabilitation district before a court of record. If the action is in municipal court, the procedures under ch. 800 apply and the procedures under this section do not apply. If the action is in a court of record, it shall be commenced by warrant or summons under s. 968.04 or, if applicable, by citation under s. 778.25 or 778.26. A law enforcement officer may arrest the offender in all cases without warrant under s. 968.07. If the action is commenced by warrant the affidavit may be the complaint. The affidavit or complaint is sufficient if it alleges that the defendant has violated an ordinance or bylaw, specifying the ordinance or bylaw by section, chapter, title or otherwise with sufficient plainness to identify the ordinance or bylaw. The judge may release a defendant without a cash deposit or may permit him or her to execute an unsecured appearance bond upon arrest. In arrests without a warrant or summons a statement on the records of the court of the offense charged is the complaint unless the court directs that a formal complaint be issued. In all actions under this paragraph the defendant's plea shall be guilty, not guilty or no contest and shall be entered as not guilty on failure to plead. A plea of not guilty on failure to plead puts all matters in the case at issue, any other provision of law notwithstanding. The defendant may enter a not guilty plea by certified mail.

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(b) Local ordinances, except as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any or all violations under those ordinances, may designate the manner in which the stipulation is to be made, and may fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated official, the person need not appear in court and no witness fees or other additional costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance so provides. A court appearance is required for a violation of a local ordinance in conformity with s. 346.63 (1).

(bm) The official receiving the penalties shall remit all moneys collected to the treasurer of the city, village, town sanitary district, or public inland lake protection and rehabilitation district in whose behalf the sum was paid, except that all jail surcharges imposed under ch. 814 shall be remitted to the county treasurer, within 20 days after their receipt by the official. If timely remittance is not made, the treasurer may collect the payment of the officer by action, in the name of the office, and upon the official bond of the officer, with interest at the rate of 12% per year from the date on which it was due. In the case of any other costs, fees, and surcharges imposed under ch. 814, the treasurer of the city, village, town sanitary district, or public inland lake protection and rehabilitation district shall remit to the secretary of administration the amount 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. The governing body of the city, village, town sanitary district, or public inland lake protection and rehabilitation district shall by ordinance designate the official to receive the penalties and the terms under which the official qualifies.

(c) If the circuit court finds a defendant guilty in a forfeiture action based on a violation of an ordinance, the court shall render judgment as provided under ss. 800.09 and 800.095. If the court finds the violation meets the conditions in s. 800.093 (1) (a) and (b), the court may hold a hearing to determine if restitution shall be ordered under s. 800.093.

(2) APPEALS. Appeals in actions in courts of record to recover forfeitures and penalties imposed by any ordinance or bylaw of a city, village, town sanitary district or public inland lake protection and rehabilitation district may be taken either by the defendant or by the city, village, town sanitary district or public inland lake protection and rehabilitation district. Appeals from circuit court in actions to recover forfeitures for ordinances enacted under ch. 349 shall be to the court of appeals. An appeal by the defendant shall include a bond to the city, village, town sanitary district or public inland lake protection and rehabilitation district with surety, to be approved by the judge, conditioned that if judgment is affirmed in whole or in part the defendant will pay the judgment and all costs and damages awarded against the defendant on the appeal. If the judgment is affirmed in whole or in part, execution may issue against both the defendant and the surety.

(3) COSTS AND FEES; FORFEITURES TO GO TO TREASURY. (a) Fees in forfeiture actions in circuit court for violations of ordinances are prescribed in s. 814.63 (1) and (2).

(b) All forfeitures and penalties recovered for the violation of an ordinance or bylaw of a city, village, town, town sanitary district, or public inland lake protection and rehabilitation district shall be paid into the city, village, town, town sanitary district, or public inland lake protection and rehabilitation district treasury for the use of the city, village, town, town sanitary district, or public inland lake protection and rehabilitation district, except as provided in par. (c) and sub. (1) (bm). The judge shall report and pay into the treasury, quarterly, or at more frequent intervals if required, all moneys collected belonging to the city, village, town, town sanitary district, or public inland lake protection and rehabilitation district. The report shall be certified and filed in the office of the treasurer. The judge is entitled to duplicate receipts, one of which he or she shall file with the city, village, or town clerk, or with the town sanitary district or the public inland lake protection and rehabilitation district.

(c) The entire amount in excess of $150 of any forfeiture imposed for the violation of any traffic regulation in conformity with ch. 348 shall be transmitted to the county treasurer if the violation occurred on an interstate highway, a state trunk highway, or a highway over which the local highway authority does not have primary maintenance responsibility. The county treasurer shall then make payment to the secretary of administration as provided in s. 59.25 (3) (L).

History: 1971 c. 278; 1973 c. 336; 1975 c. 231; 1977 c. 29, 182, 269, 272, 305, 418, 447, 449; 1979 c. 32 s. 92 (17); 1979 c. 110 s. 60 (13); 1979 c. 331; 1981 c. 20, 317; 1983 a. 418 s. 8; 1987 a. 27, 389; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16, 167, 246, 491; 1995 a. 201, 349; 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 278 to 283; Stats. 1999 s. 66.0114; 2001 a. 16; 2003 a. 33, 139, 326.

Costs should be awarded a defendant who prevails in a municipal ordinance violation case. Milwaukee v. Leschke, 57 Wis. 2d 159, 203 N.W.2d 669 (1973).

The simultaneous sale of 4 different magazines by the same seller to the same buyer may give rise to separate violations of an obscenity ordinance. Madison v. Nickel, 66 Wis. 2d 71, 223 N.W.2d 865 (1974).

Under the rationale of *Pedersen*, 56 Wis. 2d 286, sub. (1) (c) is constitutional except when imprisonment under the statute is used as a means of collection from an indigent defendant. West Allis v. State ex rel. Tochalauski, 67 Wis. 2d 26, 226 N.W.2d 424 (1975).

Sub. (1) (a) does not authorize the issuance of arrest warrants without a showing of probable cause. State ex rel. Warrender v. Kenosha County Ct. 67 Wis. 2d 333, 231 N.W.2d 193 (1975).

An officer may make a warrantless arrest for an ordinance violation if a statutory counterpart of the ordinance exists. City of Madison v. Ricky Two Crow, 88 Wis. 2d 156, 276 N.W.2d 359 (Ct. App. 1979).

An award of costs of prosecution under sub. (1) (c) and s. 800.09 (1) does not include actual attorney fees. Town of Wayne v. Bishop, 210 Wis. 2d 218, 565 N.W.2d 201 (Ct. App. 1997), 95−2387.

The appearance required under sub. (1) (b) in an OWI action under s. 346.63 (1) may be made by mail as it is a civil action; a defendant's not guilty plea was an appearance beginning the 10 day period in which a jury trial could be requested. City of Fond du Lac v. Kaehne, 229 Wis. 2d 323, 599 N.W.2d 870 (Ct. App. 1999), 98−3619.

The defendant has the burden to raise and prove indigency when imprisonment is ordered for failure to pay fine under sub. (1) (c). 64 Atty. Gen. 94.

A judgment for payment of a forfeiture can be docketed, accumulates interest at 12%, and may be enforced through collection remedies available in other civil proceedings. OAG 2−95.

66.0115 Outstanding unpaid forfeitures. (1) In this section, "municipality" means a county, city, village or town. Except as provided under sub. (2), any municipality may refuse to issue any license or permit to a person who has not paid an overdue forfeiture resulting from a violation of an ordinance of the municipality. Any municipality, by written agreement between itself and any other city, village or town within the county in which the municipality is located, may refuse to issue any license or permit to a person who has not paid an overdue forfeiture resulting from a violation of an ordinance of any municipality which is a party to the agreement. No municipality may refuse to issue a license or permit to a person who is appealing the imposition of a forfeiture.

(2) A municipality may not refuse to issue any of the following licenses under sub. (1):

(a) A marriage license issued under s. 765.12.

(b) A hunting or fishing license issued under ch. 29.

(c) A dog license issued under s. 174.07.

History: 1981 c. 198; 1999 a. 150 s. 273; Stats. 1999 s. 66.0115.

66.0117 Judgment against local governmental units. (1) In this section:

(a) "Local governmental unit" means a city, village, town, county, school district, technical college district, town sanitary district or public inland lake protection and rehabilitation district.

(b) "Statement" means all of the following:

1. A certified transcript of a judgment.

2. A judgment creditor's affidavit of the amount due on a judgment, of payments made on the judgment and that the judgment has not been appealed.

(2) (a) If a final judgment for the payment of money is recovered against a local governmental unit, or an officer of the local governmental unit, when the judgment is to be paid by the local governmental unit, the judgment creditor may file a statement

with the clerk of circuit court. The clerk of circuit court shall send a copy of the statement to the appropriate municipal clerk.

(b) If a statement is filed under par. (a), the amount due, with costs and interest to the time when the money will be available for payment, shall be added to the next tax levy, and shall, when received, be paid to satisfy the judgment. If the judgment is appealed after filing the transcript with the clerk of circuit court, and before the tax is collected, the money shall not be collected on that levy. If the municipal clerk fails to include the proper amount in the first tax levy, he or she shall include it or the portion required to complete it in the next levy.

(3) In the case of school districts, town sanitary districts or public inland lake protection and rehabilitation districts a statement shall be filed with the clerk of the town, village or city in which the district or any part of it lies, and levy shall be made against the taxable property of the district.

(4) No process for the collection of a judgment shall issue until after the time when the money, if collected upon the first tax levy under sub. (2) (b), is available for payment, and then only by leave of court upon motion.

(5) If by reason of dissolution or other cause, pending action, or after judgment, a statement cannot be filed with the clerk described in sub. (2) (a) or (3), it shall be filed with the clerk or clerks whose duty it is to make up the tax roll for the property liable.

History: 1971 c. 154; 1975 c. 197; 1993 a. 399; 1995 a. 224; 1999 a. 150 ss. 29, 255; Stats. 1999 s. 66.0117.

Sub. (1) (b) requires assessment of the full amount of a judgment against a town or sanitary district in the 1st levy made thereafter. If the full amount has not been assessed in 2 levies, additional levies may be levied. Davy Engineering Co. v. Clerk of Town of Mentor, 221 Wis. 2d 744, 585 N.W.2d 832 (Ct. App. 1998), 97−3575.

66.0119 Special inspection warrants. (1) (a) "Inspection purposes" includes such purposes as building, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, waterways, use of water, food, zoning, property assessment, meter and obtaining data required to be submitted in an initial site report or feasibility report under subch. III of ch. 289 or s. 291.23, 291.25, 291.29 or 291.31 or an environmental impact statement related to one of those reports. "Inspection purposes" also includes purposes for obtaining information specified in s. 196.02 (5m) by or on behalf of the public service commission.

(b) "Peace officer" means a state, county, city, village, town, town sanitary district or public inland lake protection and rehabilitation district officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, including buildings, building premises and building contents, and means a local health officer, as defined in s. 250.01 (5), or his or her designee.

(c) "Public building" has the meaning given in s. 101.01 (12).

(2) A peace officer may apply for, obtain and execute a special inspection warrant issued under this section. Except in cases of emergency where no special inspection warrant is required, special inspection warrants shall be issued for inspection of personal or real properties which are not public buildings or for inspection of portions of public buildings which are not open to the public only upon showing that consent to entry for inspection purposes has been refused.

(3) The following forms for use under this section are illustrative and not mandatory:

AFFIDAVIT

STATE OF WISCONSIN

.... County

In the .... court of the .... of ....

A. F., being duly sworn, says that on the .... day of ...., ... (year), in said county, in and upon certain premises in the (city, town or village) of .... and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section .... of the Wisconsin statutes) or (section .... of ordinances of said municipality) or both. The facts tending to establish the grounds for issuing a special inspection warrant are as follows: (set forth brief statement of reasons for inspection, frequency and approximate date of last inspection, if any, which shall be deemed probable cause for issuance of warrant).

Wherefore, the said A. F. prays that a special inspection warrant be issued to search such premises for said purpose.

...(Signed) A. F.

Subscribed and sworn to before me this .... day of ...., ... (year)

.... Judge of the .... Court.

SPECIAL INSPECTION WARRANT

STATE OF WISCONSIN

.... County

In the .... court of the .... of ....

THE STATE OF WISCONSIN, To the sheriff or any constable or any peace officer of said county:

Whereas, A. B. has this day complained (in writing) to the said court upon oath that on the .... day of ...., ... (year), in said county, in and upon certain premises in the (city, town or village) of .... and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section .... of the Wisconsin statutes) or (section .... of ordinances of said municipality) or both and prayed that a special inspection warrant be issued to search said premises.

Now, therefore, in the name of the state of Wisconsin you are commanded forthwith to search the said premises for said purposes.

Dated this .... day of ...., ... (year),

.... Judge of the .... Court.

ENDORSEMENT ON WARRANT

Received by me ...., ... (year), at .... o'clock .... M.

.... Sheriff (or peace officer).

RETURN OF OFFICER

STATE OF WISCONSIN

.... Court

.... County.

I hereby certify that by virtue of the within warrant I searched the named premises and found the following things (describe findings).

Dated this .... day of ...., ... (year)

.... Sheriff (or peace officer).

History: 1971 c. 185 s. 7; 1981 c. 374; 1983 a. 189 s. 329 (4); 1989 a. 159; 1995 a. 27, 227; 1999 a. 150 ss. 30, 287 to 292; Stats. 1999 s. 66.0119; 2003 a. 89; 2007 a. 130.

Warrants for administrative or regulatory searches modify the conventional understanding of probable cause requirements for warrants as the essence of the search is that there is no probable cause to believe a search will yield evidence of a violation. Refusal of consent is not a constitutional requirement for issuing the warrant, although it may be a statutory violation. Suppression only applies to constitutional violations. State v. Jackowski, 2001 WI App 187, 247 Wis. 2d 430, 633 N.W.2d 649, 00−2851.

The constitutional limitations on inspections pursuant to warrants issued under this section are discussed. Platteville Area Apartment Association v. City of Platteville, 179 F.3d 574 (1999).

66.0121 Orders; action; proof of demand. No action may be brought upon a city, village, town or school district order until 30 days after a demand for the payment of the order has been made. If an action is brought and the defendant fails to appear and defend the action, judgment shall not be entered without affirmative proof of the demand. If judgment is entered without proof of the demand, the judgment is void.

History: 1993 a. 246; 1995 a. 225; 1999 a. 150 s. 294; Stats. 1999 s. 66.0121.

66.0123 Recreation authority. (1) In this section, "governmental unit" means a town board or school board.

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(2) A governmental unit may, after compliance with s. 65.90, provide funds for the establishment, operation and maintenance of a department of public recreation.

(3) (a) A governmental unit may delegate the power to establish, maintain and operate a department of public recreation to a recreation board, which shall consist of 3 members and shall be appointed by the chairperson or other presiding officer of the governmental unit. The first appointments shall be made so that one member serves one year, one serves 2 years and one serves 3 years. After the first appointments, terms are 3 years.

(b) When 2 or more of the governmental units desire to conduct, jointly, a department of public recreation, the joint recreation board shall consist of not less than 3 members selected by the presiding officers of the governmental units acting jointly. Appointments shall be made for terms as provided in par. (a).

(c) The members of a recreation board shall serve gratuitously.

(d) A recreation board may conduct the activities of the department of public recreation, expend funds, employ a supervisor of recreation, employ assistants, purchase equipment and supplies and generally supervise the administration, maintenance and operation of the department of public recreation and recreational activities authorized by the recreation board.

(4) (a) A recreation board may conduct public recreation activities on property purchased or leased by a governmental unit for recreational purposes and under its own custody, on other public property under the custody of any other public authority, body or board with the consent of the public authority, body or board, or on private property with the consent of its owner. The recreation board, with the approval of the appointing authority, may accept gifts and bequests of land, money or other personal property, and use the gifts and bequests in whole or in part, the income from the gifts and bequests or the proceeds from the sale of any such property in the establishment, maintenance and operation of recreational activities.

(b) A recreation board shall annually submit to the governmental unit a report of the board's activities, including receipts and expenditures. The report shall be submitted not less than 15 days before the annual meeting of the governmental unit.

(c) An audit shall be made of the accounts of the recreation board in the same manner as provided for audits for towns or school districts as the case may be.

(d) The persons selected by the recreation board shall furnish a surety bond in an amount fixed by the governmental unit.

History: 1975 c. 233; 1993 a. 184; 1999 a. 150 ss. 32, 499, 500; Stats. 1999 s. 66.0123.

66.0125 Community relations−social development commissions. (1) DEFINITIONS. In this section:

(a) "Status as a victim of domestic abuse, sexual assault, or stalking," for purposes of discrimination in housing, has the meaning given in s. 106.50 (1m) (u).

(b) "Local governmental unit" means a city, village, town, school district, or county.

(2) CREATION. Each local governmental unit is authorized and urged to either establish by ordinance a community relations−social development commission or to participate in a commission established on an intergovernmental basis within the county under enabling ordinances adopted by the participating local governmental units. A school district may establish or participate in a commission by resolution. An intergovernmental commission may be established in cooperation with a nonprofit corporation located in the county and composed primarily of public and private welfare agencies devoted to any of the purposes set forth in this section. An ordinance or resolution establishing a commission shall substantially embody the language of sub. (3). Each local governmental unit may appropriate money to defray the expenses of the commission. If the commission is established on an intergovernmental basis within the county, the provisions of s. 66.0301, relating to local cooperation, apply as optional authority and may be utilized by participating local governmental units to effectuate the purposes of this section, but a contract between local governmental units is not necessary for the joint exercise of any power authorized for the joint performance of any duty required in this section.

(3) PURPOSE AND FUNCTIONS OF COMMISSION. (a) The purpose of the commission is to study, analyze, and recommend solutions for the major social, economic, and cultural problems that affect people residing or working within the local governmental unit, including problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, discrimination in employment and public accommodations and facilities on the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status and discrimination in housing on the basis of sex, class, race, religion, sexual orientation, ethnic or minority status, or status as a victim of domestic abuse, sexual assault, or stalking.

(b) The commission may:

1. Include within its studies problems related to pornography, industrial strife and the inciting or fomenting of class, race or religious hatred and prejudice.

2. Encourage and foster participation in the fine arts.

(c) The commission shall:

1. Recommend to the local governmental unit's governing body and chief executive or administrative officer the enactment of such ordinances or other action as they deem necessary:

a. To establish and keep in force proper health standards for the community and beneficial zoning for the community area in order to facilitate the elimination of, and prevent the start and spread of, blighted areas.

b. To ensure to all residents of a local governmental unit, regardless of sex, race, sexual orientation, or color, the right to enjoy equal employment opportunities and to ensure to those residents, regardless of sex, race, sexual orientation, color, or status as a victim of domestic abuse, sexual assault, or stalking, the right to possess equal housing opportunities.

2. Cooperate with state and federal agencies and nongovernmental organizations having similar or related functions.

3. Examine the need for, initiate, participate in and promote publicly and privately sponsored studies and programs in any field of human relationship that will aid in accomplishing the purposes and duties of the commission.

4. Have authority to conduct public hearings within the local governmental unit and to administer oaths to persons testifying before it.

5. Employ such staff as is necessary to implement the duties assigned to it.

(4) COMPOSITION OF COMMISSION. The commission shall be nonpartisan and composed of citizens residing in the local governmental unit, including representatives of the clergy and minority groups. The composition of the commission and the method of appointing and removing commission members shall be determined by the governing body of the local governmental unit creating or participating in the commission. Notwithstanding s. 59.10 (4) or 66.0501 (2), a member of the local governmental unit's governing body may serve on the commission, except that a county board member in a county having a population over 500,000 may not accept compensation for serving on the commission. Of the persons first appointed, one−third shall hold office for one year, one−third for 2 years, and one−third for 3 years from the first day of February next following their appointment, and until their respective successors are appointed and qualified. All succeeding terms shall be for 3 years. Any vacancy shall be filled for the unexpired term in the same manner as original appointments. Every person appointed as a member of the commission shall take and file the official oath.

(5) ORGANIZATION. The commission shall meet in January, April, July and October of each year, and may meet at such additional times as the members determine or the chairperson directs. Annually, it shall elect from its membership a chairperson, vice chairperson and secretary. A majority of the commission shall

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constitute a quorum. Members of the commission shall receive no compensation, but each member shall be entitled to actual and necessary expenses incurred in the performance of commission duties. The commission may appoint consulting committees consisting of either members or nonmembers or both, the appointees of which shall be reimbursed their actual and necessary expenses. All expense accounts shall be paid by the commission on certification by the chairperson or acting chairperson.

(6) OPEN MEETINGS. All meetings of the commission and its consulting committees shall be publicly held and open to all citizens at all times as required by subch. V of ch. 19.

(7) DESIGNATION OF COMMISSIONS AS COOPERATING AGENCIES UNDER FEDERAL LAW. (a) The commission may be the official agency of the local governmental unit to accept assistance under title II of the federal economic opportunity act of 1964. No assistance shall be accepted with respect to any matter to which objection is made by the legislative body creating the commission, but if the commission is established on an intergovernmental basis and objection is made by any participating legislative body, assistance may be accepted with the approval of a majority of the legislative bodies participating in the commission.

(b) The commission may be the official agency of the local governmental unit to accept assistance from the community relations service of the U.S. department of justice under title X of the federal civil rights act of 1964 to provide assistance to communities in resolving disputes, disagreements or difficulties relating to discriminatory practices based on sex, race, color or national origin which may impair the rights of persons in the local governmental unit under the constitution or laws of the United States or which affect or may affect interstate commerce.

(8) OTHER POWERS OF THE COUNTY BOARD OF SUPERVISORS. County boards may appropriate county funds for the operation of community relations−social development commissions established or reconstituted under this section, including those participated in on an equal basis by nonprofit corporations located in the county and comprised primarily of public and private welfare agencies devoted to any of the purposes set forth in this section. The legislature finds that the expenditure of county funds for the establishment or support of such commissions is for a public purpose.

(9) INTENT. It is the intent of this section to promote fair and friendly relations among all the people in this state, and to that end race, creed, sexual orientation, or color ought not to be made tests in the matter of the right of any person to earn a livelihood or to enjoy the equal use of public accommodations and facilities and race, creed, sexual orientation, color, or status as a victim of domestic abuse, sexual assault, or stalking ought not to be made tests in the matter of the right of any person to sell, lease, occupy, or use real estate.

(10) SHORT TITLE. This section shall be known and may be cited as "The Wisconsin Bill of Human Rights".

History: 1975 c. 94; 1975 c. 426 s. 3; 1979 c. 34; 1981 c. 112; 1991 a. 39, 316; 1993 a. 184; 1995 a. 201; 1999 a. 150 s. 449; Stats. 1999 s. 66.0125; 2009 a. 95.

Functions of a community relations−social development commission are not limited to study, analysis, and planning. A commission has authority to carry out some human relations programs providing services directly to citizens. 63 Atty. Gen. 182.

Vocational, technical and adult education [technical college] districts are subject to city equal employment opportunity ordinances only within the boundaries of the city. 70 Atty. Gen. 226.

66.0127 Municipal hospital board. (1) In a city, village or town in which a municipal hospital is located, the board of trustees or other governing board of the municipal hospital may, except as otherwise provided by ordinance, do any of the following:

(a) Prescribe rules of order for the regulation of its own meetings and deliberations.

(b) Promulgate rules relating to the government, operation and maintenance of the hospital and relating to the employees of the hospital.

(c) Contract for and purchase all fuel, food and other supplies reasonably necessary for the operation and maintenance of the hospital.

(d) Promulgate rules for the admission to and government of patients at the hospital.

(e) Contract for the construction, installation or making of additions or improvements to or alterations of the hospital if the additions, improvements or alterations have been ordered and funds have been provided by the city council or village or town board.

(f) Employ all necessary employees at the hospital.

(g) Audit all accounts and claims against the hospital or against the board of trustees and, if approved, the city, village or town clerk and treasurer shall pay the accounts and claims in the manner provided by s. 66.0607.

(2) All expenditures made under this section shall be within the limits authorized by the governing body of the municipality.

History: 1993 a. 246; 1995 a. 225; 1999 a. 150 s. 486; Stats. 1999 s. 66.0127.

66.0129 Hospital facilities lease from nonprofit corporation. (1) POWERS AND DUTIES OF GOVERNING BODY. For the purpose of providing adequate hospital facilities in the state of Wisconsin to serve cities, villages and towns and the hospital service area; providing all lands, buildings, improvements, facilities or equipment or other capital items necessary or desirable in connection with the hospital; ultimately acquiring the hospital by the city, village or town; acquiring lands for future hospital development; and refinancing indebtedness created by a nonprofit corporation for acquiring lands or providing hospital buildings or additions or improvements to the hospital buildings, the governing body of a city, village or town may:

(a) Without limitation by any other statute, sell and convey title to a nonprofit corporation any land and any existing buildings on the land owned by the city, village or town for that consideration and upon the terms and conditions that the governing body of the city, village or town determines are in the public interest.

(b) Lease to a nonprofit corporation for terms not exceeding 40 years each any land and existing buildings on the land that are owned by the city, village or town upon the terms, conditions and rentals that the governing body of the city, village or town determines are in the public interest.

(c) Lease or sublease from the nonprofit corporation, for terms not exceeding 40 years, and make available for public use, any lands or any land and existing buildings conveyed or leased to the corporation under pars. (a) and (b), and any new buildings erected upon the land or upon any other land owned by the corporation, upon the terms, conditions and rentals, subject to available appropriations, and ultimate acquisition, that the governing body of the city, village or town determines are in the public interest. With respect to any property conveyed to the nonprofit corporation under par. (a), the lease from the nonprofit corporation may be subject or subordinated to one or more mortgages of the property granted by the corporation.

(d) Apply all net revenues derived from the operation of any lands or buildings to the payment of rentals due and to become due under any lease or sublease made under par. (c).

(e) Pledge and assign all or part of the revenues derived from the operation of any lands or new buildings as security for the payment of rentals due and to become due under any lease or sublease of the new buildings made under par. (c).

(f) Covenant and agree in any lease or sublease made under par. (c) to impose fees, rentals or other charges for the use and occupancy or other operation of the new buildings in an amount which together with other moneys of the city, village or town available for that purpose will produce net revenue sufficient to pay the rentals due and to become due under the lease or sublease.

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(g) Apply all or any part of the revenues derived from the operation of any lands or existing buildings to the payment of rentals due and to become due under a lease or sublease made under par. (c).

(h) Pledge and assign all or any part of the revenues derived from the operation of any lands or existing buildings to the payment of rentals due and to become due under a lease or sublease made under par. (c).

(i) Covenant and agree in a lease or sublease made under par. (c) to impose fees, rentals or other charges for the use and occupancy or other operation of any lands or existing buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under the lease or sublease.

(j) Operate the hospital, until it is ultimately acquired, in a manner that provides revenues sufficient to pay the costs of operation and maintenance of the hospital and the payments due the nonprofit corporation.

(2) MUNICIPAL LIABILITY. The city, village or town shall be liable for accrued rentals and for any other default under any lease or sublease made under sub. (1) (c) and may be sued therefor on contract.

(3) NO DEBT INCLUSION. Nothing under this section shall be considered to incur any municipal debt. No obligation under this section shall be included in arriving at constitutional debt limitations.

(4) POWERS AND DUTIES OF NONPROFIT CORPORATION. In addition to all other powers granted to nonprofit corporations, the nonprofit corporation has the following additional powers and duties when leasing hospital facilities to a city, village or town:

(a) To acquire by purchase, gift or lease real property and buildings on the property from a city, village or town or other person, to construct hospital facilities on the property and to lease the real property and buildings to a city, village or town for terms not exceeding 40 years, and to transfer the land and buildings to the city, village or town upon termination of the lease.

(b) To borrow money and pledge income and rentals as security.

(5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all contracts exceeding $1,000 for the construction, maintenance or repair of hospital facilities to the lowest responsible bidder after advertising for bids by the publication of a class 2 notice under ch. 985. Sections 66.0901 and 66.0903 apply to bids and contracts under this subsection.

(6) DEFINITIONS. Unless the context otherwise requires, in this section:

(a) "Buildings", "new buildings" and "existing buildings" include all buildings, structures, improvements, facilities, equipment or other capital items which the governing body of the city, village or town determines are necessary or desirable for the purpose of providing hospital facilities.

(b) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).

History: 1993 a. 246; 1997 a. 79; 1999 a. 150 s. 487; Stats. 1999 s. 66.0129.

66.0131 Local governmental purchasing. (1) DEFINITIONS. In this section:

(a) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

(b) "Recycled or recovered content" has the meaning given in s. 16.70 (13).

(2) INTERGOVERNMENTAL PURCHASES WITHOUT BIDS. Notwithstanding any statute requiring bids for public purchases, any local governmental unit may make purchases from another unit of government, including the state or federal government, without the intervention of bids.

(3) PURCHASE OF RECYCLED MATERIALS. (a) 1. A local governmental unit shall, to the extent practicable, make purchasing selections using specifications developed by state agencies under s. 16.72 (2) (e) to maximize the purchase of products utilizing recycled or recovered materials.

2. Each local governmental unit shall ensure that the average recycled or recovered content of all paper purchased by the local governmental unit measured as a proportion, by weight, of the fiber content of all paper products purchased in a year, is not less than the following:

a. By 1991, 10% of all purchased paper.

b. By 1993, 25% of all purchased paper.

c. By 1995, 40% of all purchased paper.

(4) PURCHASE OF RECYCLABLE MATERIALS. A local governmental unit shall, to the extent practicable, make purchasing selections using specifications prepared by state agencies under s. 16.72 (2) (f).

(5) LIFE CYCLE COST ESTIMATE. A local governmental unit shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates whenever that action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated into the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance, and disposition or resale.

History: 1979 c. 122; 1989 a. 335; 1999 a. 9; 1999 a. 150 ss. 346, 347; Stats. 1999 s. 66.0131.

Under sub. (2), statutorily−authorized intergovernmental agreements for purchases of services are exempt from municipal competitive bidding requirements and procedures. OAG 5−09.

Effective January 1, 2010, with respect to any public works or public construction project whose estimated cost exceeds $25,000, state prevailing wage rates must be paid to the employees of a local unit of government that enters into an intergovernmental agreement under this section to perform services for another local unit of government upon such a project. OAG 5−09.

66.0133 Energy savings performance contracting. (1) DEFINITIONS. In this section:

(a) "Energy conservation measure" means a facility alteration or training, service or operations program designed to reduce energy consumption or operating costs or ensure state or local building code compliance.

(b) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(c) "Performance contract" means a contract for the evaluation and recommendation of energy conservation and facility improvement measures, and for the implementation of one or more of these measures.

(d) "Qualified provider" means a person who is experienced in the design, implementation and installation of energy conservation and facility improvement measures and who has the ability to provide labor and material payment and performance bonds equal to the maximum amount of any payments due under a performance contract entered into by the person.

(2) AUTHORIZATION; REPORT. (a) Any local governmental unit may, in accordance with this section, enter into a performance contract with a qualified provider to reduce energy or operating costs, ensure state or local building code compliance or enhance the protection of property of the local governmental unit.

(b) Prior to entering into a performance contract for the implementation of any energy conservation or facility improvement measure, a local governmental unit shall obtain a report from a qualified provider containing recommendations concerning the amount the local governmental unit should spend on energy conservation and facility improvement measures. The report shall contain estimates of all costs of installation, modifications, or remodeling, including costs of design, engineering, maintenance, repairs and financing. In addition, the report shall contain a guarantee specifying a minimum amount by which energy or operating costs of the local governmental unit will be reduced, if the installa-

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tion, modification or remodeling is performed by that qualified provider.

(c) If, after review of the report under par. (b), the local governmental unit finds that the amount it would spend on the energy conservation and facility improvement measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over the remaining useful life of the facility to which the measures apply, the local governmental unit may enter into the contract.

(3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9) (a), 59.52 (29) (a), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.54, 61.57, 62.15 (1), 62.155, 66.0131 (2), 66.0923 (10), 66.0925 (10), 66.0927 (11), 66.1333 (5) (a) 2., 200.11 (5) (d) and 200.47 (2), before entering into a performance contract under this section, a local governmental unit shall solicit bids or competitive sealed proposals from qualified providers. A local governmental unit may only enter into a performance contract if the contract is awarded by the governing body of the local governmental unit. The governing body shall give at least 10 days' notice of the meeting at which the body intends to award a performance contract. The notice shall include a statement of the intent of the governing body to award the performance contract, the names of all potential parties to the proposed performance contract, and a description of the energy conservation and facility improvement measures included in the performance contract. At the meeting, the governing body shall review and evaluate the bids or proposals submitted by all qualified providers and may award the performance contract to the qualified provider that best meets the needs of the local governmental unit, which need not be the lowest cost provider.

(4) INSTALLMENT PAYMENT AND LEASE−PURCHASE AGREEMENTS. A local governmental unit may enter into an installment payment contract or lease−purchase agreement for the purchase and installation of energy conservation or facility improvement measures.

(5) PAYMENT SCHEDULE; SAVINGS. Each performance contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time as energy savings are achieved. Energy savings shall be guaranteed by the qualified provider for the entire term of the performance contract.

(6) TERMS OF CONTRACTS. A performance contract may extend beyond the fiscal year in which it becomes effective, subject to appropriation of moneys, if required by law, for costs incurred in future fiscal years.

(7) ALLOCATION OF OBLIGATIONS. Subject to appropriations as provided in sub. (6), each local governmental unit shall allocate sufficient moneys for each fiscal year to make payment of any amounts payable by the local governmental unit under performance contracts during that fiscal year.

(8) BONDS. Each qualified provider under a performance contract shall provide labor and material payment and performance bonds in an amount equivalent to the maximum amount of any payments due under the contract.

(9) USE OF MONEYS. Unless otherwise provided by law or ordinance, if a local governmental unit has funding designated for operating and capital expenditures, the local governmental unit may use moneys designated for operating or capital expenditures to make payments under any performance contract, including installment payments or payments under lease−purchase agreements.

(10) MONITORING; REPORTS. During the entire term of each performance contract, the qualified provider entering into the contract shall monitor the reductions in energy consumption and cost savings attributable to the energy conservation and facility improvement measures installed under the contract, and shall periodically prepare and provide a report to the local governmental unit entering into the contract documenting the reductions in energy consumption and cost savings to the local governmental unit.

(11) ENERGY CONSERVATION MEASURES. Energy conservation measures under this section may include the following:

(a) Insulation of a building structure or systems within a building.

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat−absorbing or heat−reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.

(c) Automated or computerized energy control and facility management systems or computerized maintenance management systems.

(d) Heating, ventilating or air conditioning system modifications or replacements.

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.

(f) Energy recovery systems.

(g) Utility management systems and services.

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings.

(i) Lifesafety systems.

(j) Any other facility improvement measure that is designed to provide long−term energy or operating cost reductions or compliance with state or local building codes.

History: 1995 a. 27, 201; 1999 a. 150 s. 614; Stats. 1999 s. 66.0133; 2009 a. 173.

66.0135 Interest on late payments. (1) DEFINITIONS. In this section:

(a) "Agency" means any office, department, board, commission or other body under the control of the governing body of a local governmental unit which expends moneys or incurs obligations on behalf of the local governmental unit.

(b) "Good faith dispute" means any of the following:

1. A contention by an agency, principal contractor or subcontractor that goods delivered or services rendered were of a lesser quantity or quality than ordered or specified by contract, were faulty or were installed improperly.

2. Any other reason giving cause for the withholding of payment by an agency, principal contractor or subcontractor until the dispute is settled.

(c) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

(d) "Subcontractor" has the meaning given in s. 66.0901 (1) (d).

(2) INTEREST PAYABLE TO PRINCIPAL CONTRACTORS. (a) Except as provided in sub. (4) or as otherwise specifically provided, an agency that does not pay timely the amount due on an order or contract shall pay interest on the balance due from the 31st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, or, if the agency does not comply with sub. (7), from the 31st day after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(b) For the purposes of par. (a), a payment is timely if the payment is mailed, delivered or transferred by the later of the following:

1. The date specified on a properly completed invoice for the amount specified in the order or contract.

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2. Within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with sub. (7), within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

(3) INTEREST PAYABLE TO SUBCONTRACTORS. (a) Except as provided in sub. (4) (e) or as otherwise specifically provided, principal contractors that engage subcontractors to perform part of the work on an order or contract from an agency shall pay subcontractors for satisfactory work in a timely fashion. A payment is timely if it is mailed, delivered or transferred to the subcontractor no later than 7 days after the principal contractor's receipt of any payment from the agency.

(b) If a subcontractor is not paid in a timely fashion, the principal contractor shall pay interest on the balance due from the 8th day after the principal contractor's receipt of any payment from the agency, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(c) Subcontractors receiving payment under this subsection shall pay lower−tier subcontractors, and be liable for interest on late payments, in the same manner as principal contractors are required to pay subcontractors in pars. (a) and (b).

(4) EXCEPTIONS. Subsection (2) does not apply to any of the following:

(a) Any portion of an order or contract for which the payment, from federal moneys, has not been received.

(b) An order or contract that is subject to late payment interest or another late payment charge required by another law or rule specifically authorized by law.

(c) An order or contract between 2 or more agencies of the same local governmental unit.

(d) An order or contract which provides for the time of payment and the consequences of nontimely payment, if any deviation from the deadlines established in sub. (2) appears in the original bid or proposal.

(e) An order or contract under which the amount due is subject to a good faith dispute if, before the date on which payment is not timely, notice of the dispute is sent by 1st class mail, personally delivered or sent in accordance with the procedure specified in the order or contract.

(5) APPROPRIATION FROM WHICH PAID. An agency that pays interest under this section shall pay the interest only from the appropriation for administration of the program under which the order or contract was made or entered into, unless otherwise directed by the governing body of the local governmental unit.

(6) ATTORNEY FEES. Notwithstanding s. 814.04 (1), in an action to recover interest due under this section, the court shall award the prevailing party reasonable attorney fees.

(7) IMPROPER INVOICES. If an agency receives an improperly completed invoice, the agency shall notify the sender of the invoice within 10 working days after it receives the invoice of the reason that it is improperly completed.

History: 1989 a. 233; 1999 a. 150 ss. 326, 327; Stats. 1999 s. 66.0135.

66.0137 Provision of insurance. (1) DEFINITION. In this section:

(ae) "Local governmental unit" means a municipality, county, school district (as enumerated in s. 67.01 (5)), sewerage district, drainage district, and, without limitation because of enumeration, any other political subdivision of the state.

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

(2) LIABILITY AND WORKER'S COMPENSATION INSURANCE. The state or a local governmental unit may procure risk management services and liability insurance covering the state or local governmental unit and its officers, agents and employees and worker's compensation insurance covering officers and employees of the state or local governmental unit. A local governmental unit may participate in and pay the cost of risk management services and liability and worker's compensation insurance through a municipal insurance mutual organized under s. 611.23.

(3) HEALTH INSURANCE FOR UNEMPLOYED PERSONS. Any municipality or county may purchase health or dental insurance for unemployed persons residing in the municipality or county who are not eligible for medical assistance under s. 49.46, 49.468, 49.47, or 49.471 (4) (a) or (b).

(4) SELF−INSURED HEALTH PLANS. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self−insured basis, the self−insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.87 (4), (5), and (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

(4m) JOINT SELF−INSURED PLANS. (a) In this subsection, "political subdivision" means a city, village, town, or county.

(b) A political subdivision and one or more other political subdivisions, that together have at least 100 employees, may jointly provide health care benefits to their officers and employees on a self insured basis.

(c) Any plan under par. (b) shall comply with the provisions listed in sub. (4).

(5) HOSPITAL, ACCIDENT AND LIFE INSURANCE. (a) In this subsection, "local governmental unit" includes the school district operating under ch. 119.

(b) The state or a local governmental unit may provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers, their spouses and dependent children, and their domestic partners under ch. 770 and dependent children. A local governmental unit may also provide for the payment of premiums for hospital and surgical care for its retired employees. In addition, a local governmental unit may, by ordinance or resolution, elect to offer to all of its employees a health care coverage plan through a program offered by the group insurance board under ch. 40. A local governmental unit that elects to participate under s. 40.51 (7) is subject to the applicable sections of ch. 40 instead of this subsection.

(c) 1. Except as provided in subds. 2. and 3., if a municipality provides for the payment of premiums for hospital, surgical, and other health insurance for its fire fighters, it shall continue to pay such premiums for the surviving spouse and dependent children of a fire fighter who dies in the line of duty.

2. A municipality may not be required to pay the premiums described in subd. 1. for a surviving spouse upon the remarriage of the surviving spouse or upon the surviving spouse reaching the age of 65.

3. An individual is not a dependent child for the purposes of subd. 1. after the individual reaches the age of 18 unless one of the following applies:

a. The individual is a full−time student in a secondary school.

b. The individual is a full−time or part−time student in an accredited college or university, except that this subd. 3. b. does not apply to such an individual after the close of the calendar year in which the individual reaches the age of 27.

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63; 2001 a. 16, 30; 2005 a. 194; 2005 a. 443 s. 265; 2007 a. 20, 36; 2009 a. 14, 28, 146, 180, 218, 276, 285; 2011 a. 260.

Section 66.185 [now sub. (5)] does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. Pritchard v. Madison Metropolitan School District, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613, 00−0848.

This section authorizes the purchase of liability insurance for state officers, agents, and employees for errors or omissions in carrying out the responsibility of their governmental positions. 58 Atty. Gen. 150.

66.0139 Disposal of abandoned property. (1) In this section, "political subdivision" means a city, village, town or county.

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(2) A political subdivision may dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days, after the taking of possession of the property by an officer of the political subdivision by any means determined to be in the best interest of the political subdivision. If the property is not disposed of in a sale open to the public, the political subdivision shall maintain an inventory of the property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. The inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property. Any means of disposal other than public auction shall be specified by ordinance. If the disposal is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the treasury of the political subdivision.

(3) A political subdivision may safely dispose of abandoned or unclaimed flammable, explosive, or incendiary substances, materials, or devices that pose a danger to life or property in their storage, transportation, or use immediately after taking possession of the substances, materials, or devices without a public auction. The political subdivision, by ordinance or resolution, may establish disposal procedures. Procedures may include provisions authorizing an attempt to return to the rightful owner substances, materials, or devices that have a commercial value in normal business usage and do not pose an immediate threat to life or property. If enacted, a disposal procedure shall include a presumption that if the substance, material, or device appears to be or is reported stolen, an attempt will be made to return the substance, material, or device to the rightful owner.

(4) Except as provided in s. 968.20 (3), a 1st class city shall dispose of abandoned or unclaimed dangerous weapons or ammunition without a public auction 12 months after taking possession of them if the owner has not requested their return. Disposal procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, a disposal procedure shall include a presumption that if the dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the dangerous weapons or ammunition to the rightful owner. The dangerous weapons or ammunition are subject to sub. (5).

(5) A political subdivision may retain or dispose of any abandoned, unclaimed or seized dangerous weapon or ammunition only under s. 968.20.

History: 1979 c. 221, 222, 355; 1985 a. 29; 1987 a. 203; 1991 a. 269; 1993 a. 90; 1995 a. 157; 1999 a. 150 ss. 35, 324, 325; Stats. 1999 s. 66.0139; 2001 a. 103.

66.0141 Accident record systems. Every city, village and town having a population of 5,000 or more shall maintain a traffic accident record system whereby traffic accidents occurring within the city, village or town may be located within 100 feet of the occurrence and shall provide a copy of the record quarterly to the county traffic safety commission under s. 83.013 (1) (a).

History: 1975 c. 381; 1983 a. 291; 1993 a. 246; 1999 a. 150 s. 118; Stats. 1999 s. 66.0141.

66.0143 Local appeals for exemption from state mandates. (1) DEFINITIONS. In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "State mandate" means a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.

(2) APPEALS FOR EXEMPTIONS. (a) A political subdivision may file a request with the department of revenue for a waiver from a state mandate, except for a state mandate that is related to any of the following:

1. Health.
2. Safety.

(b) An administrative agency, or the department of revenue, may grant a political subdivision a waiver from a state mandate as provided in par. (c).

(c) The political subdivision shall specify in its request for a waiver its reason for requesting the waiver. Upon receipt of a request for a waiver, the department of revenue shall forward the request to the administrative agency that is responsible for administrating the state mandate. The agency shall determine whether to grant the waiver and shall notify the political subdivision and the department of revenue of its decision in writing. If no agency is responsible for administrating the state mandate, the department of revenue shall determine whether to grant the waiver and shall notify the political subdivision of its decision in writing.

(3) DURATION OF WAIVERS. A waiver is effective for 4 years. The administrative agency may renew the waiver for additional 4−year periods. If a waiver is granted by the department of revenue, the department may renew the waiver under this subsection.

(4) EVALUATION. By July 1, 2004, the department of revenue shall submit a report to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3). The report shall specify the number of waivers requested under this section, a description of each waiver request, the reason given for each waiver request, and the financial effects on the political subdivision of each waiver that was granted.

History: 2001 a. 109; 2003 a. 321.

SUBCHAPTER II

INCORPORATION; MUNICIPAL BOUNDARIES

66.0201 Incorporation of villages and cities; purpose and definitions. (1) PURPOSE. It is the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.0201 to 66.0213 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) DEFINITIONS. In ss. 66.0201 to 66.0213, unless the context requires otherwise:

(am) "Board" means the incorporation review board.

(ar) "Department" means the department of administration.

(bm) "Isolated municipality" means any existing or proposed village or city entirely outside any metropolitan community at the time of its incorporation.

(c) "Metropolitan community" means the territory consisting of any city having a population of 25,000 or more, or any 2 incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 persons or more per square mile, or which the department has determined on the basis of population trends and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

(d) "Metropolitan municipality" means any existing or proposed village or city entirely or partly within a metropolitan community.

(dm) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the department.

History: 1977 c. 29; 1979 c. 361 s. 112; 1991 a. 39; 1995 a. 27 ss. 3306 and 9116 (5); 1997 a. 27; 1999 a. 150 s. 33; Stats. 1999 s. 66.0201; 1999 a. 186; 2003 a. 171.

66.0203 Procedure for incorporation of villages and cities. (1) NOTICE OF INTENTION. At least 10 days and not more than 20 days before the circulation of an incorporation petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which the territory is located as a class 1 notice, under ch. 985.

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(2) (a) The petition for incorporation of a village or city shall be in writing signed by 50 or more persons who are both electors and freeholders in the territory to be incorporated if the population of the proposed village or city includes 300 or more persons; otherwise by 25 or more persons who are both electors and freeholders in the territory to be incorporated.

(b) The petition shall be addressed to and filed with the circuit court of a county in which all or a major part of the territory to be incorporated is located. The incorporation petition is void unless filed within 6 months of the date of publication of the notice of intention to circulate.

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state that person's address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached to the petition a scale map reasonably showing the boundaries of the territory; specify the current resident population of the territory by number in accordance with the definition given in s. 66.0201 (2) (dm); set forth facts substantially establishing the required standards for incorporation; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(f) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate.

(3) HEARING; COSTS. (a) Upon the filing of the petition the circuit court shall by order fix a time and place for a hearing giving preference to the hearing over other matters on the court calendar.

(b) The court may by order allow costs and disbursements as provided for actions in circuit court in any proceeding under this subsection.

(c) The court may, upon notice to all parties who have appeared in the hearing and after a hearing on the issue of bond, order the petitioners or any of the opponents to post bond in an amount that it considers sufficient to cover disbursements.

(4) NOTICE. (a) Notice of the filing of the petition and of the date of the hearing on the petition before the circuit court shall be published in the territory to be incorporated, as a class 2 notice, under ch. 985, and given by certified or registered mail to the clerk of each town in which the territory is located and to the clerk of each metropolitan municipality of the metropolitan community in which the territory is located. The mailing shall be not less than 10 days before the time set for the hearing.

(b) The notice shall contain:

1. A description of the territory sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the circuit court.

2. The name of each town in which the territory is located.

3. The name and post−office address of the representative of the petitioners.

(5) PARTIES. Any governmental unit entitled to notice pursuant to sub. (4), any school district which lies at least partly in the territory or any other person found by the court to be a party in interest may become a party to the proceeding prior to the time set for the hearing.

(6) ANNEXATION RESOLUTION. Any municipality whose boundaries are contiguous to the territory may also file with the circuit court a certified copy of a resolution adopted by a two−thirds vote of the elected members of the governing body indicating a willingness to annex the territory designated in the incorporation petition. The resolution shall be filed at or prior to the hearing on the incorporation petition, or any adjournment granted for this purpose by the court.

(7) ACTION. (a) No action to contest the validity of an incorporation on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the certificate of incorporation by the secretary of state.

(b) An action contesting an incorporation shall be given preference in the circuit court.

(8) FUNCTION OF THE CIRCUIT COURT. (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.0205 are met. If the court finds that the standards are not met, the court shall dismiss the petition. Subject to par. (c), if the court finds that the standards are met the court shall refer the petition to the board. Upon payment of any fee imposed under s. 16.53 (14), the board shall determine whether the standards under s. 66.0207 are met.

(c) 1. The court shall determine whether an annexation proceeding that affects any territory included in the incorporation petition has been initiated under s. 66.0217, 66.0219, or 66.0223. A court shall consider an annexation proceeding under s. 66.0223 to have been initiated upon the posting of a meeting notice by a city or village that states that the city or village is considering enacting an ordinance under s. 66.0223.

2. If the court determines that an annexation proceeding described under subd. 1. was initiated before the publication of the notice under sub. (1), the court shall refer the petition to the board when the annexation proceeding is final. If the annexation is determined to be valid, the court shall exclude the annexed territory from the territory proposed to be incorporated when it refers the petition to the board.

3. If the court determines that an annexation proceeding described under subd. 1. was initiated after, and within 30 days after, the publication of the notice under sub. (1), the annexation may not proceed until the validity of the incorporation has been determined. If the incorporation is determined to be valid and complete, the annexation is void. If the incorporation is determined to be invalid, the annexation may proceed.

4. If the court determines that an annexation proceeding described under subd. 1. was initiated on the same date as the publication of the notice under sub. (1), the court shall determine which procedure was begun first on that date and that action may proceed and the other action may not proceed unless the first action fails.

5. If the court determines that an annexation proceeding described under subd. 1. was initiated more than 30 days after the publication of the notice under sub. (1), the annexation is void.

(9) FUNCTION OF THE BOARD. (a) Upon receipt of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), the board shall make any necessary investigation to apply the standards under s. 66.0207.

(b) Within 30 days after the receipt by the board of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), whichever is later, any party in interest may request a hearing. Upon receipt of the request, the board shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

(c) Notice of the hearing shall be given in the territory to be incorporated by publishing a class 2 notice, under ch. 985, and by mailing the notice to the designated representative of the petitioners or any 5 petitioners and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(d) Subject to par. (dm), unless the court sets a different time limit, the board shall prepare its findings and determination, citing the supporting evidence, within 180 days after receipt of the referral from the court and payment of any fee imposed under s. 16.53 (14), whichever is later. The findings and determination shall be forwarded by the board to the circuit court. Copies of the findings and determination shall be sent by certified or registered mail to

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the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(dm) The time period specified or set by the court under par. (d) shall be stayed for a reasonable period of time to allow for alternative dispute resolution of any disagreements between interested parties that result from the filing of an incorporation petition if all interested parties agree to this stay and provide written notice of their agreement to the board and to the circuit court.

(e) The determination of the board made in accordance with the standards under ss. 66.0205, 66.0207 and 66.0217 (6) (c) shall be one of the following:

1. The petition as submitted is dismissed.

2. The petition as submitted is granted.

3. The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the department's findings and determination.

(f) If the board determines that the petition shall be dismissed under par. (e) 1., the circuit court shall issue an order dismissing the petition. If the board grants the petition, the circuit court shall order an incorporation referendum as provided in s. 66.0211.

(g) The findings of both the court and the board shall be based upon facts as they existed at the time of the filing of the petition.

(h) Except for an incorporation petition which describes the territory recommended by the board under sub. (9) (e) 3., no petition for the incorporation of the same or substantially the same territory may be entertained for one year following the date of dismissal under par. (f) of the petition or the date of any election at which incorporation was rejected by the electors.

(i) If the board fails to make a determination within the time limit under par. (d), the board shall refund the fees imposed by the board under s. 16.53 (14) and shall then make a determination as quickly as possible.

(10) EXISTING ORDINANCES. A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(11) TOWN OF LEDGEVIEW IN BROWN COUNTY MAY BECOME A VILLAGE. (a) The town of Ledgeview, in Brown County, may become a village if the town holds, and approves, an incorporation referendum as described in s. 66.0211 (3). None of the other procedures contained in ss. 66.0201 to 66.0213 need to be fulfilled, and no approval by the department's incorporation review board under s. 66.0207 is necessary for the town to become a village.

(b) The town of Ledgeview, in Brown County, shall enter into a boundary agreement with the city of De Pere, under s. 66.0307, except that the agreement need not be completed before the town holds a referendum on incorporation, as described in s. 66.0211 (3).

NOTE: The court of appeals in Kuehne v. Burdette, 2009 WI App 119, 320 Wis. 2d 784, 772 N.W.2d 225, held sub. (11) to be unconstitutional in violation of Article IV, section 31 (9).

History: 1973 c. 37; 1977 c. 29; 1977 c. 187 s. 134; 1983 a. 219; 1991 a. 316; 1993 a. 329; 1995 a. 201; 1999 a. 150 s. 36; Stats. 1999 s. 66.0203; 1999 a. 186; 2001 a. 16; 2003 a. 171; 2005 a. 254; 2007 a. 20.

Sub. (5) does not empower a court to compel joinder. In re Incorporation of Town of Fitchburg, 98 Wis. 2d 635, 299 N.W.2d 199 (1980).

An incorporation petition's precedence over a competing annexation proceeding is discussed. Town of Delavan v. City of Delavan, 176 Wis. 2d 516, 500 N.W.2d 268 (1993).

Sub. (2) (e) prevents the signer of a petition from withdrawing his or her name. It does not prevent the circulator of the petition from striking invalid signatures. Sub. (2) (b) permits withdrawal of a signature before the petition is filed. Walag v. Town of Randall, 213 Wis. 2d 424, 570 N.W.2d 623 (Ct. App. 1997), 96−2987.

The effect of the requirement in sub. (2) (c) of a description with "sufficient accuracy" and a scale map "reasonably showing" the boundaries of the affected parcel is that the description and map, when viewed together, fairly apprise the public of the territory to be incorporated. Wirth v. City of Port Washington, 2001 WI App 277, 248 Wis. 2d 893, 637 N.W.2d 442, 01−0583.

The date a petition is "entertained" under sub. (9) (h) is the date the petition is filed with the circuit court. Town of Sheboygan v. City of Sheboygan, 2001 WI App 279, 248 Wis. 2d 904, 637 N.W.2d 770, 01−1129.

There are significant conflicts between a contingent narrative description that provides for more than one location and the sub. (2) (c) requirement that the petition describe the territory to be incorporated with sufficient accuracy to determine its location. Town of Campbell v. City of La Crosse, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02−1150.

Under the rule of prior precedence, in case of conflict between competing annexations, or between an annexation and a proceeding for the incorporation of a city or village, the proceeding first instituted has precedence, and the later one must yield. Annexation proceedings did not lose priority status when the ordinances were deemed invalid and dismissed by the circuit court but subsequently vindicated on appeal. Town of Campbell v. City of La Crosse, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02−1150.

66.0205 Standards to be applied by the circuit court. Before referring the incorporation petition as provided in s. 66.0203 (2) to the board, the court shall determine whether the petition meets the formal and signature requirements and shall further find that the following minimum requirements are met:

(1) ISOLATED VILLAGE. Area, one−half square mile; resident population, 150.

(2) ISOLATED CITY. Area, one square mile; resident population, 1,000; density, at least 500 persons in any one square mile.

(3) METROPOLITAN VILLAGE. Area, 2 square miles; resident population, 2,500; density, at least 500 persons in any one square mile.

(4) METROPOLITAN CITY. Area, 3 square miles; resident population, 5,000; density, at least 750 persons in any one square mile.

(5) STANDARDS WHEN NEAR 1ST, 2ND OR 3RD CLASS CITY. If the proposed boundary of a metropolitan village or city is within 10 miles of the boundary of a 1st class city or 5 miles of a 2nd or 3rd class city, the minimum area requirements are 4 and 6 square miles for villages and cities, respectively.

History: 1977 c. 29; 1999 a. 150 s. 37; Stats. 1999 s. 66.0205; 2003 a. 171.

The 4 square mile requirement of sub. (5) was met when 4.2 square miles of village land were proposed for annexation, although 2.5 square miles of that land was within floodway lines. In re Petition of Township of Campbell, 78 Wis. 2d 246, 254 N.W.2d 241 (1977).

66.0207 Standards to be applied by the board. (1) The board may approve for referendum only those proposed incorporations which meet the following requirements:

(a) *Characteristics of territory.* The entire territory of the proposed village or city shall be reasonably homogeneous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs. An isolated municipality shall have a reasonably developed community center, including some or all features such as retail stores, churches, post office, telecommunications exchange and similar centers of community activity.

(b) *Territory beyond the core.* The territory beyond the most densely populated one−half square mile specified in s. 66.0205 (1) or the most densely populated square mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next 3 years. The board may waive these requirements to the extent that water, terrain or geography prevents the development.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.0205 in order to be approved for referendum, a proposed incorporation must be in the public interest as determined by the board upon consideration of the following:

(a) *Tax revenue.* The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services.

(b) *Level of services.* The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.0203 (6).

(c) *Impact on the remainder of the town.* The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

(d) *Impact on the metropolitan community.* The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

History: 1977 c. 29; 1983 a. 189 s. 329 (14); 1985 a. 297 s. 76; 1999 a. 150 s. 38; Stats. 1999 s. 66.0207; 2003 a. 171.

The delegation of legislative power under sub. (2) (d) is constitutional. Westring v. James, 71 Wis. 2d 462, 238 N.W.2d 695 (1976).

Incorporation of a town in a metropolitan area is discussed. Pleasant Prairie v. Department of Local Affairs and Development, 113 Wis. 2d 327, 334 N.W.2d 893 (1983).

That the department approved annexations that helped create fragmented town borders did not render arbitrary and capricious the department's determination that the town's proposed incorporation did not meet the requirement of homogeneity and compactness. Incorporation of the Town of Pewaukee, 186 Wis. 2d 515, 521 N.W.2d 453 (Ct. App. 1994).

Whether incorporation would benefit the proposed village area is not the standard for allowing incorporation. An area must meet all the requirements of subs. (1) and (2). Walag v. DOA, 2001 WI App 217, 247 Wis. 2d 850, 634 N.W.2d 906, 00−3513.

66.0209 Review of incorporation−related orders and decisions. (1) The order of the circuit court made under s. 66.0203 (8) or (9) (f) may be appealed to the court of appeals.

(2) The decision of the board made under s. 66.0203 (9) is subject to judicial review under ch. 227.

(3) Where a proceeding for judicial review is commenced under sub. (2), appeal under sub. (1) may not be taken and the time in which the appeal may be taken does not commence to run until judgment is entered in the proceeding for judicial review.

(4) An incorporation referendum ordered by the circuit court under s. 66.0203 (9) (f) may not be stayed pending the outcome of further litigation, unless the court of appeals or the supreme court, upon an appeal or upon the filing of an original action in the supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the board will be set aside.

History: 1977 c. 29, 187; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1999 a. 150 s. 39; Stats. 1999 s. 66.0209; 2001 a. 103; 2003 a. 171.

When a petition to incorporate is dismissed due to DOA disapproval, sub. (2) prevents appellate court review prior to judicial review under ch. 227. Petition to Incorporate Powers Lake Village, 171 Wis. 2d 659, 492 N.W.2d 342 (Ct. App. 1992).

66.0211 Incorporation referendum procedure. (1) ORDER. The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the order is for a city incorporation referendum the order shall further specify that 7 alderpersons shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (1) and (2), and the combination of wards into aldermanic districts. The number of alderpersons per aldermanic district shall be determined by charter ordinance.

(2) NOTICE OF REFERENDUM. Notice of the referendum shall be given by publication of the order of the circuit court in a newspaper having general circulation in the territory. Publication shall be once a week for 4 successive weeks. The first publication may not be more than 4 weeks before the referendum.

(3) RETURN. An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.0217 (7) to the extent applicable except that the ballot shall contain the words "For a city [village]" and "Against a city [village]". The inspectors shall make a return to the circuit court.

(4) COSTS. If the referendum is against incorporation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be incorporated, voting in the referendum, bears to the total number of electors in the territory voting in the referendum. If the referendum is for a village or city, the costs shall be charged against the municipality in the apportionment of town assets.

(5) CERTIFICATION OF INCORPORATION. If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply the secretary of state with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat of the village or city. Within 10 days of receipt of the description and plat, the secretary of state shall forward 2 copies to the department of transportation and one copy each to the department of administration and the department of revenue. The secretary of state shall issue a certificate of incorporation and record the certificate.

History: 1971 c. 304; 1973 c. 37, 90; 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1979 c. 361 s. 112; 1981 c. 4 s. 19; 1981 c. 377; 1993 a. 184; 1995 a. 27, s. 9116 (5); 1999 a. 150 s. 40; Stats. 1999 s. 66.0211; 2011 a. 32.

A referendum is effective immediately if the majority of votes are for incorporation. 70 Atty. Gen. 128.

66.0213 Powers of new village or city: elections; adjustment of taxes; reorganization as village. (1) VILLAGE OR CITY POWERS. A village or city incorporated under ss. 66.0201 to 66.0213 is a body corporate and politic, with powers and privileges of a municipal corporation at common law and conferred by these statutes.

(2) EXISTING ORDINANCES. (a) Ordinances in force in the territory incorporated or any part of the territory, to the extent not inconsistent with chs. 61 and 62, continue in force until altered or repealed.

(b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(3) INTERIM OFFICERS. All officers of the village or town embracing the territory that is incorporated as a village or city continue in their powers and duties until the first meeting of the board of trustees or common council at which a quorum is present. Until a village or city clerk is chosen and qualified all oaths of office and other papers shall be filed with the circuit court with which the petition was filed. The court shall deliver the oaths and other papers with the petition to the village or city clerk when that clerk qualifies.

(4) FIRST VILLAGE OR CITY ELECTION. (a) Within 10 days after incorporation of the village or city, the county clerk of the county in which the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 8 to the extent applicable. Nomination papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the county clerk by publication in the newspapers selected under s. 66.0211 (2) and by posting notices in 3 public places in the village or city, but failure to give notice does not invalidate the election.

(b) The election shall be conducted as prescribed by ch. 6. The inspectors shall make returns to the county clerk who shall, within 14 days after the election, canvass the returns and declare the result. The clerk shall notify the officers−elect and issue certificates of election. If the first election is on the first Tuesday in April the officers elected and their appointees shall commence and hold their offices as for a regular term. Otherwise they shall commence within 14 days and hold their offices until the regular village or city election and the qualification of their successors and the terms of their appointees expire as soon as successors qualify.

NOTE: Par. (b) is shown as affected by 2011 Wis. Acts 115 and 130 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(5) TAXES LEVIED BEFORE INCORPORATION; HOW COLLECTED AND DIVIDED. If a village or city is incorporated after the assess-

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ment of taxes in any year and before the collection of the taxes, the tax assessed shall be collected by the town treasurer of the town or the town treasurers of the different towns of which the village or city formerly constituted a part, and all moneys collected from the tax levied for town purposes shall be divided between the village or city and the town or the towns, as provided by s. 66.0235 (13) (a) 1., for the division of property owned jointly by towns and villages.

(6) REORGANIZATION OF CITY AS VILLAGE. If the population of any city falls below 1,000 as determined by the United States census, the council may upon filing of a petition conforming to the requirements of s. 8.40 containing the signatures of at least 15% of the electors submit at any general or city election the question whether the city shall reorganize as a village. If three−fifths of the votes cast on the question are for reorganization the mayor and council shall record the return in the office of the register of deeds, file a certified copy with the clerk of the circuit court, and immediately call an election, to be conducted as are village elections, for the election of village officers. Upon the qualification of the officers, the board of trustees shall declare the city reorganized as a village, and the reorganization is effective. The clerk shall certify a copy of the declaration to the secretary of state who shall file the declaration and endorse a memorandum of the declaration on the record of the certificate of incorporation of the city. Rights and liabilities of the city continue in favor of or against the village. Ordinances, so far as within the power of the village, remain in force until changed.

History: 1977 c. 203 s. 106, 1989 a. 192; 1991 a. 32, 316; 1993 a. 301, 329; 1995 a. 16 s. 2; 1995 a. 201, 216; 1999 a. 150 s. 41; Stats. 1999 s. 66.0213; 2011 a. 115, 130; s. 13.92 (2) (i).

66.0215 Incorporation of certain towns adjacent to 1st class cities. (1) PETITION. If the resident population of a town exceeds 5,000 as shown by the last federal census or by a census under sub. (2), if the town is adjacent to a 1st class city and contains an equalized valuation in excess of $20,000,000 and if a petition signed by 100 or more persons, each an elector and taxpayer of the town, containing the signatures of at least 50% of the owners of real estate in the town and requesting submission of the question to the electors of the town, is filed with the clerk of the town, the procedure for becoming a 4th class city is initiated.

(2) REFERENDUM. At the next regular meeting of the town board following the filing of the petition under sub. (1), the board by resolution shall provide for a referendum by the electors of the town. The resolution shall conform to the requirements of s. 5.15 (1) and (2) and shall determine the numbers and boundaries of each ward of the proposed city and the time of voting, which may not be earlier than 6 weeks after the adoption of the resolution. The resolution may direct that a census be taken of the resident population of the territory on a day not more than 10 weeks previous to the date of the election, exhibiting the name of every head of a family and the name of every person who is a resident in good faith of the territory on that day, and the lot or quarter section of land on which that person resides, which shall be verified by the affixed affidavit of the person taking the census.

(3) NOTICE OF REFERENDUM. Notice of the referendum shall be given by publication of the resolution in a newspaper published in the town, if there is one, otherwise in a newspaper designated in the resolution, once a week for 4 successive weeks, the first publication to be not more than 4 weeks before the referendum.

(4) VOTING PROCEDURE. The referendum shall be conducted in the same manner as elections for supervisors of the town board. The question appearing on the ballot shall be "Shall the town of .... become a 4th class city?". Below the question shall appear 2 squares. To the left of one square shall appear the words "For a city" and to the left of the other square shall appear the words "Against a city". The inspectors shall make a return to the clerk of the town.

(5) CERTIFICATE OF INCORPORATION. If a majority of the votes are cast in favor of a city the clerk shall certify the fact to the secretary of state, together with the result of the census, if any, and 4 copies of a description of the legal boundaries of the town and 4 copies of a plat of the town. The secretary of state shall then issue a certificate of incorporation, and record the certificate in a book kept for that purpose. Two copies of the description and plat shall be forwarded by the secretary of state to the department of transportation and one copy to the department of revenue.

(6) CITY POWERS. A city incorporated under this section is a body corporate and politic, with the powers and privileges of a municipal corporation at common law and conferred by ch. 62.

(7) EXISTING ORDINANCES. (a) Ordinances in force in the territory or any part of the territory, to the extent not inconsistent with ch. 62, continue in force until altered or repealed.

(b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(8) INTERIM OFFICERS. All officers of the town embracing the territory incorporated as a city continue in their powers and duties until the first meeting of the common council at which a quorum is present. Until a city clerk is chosen and qualified all oaths of office and other papers shall be filed with the town clerk, with whom the petition was filed, who shall deliver them with the petition to the city clerk when the city clerk is qualified.

(9) FIRST CITY ELECTION. Within 10 days after incorporation of the city, the town board and the town clerk who received the petition shall fix a time for the first city election, designate the polling place or places, and name 3 inspectors of election for each place. Ten days' previous notice of the election shall be given by the clerk by publication in the newspapers selected under sub. (3) and by posting notices in 3 public places in the city. Failure to give notice does not invalidate the election. The election shall be conducted as is prescribed by chs. 5 to 12. The inspectors shall make returns to the board which shall, within 14 days after the election, canvass the returns and declare the result. The clerk shall notify the officers−elect and issue certificates of election. If the first election is on the first Tuesday in April the officers elected and their appointees commence and hold their offices as for a regular term. Otherwise they commence within 14 days and hold until the regular city election and the qualification of their successors, and the term of their appointees expires as soon as successors qualify.

History: 1971 c. 304; 1977 c. 29 s. 1654 (8) (c); 1979 c. 89; 1981 c. 4 s. 19; 1981 c. 377; 1983 a. 532 s. 11; Stats. 1983 s. 66.012; 1991 a. 316; 1993 a. 329; 1995 a. 16 s. 2; 1995 a. 201; 1999 a. 150 s. 31; Stats. 1999 s. 66.0215; 2011 a. 115.

"Adjacent" under sub. (1) means "contiguous," not "near." City of Waukesha v. Salbashian, 128 Wis. 2d 334, 382 N.W.2d 52 (1986).

66.0216 Incorporation of certain towns contiguous to 2nd class cities. (1) CONDITIONS. A town board may initiate the procedure for incorporating its town as a city or village under this section by adopting a resolution providing for a referendum by the electors of the town on the question of whether the town should become a city or village if on the date of the adoption of the resolution all of the following conditions are satisfied:

(b) The most recent federal decennial census shows that the resident population of the town exceeds 23,000.

(c) The town is contiguous to a 2nd class city with a resident population exceeding 75,000.

(d) The most recent per capita equalized valuation figures available from the department of revenue show that the per capita equalized valuation for the town is equal to or greater than the average per capita equalized valuation for all cities and villages in the state.

(e) The town board of the town is authorized to exercise village powers.

(f) The town contains at least 2,500 acres of land that has been zoned for industrial, commercial, communication, or public utility use.

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(g) The town contains at least 400 acres of land actually used for industrial, commercial, communication, or public utility purposes.

(h) The common council of at least one 2nd class city that is contiguous to the town has adopted a resolution approving the incorporation of the town as a city or village.

(2) REFERENDUM RESOLUTION. The resolution of the town board required under sub. (1) shall do, or contain, all of the following:

(a) Certify that all of the conditions under sub. (1) are satisfied.

(b) Contain a description of the territory to be incorporated sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the town clerk.

(c) If incorporation as a city is proposed, specify the number of members of the common council and the method of election, and specify the numbers and boundaries of the aldermanic districts.

(d) Determine the numbers and boundaries of each ward of the proposed city or village, conforming to the requirements of s. 5.15 (1) and (2).

(e) Determine the date of the referendum, which may not be earlier than 6 weeks after the adoption of the resolution.

(3) NOTICE OF REFERENDUM. The town clerk shall publish the resolution adopted under sub. (1) in a newspaper published in the town. If no newspaper is published in the town, the town clerk shall publish the resolution in a newspaper designated in the resolution. The town clerk shall publish the resolution once a week for 4 successive weeks, the first publication to be not more than 4 weeks before the referendum.

(4) VOTING PROCEDURE. The referendum shall be conducted in the same manner as elections for town board supervisors. The question appearing on the ballot shall be: "Shall the town of .... become a city?" or "Shall the town of .... become a village?" Below the question shall appear 2 squares. To the left of one square shall appear the words "For a city" or "For a village," and to the left of the other square shall appear the words "Against a city" or "Against a village." The inspectors shall make a return to the town clerk.

(5) CERTIFICATE OF INCORPORATION. If a majority of the votes are cast in favor of a city or village, the town clerk shall certify that fact to the secretary of state, together with 4 copies of a description of the legal boundaries of the town, and 4 copies of a plat of the town. The town clerk shall also send the secretary of state an incorporation fee of $1,000. Upon receipt of the town clerk's certification, the incorporation fee, and other required documents, the secretary of state shall issue a certificate of incorporation and record the certificate in a book kept for that purpose. The secretary of state shall provide 2 copies of the description and plat to the department of transportation and one copy to the department of revenue. The town clerk shall also transmit a copy of the certification and the resolution under sub. (1) to the county clerk.

(6) ACTION. No action to contest the validity of an incorporation under this section on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the certificate of incorporation by the secretary of state. In any such action, the burden of proof as to all issues is upon the person bringing the action to show that the incorporation is not valid. An action contesting an incorporation shall be given preference in the circuit court

(7) CITY OR VILLAGE POWERS. A city or village incorporated under this section is a body corporate and politic, with the powers and privileges of a municipal corporation at common law and conferred by ch. 61 or 62.

(8) EXISTING ORDINANCES. (a) Ordinances in force in the territory or any part of the territory, to the extent not inconsistent with ch. 61 or 62, continue in force until altered or repealed.

(b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(9) INTERIM OFFICERS, FIRST CITY OR VILLAGE ELECTION. Section 66.0215 (8) and (9), as it applies to a town that is incorporated as a city under s. 66.0215, applies to a town that is incorporated as a city or village under this section.

(10) SUNSET. This section does not apply after June 30, 2010.

History: 2005 a. 25, 254; 2007 a. 96.

66.0217 Annexation initiated by electors and property owners. (1) DEFINITIONS. In this section, unless the context clearly requires otherwise:

(a) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(b) "Department" means the department of administration.

(c) "Legal description" means a complete description of land to be annexed without internal references to any other document, and shall be described in one of the following ways:

1. By metes and bounds commencing at a monument at the section or quarter section corner or at the end of a boundary line of a recorded private claim or federal reservation in which the annexed land is located and in one of the following ways:

a. By government lot.

b. By recorded private claim.

c. By quarter section, section, township and range.

2. If the land is located in a recorded and filed subdivision or in an area subject to a certified survey map, by reference as described in s. 236.28 or s. 236.34 (3).

(d) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant is an owner to the extent of his or her interest.

(e) "Petition" includes the original petition and any counterpart of the original petition.

(f) "Real property" means land and the improvements to the land.

(g) "Scale map" means a map that accurately reflects the legal description of the property to be annexed and the boundary of the annexing city or village, and that includes a graphic scale on the face of the map.

(2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL. Except as provided in this subsection and sub. (14), and subject to ss. 66.0301 (6) (d) and 66.0307 (7), if a petition for direct annexation signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two−thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (4). In an annexation under this subsection, subject to sub. (6), the person filing the petition with the city or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the scale map and a legal description of the territory to be annexed to the department and the governing body shall review the advice of the department, if any, before enacting the annexation ordinance. No territory may be annexed by a city or village under this subsection unless the territory to be annexed is contiguous to the annexing city or village.

(3) OTHER METHODS OF ANNEXATION. Subject to ss. 66.0301 (6) (d) and 66.0307 (7), and except as provided in sub. (14), terri-

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tory contiguous to a city or village may be annexed to the city or village in the following ways:

(a) *Direct annexation by one−half approval.* A petition for direct annexation may be filed with the city or village clerk if it has been signed by either of the following:

1. A number of qualified electors residing in the territory subject to the proposed annexation equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election, and either of the following:

a. The owners of one−half of the land in area within the territory.

b. The owners of one−half of the real property in assessed value within the territory.

2. If no electors reside in the territory subject to the proposed annexation, by either of the following:

a. The owners of one−half of the land in area within the territory.

b. The owners of one−half of the real property in assessed value within the territory.

(b) *Annexation by referendum.* A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by a number of qualified electors residing in the territory equal to at least 20% of the votes cast for governor in the territory at the last gubernatorial election, and the owners of at least 50% of the real property either in area or assessed value. The petition shall conform to the requirements of s. 8.40.

(4) NOTICE OF PROPOSED ANNEXATION. (a) An annexation under sub. (3) shall be initiated by publishing in the territory proposed for annexation a class 1 notice, under ch. 985, of intention to circulate an annexation petition. The notice shall contain:

1. A statement of intention to circulate an annexation petition.

2. A legal description of the territory proposed to be annexed and a copy of a scale map.

3. The name of the city or village to which the annexation is proposed.

4. The name of the town or towns from which the territory is proposed to be detached.

5. The name and post−office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.

6. A statement that a copy of the scale map may be inspected at the office of the town clerk for the territory proposed to be annexed and the office of the city or village clerk for the city or village to which the territory is proposed to be annexed.

(b) The person who has the notice published shall serve a copy of the notice, within 5 days after its publication, upon the clerk of each municipality affected, upon the clerk of each school district affected and upon each owner of land in a town if that land will be in a city or village after the annexation. Service may be either by personal service or by certified mail with return receipt requested. If required under sub. (6) (a), a copy of the notice shall be mailed to the department as provided in that paragraph.

(5) ANNEXATION PETITION. (a) An annexation petition under this section shall state the purpose of the petition, contain a legal description of the territory proposed to be annexed and have attached a scale map. The petition shall also specify the population of the territory. In this paragraph, "population" means the population of the territory as shown by the last federal census, by any subsequent population estimate certified as acceptable by the department or by an actual count certified as acceptable by the department.

(b) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition is void unless filed within 6 months of the date of publication of the notice.

(6) DEPARTMENT REVIEW OF ANNEXATIONS. (a) *Annexations within populous counties.* No annexation proceeding within a county having a population of 50,000 or more is valid unless the person publishing a notice of annexation under sub. (4) mails a copy of the notice to the clerk of each municipality affected and the department, together with any fee imposed under s. 16.53 (14), within 5 days of the publication. The department shall within 20 days after receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that states whether in its opinion the annexation is in the public interest or is against the public interest and that advises the clerks of the reasons the annexation is in or against the public interest as defined in par. (c). The annexing municipality shall review the advice before final action is taken.

(b) *Alternative dispute resolution.* The department shall make available on its public Web site a list of persons who identify themselves to the department as professionals qualified to facilitate alternative dispute resolution of annexation, boundary, and land use disputes. Persons identifying themselves to the department as qualified professionals shall submit to the department a brief description of their qualifications, including membership in relevant professional associations and certifications in areas such as planning and alternative dispute resolution. The department may edit the descriptions for inclusion on the list using any criteria that, in the department's determination, is appropriate. The department may include with the list a disclaimer that the department is not responsible for the accuracy of the descriptions, and that inclusion of a person on the list does not represent endorsement by the department. The department may include links from the list to other websites, such as those of relevant professional associations and county dispute resolution centers.

(c) *Definition of public interest.* For purposes of this subsection "public interest" is determined by the department after consideration of the following:

1. Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two−thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.

2. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.

(d) *Direct annexation by unanimous approval.* 1. Upon the request of the town affected by the annexation, the department shall review an annexation under sub. (2) to determine whether the annexation violates any of the following, provided that the town submits its request to the department within 30 days of the enactment of the annexation ordinance:

a. The requirement under sub. (2) regarding the contiguity of the territory to be annexed with the annexing city or village.

b. The requirement under sub. (14) (b).

2. Following its review, and within 20 days of receiving the town's request, the department shall send a copy of its findings to any affected landowner, the town affected by the annexation, and the annexing city or village. If the department does not complete its review and send a copy of its findings within 20 days of receiving the town's request, the effect on the town and the annexing city or village shall be the same as if the department found no violation of the requirements specified in subd. 1. If the department finds that an annexation violates any requirement specified in subd. 1., the town from which territory is annexed may, within 45 days of its receipt of the department's findings, challenge the annexation in circuit court.

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3. If the town commences an action to challenge the annexation and the circuit court rules against the town, the town shall pay the court costs and the city's or village's reasonable attorney fees incurred in defending the annexation. If the town commences an action to challenge the annexation and the circuit court rules in the town's favor and upholds the town's challenge, the city or village shall pay the court costs and the town's reasonable attorney fees incurred in challenging the annexation.

(7) REFERENDUM. (a) *Notice.* 1. Within 60 days after the filing of the petition under sub. (3), the common council or village board may accept or reject the petition and if rejected no further action may be taken on the petition. Acceptance may consist of adoption of an annexation ordinance. Failure to reject the petition obligates the city or village to pay the cost of any referendum favorable to annexation.

2. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice of the petition by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request with the clerk. The notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation.

3. If the notice indicates that the petition is for a referendum on the question of annexation, the clerk of the city or village shall file the notice as provided in s. 8.37. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held not less than 70 days nor more than 100 days after the date of personal service or mailing of the notice required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition conforming to the requirements of s. 8.40 requesting a referendum is filed with the town clerk as provided in s. 8.37, signed by at least 20% of the electors residing in the area proposed to be annexed. If a petition requesting a referendum is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held not less than 70 days nor more than 100 days after the receipt of the petition and shall mail a copy of the notice to the clerk of the city or village to which the annexation is proposed. The referendum shall be held at a convenient place within the town to be specified in the notice.

(b) *Clerk to act.* If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under par. (a) that determination. The clerk of the town so designated shall perform the duties required under this subsection and the election shall be conducted in the town as are other elections.

(c) *Publication of notice.* The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to that publication.

(d) *How conducted.* The referendum shall be conducted by the town election officials but the town board may reduce the number of election officials for that election. The ballots shall contain the words "For annexation" and "Against annexation" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other town elections in accordance with chs. 6 and 7 to the extent applicable.

(e) *Canvass; statement to be filed.* The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach their affidavit to the statement and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.

(f) *Costs.* If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in that territory, voting in the referendum.

(g) *Effect.* If the result of the referendum is against annexation, all previous proceedings are nullified. If the result of the referendum is for annexation, failure of any town official to perform literally any duty required by this section does not invalidate the annexation.

(8) ANNEXATION ORDINANCE. (a) An ordinance for the annexation of the territory described in the annexation petition under sub. (3) may be enacted by a two−thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate the petition and not later than 120 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (6) the governing body shall first review the reasons given by the department that the proposed annexation is against the public interest. Subject to s. 59.692 (7), an ordinance under this subsection may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing a temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make a temporary classification is not effective when the county ordinance prevails during litigation as provided in s. 59.69 (7).

(b) The ordinance may annex the territory to an existing ward or may create an additional ward.

(c) The annexation is effective upon enactment of the annexation ordinance. The board of school directors in a 1st class city is not required to administer the schools in any territory annexed to the city until July 1 following the annexation.

(9) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send does not invalidate the annexation and the duty to file, record or send is a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the secretary of state shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under ch. 79. The clerk shall certify annually to the secretary of state and record with the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department, one copy to the department of natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located. Upon filing, the survey and

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plat are prima facie evidence of the facts set forth in the survey and plat.

(10) QUALIFICATIONS OF ELECTORS AND OWNERS; ELECTOR DETERMINATION. (a) Under this section, qualifications as to electors and owners shall be determined as of the date of filing a petition, except that all qualified electors residing in the territory proposed for annexation on the day of a referendum election may vote in the election. Residence and ownership shall be bona fide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(b) For purposes of this section, if a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6).

(11) ACTION TO CONTEST ANNEXATION. (a) An action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by s. 893.73 (2). During the action, the application of, and jurisdiction over, any county zoning in the area annexed is as provided under s. 59.69 (7).

(b) An action contesting an annexation shall be given preference in the circuit court. The court and the parties are encouraged to consider the application of s. 802.12 to an action contesting an annexation.

(c) Except as provided in sub. (6) (d) 2., no action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation under sub. (2), may be brought by any town.

(12) VALIDITY OF PLATS. If an annexation is declared invalid but before the declaration and subsequent to the annexation a plat is submitted and is approved as required in s. 236.10 (1) (a), the plat is validly approved despite the invalidity of the annexation.

(13) EFFECTIVE DATE OF ANNEXATIONS. Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any annexation action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by any city during the period from January 1, 1990, to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at such later date as may be specified in the annexation ordinance. This subsection first applies to annexations effective after March 31, 1991.

(14) LIMITATIONS ON ANNEXATION AUTHORITY. (a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless the town board adopts a resolution approving the proposed annexation.

(15) LAW APPLICABLE. Section 66.0203 (8) (c) applies to annexations under this section.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30; 2003 a. 171, 317, 327; 2007 a. 43; 2009 a. 366; 2011 a. 75, 128.

Cross−reference: See s. 62.071 for special provision for annexations to cities of the first class.

In ascertaining whether a petition for annexation under sub. (2) (a) has been signed by the "owners of one−half of the land" in the proposed area of attachment, acreage within the territory constituting public streets and alleys is not to be taken into account in determining the sufficiency of the petition, no matter how owned or by whom. International Paper Co. v. Fond du Lac, 50 Wis. 2d 529, 184 N.W.2d 834 (1971).

An annexation ordinance is not void simply because it divides the town into 2 parts. Town of Waukechon v. Shawano, 53 Wis. 2d 593, 193 N.W.2d 661 (1972).

Although city limits did not extend the full width of a city−owned road, property on the other side was contiguous. When the boundaries of the parcel to be annexed were drawn by the petitioning landowners, the city could not be charged with arbitrary action. Town of Lyons v. Lake Geneva, 56 Wis. 2d 331, 202 N.W.2d 228 (1972).

When property owners, in petitioning for annexation, divide a tract so as to control one parcel by property owners and the other by population, the 2 resulting annexations are valid. Town of Waukesha v. City of Waukesha, 58 Wis. 2d 525, 206 N.W.2d 585 (1973).

Abundant benefits to the state from the annexation under review, including the provision of police, fire, and solid waste disposal services and library and recreational facilities satisfied the need factor of the rule of reason. Absent unfair inducement or pressures upon the petitioners for annexation, a showing of benefits to the annexed land can be considered on the question of need. Town of Lafayette v. City of Chippewa Falls, 70 Wis. 2d 610, 235 N.W.2d 435 (1975).

An eligible elector and a qualified elector are identical. Chapter 6 applies to annexation referendum elector qualifications under sub. (6). Washington v. Altoona, 73 Wis. 2d 250, 243 N.W.2d 404 (1976).

Direct annexation, not otherwise in conflict with the "rule of reason," was not invalidated because the petitioners were motivated by the desire to obtain a change in zoning of their land. Town of Pleasant Prairie v. City of Kenosha, 75 Wis. 2d 322, 249 N.W.2d 581 (1977).

When an action challenging annexation was filed before the sub. (10) (a) limitation ran and the plaintiff town board had given no explicit authorization for commencement of an action, the subsequent attempt to ratify the commencement of the action was a nullity. Town of Nasewaupee v. City of Sturgeon Bay, 77 Wis. 2d 110, 251 N.W.2d 845 (1977).

The sub. (5) (d) ballot language requirement is directory; substantial compliance is adequate. Town of Nasewaupee v. Sturgeon Bay, 146 Wis. 2d 492, 431 N.W.2d 699 (Ct. App. 1988).

Under sub. (5) (g), annexation fails in cases of a tie vote. Town of Nasewaupee v. Sturgeon Bay, 146 Wis. 2d 492, 431 N.W.2d 699 (Ct. App. 1988).

Under s. 893.73 (2) "adoption" refers to the legislative body's action of voting to approve an annexation ordinance and the statute of limitations begins to run as of that date. Town of Sheboygan v. City of Sheboygan, 150 Wis. 2d 210, 441 N.W.2d 752 (Ct. App. 1989).

An annexation ordinance must meet "rule of reason" requirements. Application of the rule is discussed. Town of Menasha v. City of Menasha, 170 Wis. 2d 181, 488 N.W.2d 128 (Ct. App. 1992).

A city could not reach across a lake to annex noncontiguous property. Town of Delavan v. City of Delavan, 176 Wis. 2d 516, 500 N.W.2d 268 (1993).

The prohibition in sub. (4) of the withdrawal of names from a petition prevents the withdrawal of the entire petition. Town of De Pere v. City of De Pere, 184 Wis. 2d 278, 516 N.W.2d 1 (Ct. App. 1994).

A town contesting an annexation under sub. (10) is not required to file a notice of claim under s. 893.80 against the annexing municipality. Town of Burke v. City of Madison, 225 Wis. 2d 615, 593 N.W.2d 822 (Ct. App. 1999), 98−0108.

A petition under sub. (5) (a) must be circulated by a qualified elector residing within the territory to be annexed. City of Chippewa Falls v. Town Of Hallie, 231 Wis. 2d 85, 604 N.W.2d 300 (Ct. App. 1999), 99−0832.

There are 3 prongs to the rule of reason: 1) that no arbitrary exclusions or irregularities appear in boundary lines; 2) that a need exists for the property; and 3) that the municipality commits no other misuse of discretion in the process. When direct annexation is initiated by property owners, generally, the annexing municipality is not charged with arbitrary action in drawing boundaries and the courts must be responsive to the property owners desires. The need requirement serves the purpose of furthering the policy favoring orderly growth of urban areas by preventing irrational gobbling up of territory. Town of Sugar Creek v. City of Elkhorn, 231 Wis. 2d 473, 605 N.W.2d 274 (Ct. App. 1999). 98−2514.

Separation of lands by a river does not make them noncontiguous under this section. Town of Campbell v. City of La Crosse, 2001 WI App 201, 247 Wis. 2d 946, 634 N.W.2d 840, 00−1914.

A municipality may not repeal an annexing ordinance already in effect by enacting a correcting ordinance. Town of Windsor v. Village of DeForest, 2003 WI App 114, 265 Wis. 2d 591, 666 N.W.2d 31, 02−0281.

Under the rule of prior precedence, in case of conflict between competing annexations, or between an annexation and a proceeding for the incorporation of a city or village, the proceeding first instituted has precedence, and the later one must yield. Annexation proceedings did not lose priority status when the ordinances were deemed invalid and dismissed by the circuit court but subsequently vindicated on appeal. Town of Campbell v. City of La Crosse, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02−1150.

Section 66.021 (10) (now sub. (11)) does not prohibit an amendment to the complaint after the 90 days for filing the original complaint has run. Town of Campbell v. City of La Crosse, 2003 WI App 247, 268 Wis. 2d 253, 673 N.W.2d 696, 02−2541.

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If the petitioners for annexation are in need of services that the town cannot provide but the city can, the need factor under the rule of reason is met. When no need is shown by the property owners, the annexing municipality must have a reasonable present or demonstrable future need for a substantial portion of the annexed territory. Whether an annexation is in the interest of the public is not one of the factors in the rule of reason and is not for the courts to decide. Even if the state issues a letter under s. 66.021 (11) (now sub. (6)) that the annexation is not in the public interest, the statute requires only that the city consider it. Town of Campbell v. City of La Crosse, 2003 WI App 247, 268 Wis. 2d 253, 673 N.W.2d 696, 02−2541.

A municipality is not required to enact a separate annexation ordinance for each of several parcels that are the subject of separate annexation petitions under sub. (2). Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04−0980.

Sub. (2), when read together and compared with the subs. (6) and (8), does not require the village to inform the department of its intention to annex less than all of the parcels originally proposed for annexation that were submitted for the department's review. Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04−0980.

Although an annexation petition may not be withdrawn by a petitioner once it is filed, neither sub. (2) nor *De Pere* prohibits a municipality from declining to annex a given parcel for any reason, including a petitioner's desire not to be annexed. Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04−0980.

In rule of reason cases, there is an exception to the general rule that a municipality may not be charged with any arbitrariness in the boundaries of an owner−petitioned annexation if the municipality can be shown to have been the real controlling influence in selecting the boundaries. Providing forms to prospective annexation petitioners, preparing maps and legal descriptions for the petitions, and providing other advice and technical assistance to petitioners does not render the municipality the controlling influence behind the annexation petitions nor does arranging an informational meeting of adjacent property owners only after several property owners in the area had contacted the municipality requesting information regarding a possible annexation. Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04−0980.

Sub. (11) (c) bars a town from contesting a direct annexation by unanimous approval under sub. (2). Under sub. (11) (c) an action to "contest the validity" of an annexation includes challenging an annexation as void. Barring such town actions does not render sub. (14) (b) 1. meaningless, as it still applies to annexations other than direct annexations by unanimous approval. While it may be true that towns may not use the threat of challenging the validity of an annexation to compel payments under sub. (14) (a) 1., that does not explain why a town could not use other means of compelling a village to pay the property tax set−off it owes the town. Town of Merrimac v. Village of Merrimac, 2008 WI App 98, 312 Wis. 2d 754, 753 N.W.2d 552, 07−2491.

The legislature can constitutionally provide for the annexation of territory without a referendum. 60 Atty. Gen. 294.

The rule of reason in Wisconsin annexations. Knowles, 1972 WLR 1125.

66.0219 Annexation by referendum initiated by city or village. As a complete alternative to any other annexation procedure, and subject to sub. (10) and ss. 66.0301 (6) (d) and 66.0307 (7), unincorporated territory which contains electors and is contiguous to a city or village may be annexed to the city or village under this section. The definitions in s. 66.0217 (1) apply to this section.

(1) PROCEDURE FOR ANNEXATION. (a) The governing body of the city or village to which it is proposed to annex territory shall, by resolution adopted by two−thirds of the members−elect, declare its intention to apply to the circuit court for an order for an annexation referendum, and shall publish the resolution in a newspaper having general circulation in the area proposed to be annexed, as a class 1 notice, under ch. 985. The governing body shall prepare a scale map of the territory to be annexed, showing it in relation to the annexing city or village. The resolution shall contain a description of the territory to be affected, sufficiently accurate to determine its location, the name of the municipalities directly affected and the name and post−office address of the municipal official responsible for the publication of the resolution. A copy of the resolution together with the scale map shall be served upon the clerk of the town or towns from which the territory is to be detached within 5 days of the date of publication of the resolution. Service may be either by personal service or by registered mail and if by registered mail an affidavit shall be on file with the annexing body indicating the date on which the resolution was mailed. The annexation is considered commenced upon publication of the resolution.

(b) Application to the circuit court shall be by petition subscribed by the officers designated by the governing body, and shall have attached the scale map, a certified copy of the resolution of the governing body and an affidavit of the publication and filing required under par. (a). The petition shall be filed in the circuit court not less than 30 days but no more than 45 days after the publication of the notice of intention.

(2) PROTEST TO COURT BY ELECTORS; HEARING. (a) If, prior to the date set for hearing upon an application filed under sub. (1) (b), there is filed with the court a petition signed by a number of qualified electors residing in the territory equal to at least a majority of the votes cast for governor in the territory at the last gubernatorial election or the owners of more than one−half of the real property in assessed value in the territory, protesting against the annexation of the territory, the court shall deny the application for an annexation referendum. If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6).

(b) If a petition protesting the annexation is found insufficient the court shall proceed to hear all parties interested for or against the application. The court may adjourn the hearing from time to time, direct a survey to be made and refer any question for examination and report. A town whose territory is involved in the proposed annexation shall, upon application, be a party and is entitled to be heard on any relevant matter.

(3) DISMISSAL. If for any reason the proceedings are dismissed, the court may order entry of judgment against the city or village for disbursements or any part of disbursements incurred by the parties opposing the annexation.

(4) (a) If the court, after the hearing, is satisfied that the description of the territory or any survey is accurate and that the provisions of this section have been complied with, it shall make an order so declaring and shall direct a referendum election within the territory described in the order, on the question of whether the area should be annexed. Such order shall be filed as provided in s. 8.37. The order shall direct 3 electors named in the order residing in the town in which the territory proposed to be annexed lies, to perform the duties of inspectors of election.

(b) The referendum election shall be held not less than 70 days nor more than 100 days after the filing of the order as provided in s. 8.37, in the territory proposed for annexation, by the electors of that territory as provided in s. 66.0217 (7), so far as applicable. The ballots shall contain the words "For Annexation" and "Against Annexation". The certification of the election inspectors shall be filed with the clerk of the court, and the clerk of any municipality involved, but need not be filed or recorded with the register of deeds.

(c) All costs of the referendum election shall be borne by the petitioning city or village.

(5) DETERMINATION BY VOTE. (a) If a majority of the votes cast at the referendum election is against annexation, no other proceeding under this section affecting the same territory or part of the same territory may be commenced by the same municipality until 6 months after the date of the referendum election.

(b) If a majority of the votes cast at the referendum election is for annexation, the territory shall be annexed to the petitioning city or village upon compliance with s. 66.0217 (9).

(6) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim zoning ordinance to become effective only upon approval of the annexation at the referendum election may be enacted by the governing body of the city or village. Subject to s. 59.692 (7), the ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred to and recommended by the plan commission prior to introduction. Authority to make a temporary classification is not effective when the county zoning ordinance prevails during litigation as provided in s. 59.69 (7).

(7) APPEAL. An appeal from the order of the circuit court is limited to contested issues determined by the circuit court. An appeal shall not stay the conduct of the referendum election, if one is ordered, but the statement of the election results and the copies

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of the certificate and plat may not be filed with the secretary of state until the appeal has been determined.

(8) LAW APPLICABLE. Sections 66.0203 (8) (c) and 66.0217 (11) apply to annexations under this section.

(9) TERRITORY EXCEPTED. This section does not apply to any territory located in an area for which a certificate of incorporation was issued before February 24, 1959, by the secretary of state, even if the incorporation of the territory is later held to be invalid by a court.

(10) LIMITATIONS ON ANNEXATION AUTHORITY. (a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

History: 1979 c. 89; 1987 a. 391; 1991 a. 269; 1993 a. 301, 329; 1995 a. 201; 1999 a. 150 s. 68; Stats. 1999 s. 66.0219; 1999 a. 182 s. 200; 2001 a. 30; 2003 a. 171, 317; 2007 a. 43; 2011 a. 75.

Cross−reference: See s. 281.43 (1m) for provision authorizing use of this section when the DNR orders sewer service to areas outside municipal limits.

A trial court finding that no facts evinced a need for the city to acquire the proposed territory, thereby violating the rule of reason, would not be disturbed when it could be reasonably concluded from the adjudicative facts that: 1) the irregular shape and boundaries of the territory were designed arbitrarily and capriciously solely to assure the success of the annexation and to overcome the opposition of a majority of the electors residing in the towns; 2) a reasonable need for the annexation based on the claimed growth of the city and overflow of population into adjoining areas was not established; and 3) aside from a nursing home some 2 miles distant from the city boundary, there was no showing that the proposed annexation area was in need of the city's services which were adequately supplied by the towns. City of Beloit v. Town of Beloit, 47 Wis. 2d 377, 177 N.W.2d 361 (1970).

The term "disbursements" in sub. (3) does not include attorney fees. City of Beloit v. Town of Beloit, 47 Wis. 2d 377, 177 N.W.2d 361 (1970).

Under the rule of prior precedence, in case of conflict between competing annexations, or between an annexation and a proceeding for the incorporation of a city or village, the proceeding first instituted has precedence, and the later one must yield. Annexation proceedings did not lose priority status when the ordinances were deemed invalid and dismissed by the circuit court but subsequently vindicated on appeal. Town of Campbell v. City of La Crosse, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02−1150.

66.0221 Annexation of and creation of town islands. (1) Upon its own motion and subject to sub. (3) and ss. 66.0301 (6) (d) and 66.0307 (7), a city or village, by a two−thirds vote of the entire membership of its governing body, may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those that are exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file 6 certified copies of the ordinance in the office of the secretary of state, together with 6 copies of a scale map. The secretary of state shall forward 2 copies of the ordinance and scale map to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of administration. This subsection does not apply if the town island was created only by the annexation of a railroad right−of−way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located on the land. No town island may be annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies to annexations under this subsection. Except as provided in sub. (2), after December 2, 1973, no city or village may, by annexation, create a town area which is completely surrounded by the city or village.

(2) A city or village may, by annexation, create a town area that is completely surrounded by the city or village if a cooperative plan for boundary change under s. 66.0301 (6) or 66.0307, to which the town and the annexing city or village are parties, applies to the territory that is annexed.

(3) (a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

History: 1999 a. 150 s. 62; 2001 a. 16; 2003 a. 317; 2007 a. 43.

A town from which 2 town islands were detached by annexation had no standing to challenge the constitutionality of the statute. Town of Germantown v. Village of Germantown, 70 Wis. 2d 704, 235 N.W.2d 486 (1975).

This is a clear and unambiguous provision allowing, with certain exceptions, for the annexation by a city or village in a single ordinance all town islands meeting the statutorily defined criteria. Annexation by a city of 7 separate town islands via 7 separate municipal ordinances was impermissible under sub. (15) since the power to annex must be exercised by a municipality in strict conformity with the statute conferring it. Town of Blooming Grove v. City of Madison, 70 Wis. 2d 770, 235 N.W.2d 493 (1975).

The statute does not prohibit a "functional town island." Wagner Mobil, Inc. v. City of Madison, 190 Wis. 2d 585, 527 N.W.2d 301 (1995).

66.0223 Annexation of territory owned by a city or village. (1) In addition to other methods provided by law and subject to sub. (2) and ss. 59.692 (7), 66.0301 (6) (d), and 66.0307 (7), territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the city or village is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached, and attaches the territory to the village or city upon the filing of 7 certified copies of the ordinance in the office of the secretary of state, together with 7 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of administration, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of public instruction. Within 10 days of filing the certified copies, a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county in which the annexed territory is located. Sections 66.0203 (8) (c) and 66.0217 (11) apply to annexations under this section.

(2) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

(a) The town board adopts a resolution approving the proposed annexation.

(b) The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

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(c) The city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

History: 1973 c. 90; 1977 c. 29 s. 1654 (8) (c); 1991 a. 269; 1993 a. 329; 1995 a. 27 s. 9145 (1); 1995 a. 201; 1997 a. 27; 1999 a. 150 s. 69; Stats. 1999 s. 66.0223; 2003 a. 171, 317, 327; 2007 a. 43.

A challenge to annexation under this section is not subject to the time limit under s. 66.021 (10) [now s. 66.0217 (11)]. Kaiser v. City of Mauston, 99 Wis. 2d 345, 299 N.W.2d 259 (Ct. App. 1980).

66.0225 Stipulated boundary agreements in contested boundary actions. (1) DEFINITIONS. In this section, "municipality" means a city, village, or town.

(2) CONTESTED ANNEXATIONS. Any 2 municipalities whose boundaries are immediately adjacent at any point and who are parties to an action, proceeding, or appeal in court for the purpose of testing the validity of an annexation may enter into a written stipulation, compromising and settling the litigation and determining the portion of the common boundary line between the municipalities that is the subject of the annexation. The court having jurisdiction of the litigation, whether the circuit court, the court of appeals, or the supreme court, may enter a final judgment incorporating the provisions of the stipulation and fixing the common boundary line between the municipalities involved. A stipulation changing boundaries of municipalities shall be approved by the governing body of each municipality and s. 66.0217 (9) and (11) shall apply. A change of municipal boundaries under this section is subject to a referendum of the electors residing within the territory whose jurisdiction is subject to change under the stipulation, if within 30 days after the publication of the stipulation to change boundaries in a newspaper of general circulation in that territory, a petition for a referendum conforming to the requirements of s. 8.40 signed by at least 20% of the electors residing within that territory is filed with the clerk of the municipality from which the greater area is proposed to be removed and is filed as provided in s. 8.37. The referendum shall be conducted as are annexation referenda. If the referendum election fails, all proceedings under this section are void.

(3) CONTESTED BOUNDARY ACTIONS. (a) In this subsection, "boundary action" means an action, proceeding, or appeal in court contesting the validity of an annexation, consolidation, detachment, or incorporation.

(b) If 2 municipalities whose boundaries are immediately adjacent at any point are parties to a boundary action, the municipalities may enter into an agreement under s. 66.0301 (6) or s. 66.0307 as part of a stipulation to settle the boundary action. The court may approve and make part of the final judgment a stipulation that includes an agreement under s. 66.0301 (6) or s. 66.0307.

(4) AUTHORITY FOR CERTAIN STIPULATIONS. A stipulation that is court−approved under this section before January 19, 2008, that affects the location of a boundary between municipalities, is not invalid as lacking authority to affect the location of the boundary.

History: 1977 c. 187; 1989 a. 192; 1991 a. 269; 1999 a. 150 s. 71; Stats. 1999 s. 66.0225; 1999 a. 182 s. 201; 1999 a. 186; 2001 a. 30; 2007 a. 43.

66.0227 Detachment of territory. Subject to ss. 66.0301 (6) (d) and 66.0307 (7), territory may be detached from a city or village and attached to a city, village or town to which it is contiguous as follows:

(1) A petition signed by a majority of the owners of three−fourths of the taxable land in area within the territory to be detached or, if there is no taxable land in the territory, by all owners of land in the territory, shall be filed with the clerk of the city or village from which detachment is sought, within 120 days after the date of publication of a class 1 notice, under ch. 985, of intention to circulate a petition of detachment.

(2) An ordinance detaching the territory may be enacted within 60 days after the filing of the petition, by a vote of three−fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after enactment, by an ordinance enacted by a vote of three−fourths of all the members of the governing body of the city, village or town to which the territory is to be attached. The failure of a governing body to adopt the ordinance under this subsection is a rejection of the petition and all proceedings are void.

(3) The governing body of a city, village or town involved may, or if a petition conforming to the requirements of s. 8.40 signed by a number of qualified electors equal to at least 5% of the votes cast for governor in the city, village or town at the last gubernatorial election, demanding a referendum, is presented to it within 30 days after the passage of either of the ordinances under sub. (2) shall, submit the question to the electors of the city, village or town whose electors petitioned for detachment, at a referendum election called for that purpose not less than 70 days nor more than 100 days after the filing of the petition, or after the enactment of either ordinance. The petition shall be filed as provided in s. 8.37. If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6). The governing body of the municipality shall appoint 3 election inspectors who are resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment". The inspectors shall certify the results of the election by their attached affidavits and file a copy with the clerk of each town, village or city involved, and none of the ordinances may take effect nor be in force unless a majority of the electors approve the question. The referendum election shall be conducted in accordance with chs. 6 and 7 to the extent applicable.

(4) If an area which has been subject to a city or village zoning ordinance is detached from one municipality and attached to another under this section, the regulations imposed by the zoning ordinance continue in effect and shall be enforced by the attaching city, village or town until changed by official action of the governing body of the municipality, except that if the detachment or attachment is contested in the courts, the zoning ordinance of the detaching municipality prevails, and the detaching city or village has jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(5) The ordinance, certificate and plat shall be filed and recorded in the same manner as annexations under s. 66.0217 (9) (a). The requirements for the secretary of state are the same as in s. 66.0217 (9) (b).

(6) Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any detachment action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by a city during the period from January 1, 1990, to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at a later date as specified in the detachment ordinance. This subsection first applies to detachments effective after March 31, 1991.

History: 1973 c. 90; 1983 a. 29; 1987 a. 391; 1989 a. 192; 1991 a. 5, 269; 1993 a. 301; 1999 a. 150 s. 66; Stats. 1999 s. 66.0227; 1999 a. 182 s. 198; 2001 a. 30; 2007 a. 43; 2011 a. 75.

Cross−reference: See s. 62.075 for special provision for detachment of farm lands from cities.

66.0229 Consolidation. (1) GENERAL PROCEDURES. Subject to ss. 66.0301 (6) (d) and 66.0307 (7), a town, village or city may be consolidated with a contiguous town, village or city, by ordinance, passed by a two−thirds vote of all the members of each board or council, fixing the terms of the consolidation and ratified by the electors at a referendum held in each municipality. The ballots shall bear the words, "for consolidation", and "against consolidation", and if a majority of the votes cast in each municipality are for consolidation, the ordinances shall take effect and have the force of a contract. The ordinance and the result of the referendum shall be certified as provided in s. 66.0211 (5); if a town the certification shall be preserved as provided in ss. 66.0211 (5) and

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66.0235, respectively. Consolidation does not affect the preexisting rights or liabilities of any municipality and actions on those rights or liabilities may be commenced or completed as if there were no consolidation. A consolidation ordinance proposing the consolidation of a town and a city or village shall, within 10 days after its adoption and prior to its submission to the voters for ratification at a referendum, be submitted to the circuit court and the department of administration for a determination of whether the proposed consolidation is in the public interest. The circuit court shall determine whether the proposed ordinance meets the formal requirements of this section and shall then refer the matter to the department of administration, which shall find as prescribed in s. 66.0203 whether the proposed consolidation is in the public interest in accordance with the standards in s. 66.0207. The department's findings have the same status as incorporation findings under ss. 66.0203 to 66.0213.

(2) TOWN OF ROCHESTER IN RACINE COUNTY AND THE VILLAGE OF ROCHESTER MAY CONSOLIDATE. The town of Rochester, in Racine County, and the village of Rochester may consolidate if all of the procedures contained sub. (1) are fulfilled, except that the consolidation ordinance need not be submitted to the circuit court for a determination and the department of administration for a public interest finding, as otherwise required, and the consolidation may be completed without any circuit court determination or department of administration findings.

History: 1977 c. 29; 1979 c. 361 s. 112; 1983 a. 532 s. 36; 1991 a. 39, 269; 1995 a. 27, ss. 3307 and 9116 (5); 1995 a. 216; 1997 a. 27; 1999 a. 150 s. 42; Stats. 1999 s. 66.0229; 2003 a. 93; 2007 a. 20, 43.

66.0230 Town consolidation with a city or village. (1) (a) In addition to the method described in s. 66.0229 (1) and subject to subs. (2), (3), and (4) and to ss. 66.0301 (6) (d) and 66.0307 (7), all or part of a town may consolidate with a contiguous city or village by ordinance passed by a two−thirds vote of all of the members of each board or council and ratified by the electors at a referendum held in each municipality.

(b) With regard to the referendum, the ballots shall bear the words "for consolidation," and "against consolidation," and if a majority of the votes cast in each municipality are for consolidation the ordinances shall take effect and have the force of a contract. The ordinance and the result of the referendum shall be certified as provided in s. 66.0211 (5).

(c) Consolidation does not affect the preexisting rights or liabilities of any municipality and actions on those rights or liabilities may be commenced or completed as if there were no consolidation.

(2) All or part of a town may consolidate with a city or village under sub. (1) if all of the following apply:

(a) The town, and the city or village, adopt identical resolutions that describe the level of services that residents of the proposed city or village will receive, or have access to, in at least all of the following areas:

1. Public parks services.
2. Public health services.
3. Animal control services.
4. Library services.
5. Fire and emergency rescue services.
6. Law enforcement services.

(b) The town, and the city or village, adopt identical resolutions that relate to the ownership or leasing of government buildings.

(c) The city or village with which the town wishes to consolidate enters into a separate boundary agreement, subject to approval of the town board of the town to be consolidated, with every city, village, and town that borders the proposed consolidated city or village. Each boundary agreement shall determine the boundaries between the parties to the agreement. The boundary agreement shall state the term of the agreement and shall contain the procedures under which the agreement may be amended during its term. A boundary agreement entered into under this paragraph is a binding contract upon the parties.

(d) The consolidating town, and city or village, agree to adopt a comprehensive plan under s. 66.1001 for the consolidated city or village, and the comprehensive plan takes effect on the effective date of the consolidation.

(e) At least some part of the consolidated city or village receives sewage disposal services.

(3) If less than an entire town consolidates with a city or village under sub. (1), the consolidation may not take effect unless the town enters into an agreement with a city, village, or town that has a common boundary with the remnant of the town that is not consolidated under which the town remnant becomes part of the city, village, or town with the common boundary. If a town remnant becomes part of a city or village, an agreement described under this subsection shall be included in each boundary agreement under sub. (2) (c) that is entered into by a city, village, or town that borders the remnant. An agreement entered into under this subsection is a binding contract upon the parties.

(4) In this section, a municipality that borders or has a common boundary with another municipality includes municipalities that intersect at only one point.

History: 2003 a. 93; 2007 a. 20, 43; 2009 a. 180.

66.0231 Notice of certain litigation affecting municipal status or boundaries. If a proceeding under ss. 61.187, 61.189, 61.74, 62.075, 66.0201 to 66.0213, 66.0215, 66.0216, 66.0217, 66.0221, 66.0223, 66.0227, 66.0301 (6), or 66.0307 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in the proceedings shall file with the secretary of state 4 copies of a notice of the commencement of the action. The clerk shall file with the secretary of state 4 copies of any judgments rendered or appeals taken in such cases. The notices or copies of judgments that are required under this section may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the department of transportation 2 copies and to the department of revenue and the department of administration one copy each of any notice of action or judgment filed with the secretary of state under this section.

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1979 c. 355; 1983 a. 532 s. 36; 1991 a. 269; 1995 a. 35; 1999 a. 150 s. 70; Stats. 1999 s. 66.0231; 2005 a. 25; 2007 a. 43.

66.0233 Town participation in actions to test alterations of town boundaries. In a proceeding in which territory may be attached to or detached from a town, the town is an interested party, and the town board may institute, maintain or defend an action brought to test the validity of the proceedings, and may intervene or be impleaded in the action.

History: 1999 a. 150 s. 73; Stats. 1999 s. 66.0233.

66.0235 Adjustment of assets and liabilities on division of territory. (1) DEFINITION. In this section, " local governmental unit" means town sanitary districts, school districts, technical college districts, towns, villages and cities.

(2) BASIS. (a) Except as otherwise provided in this section or in s. 60.79 (2) (c) when territory is transferred, in any manner provided by law, from one local governmental unit to another, there shall be assigned to the latter local governmental unit such proportion of the assets and liabilities of the first local governmental unit as the assessed valuation of all taxable property in the territory transferred bears to the assessed valuation of all the taxable property of the entire local governmental unit from which the territory is taken according to the last assessment roll of the local governmental unit. The clerk of a local governmental unit to which territory is transferred, within 30 days of the effective date of the transfer, shall certify to the clerk of the local governmental unit from which territory was transferred and to the clerk of the school district in which the territory is located a metes and bounds descrip-

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tion of the land area involved. Upon receipt of the description the clerk of the local governmental unit from which the territory was transferred shall certify to the department of revenue and to the clerk of the school district in which the territory is located the latest assessed value of the real and personal property located within the transferred territory, and shall make any further reports as needed by the department of revenue in the performance of duties required by law.

(b) When the transfer of territory from one local governmental unit to another results from the incorporation of a new city or village, the proportion of the assets and liabilities assigned to the new city or village shall be based on the average assessed valuation for the preceding 5 years of the property transferred in proportion to the average assessed valuation for the preceding 5 years of all the taxable property of the entire local governmental unit from which the territory is taken, according to the assessment rolls of the local governmental unit for those years. The certification by the clerk of the local governmental unit from which territory was transferred because of the incorporation shall include the assessed value of the real and personal property within the territory transferred for each of the last 5 years. The preceding 5 years shall include the assessment rolls for the 5 calendar years prior to the incorporation.

(2c) SCHOOL DISTRICTS. (a) *Standard procedure.* 1. When territory is transferred in any manner provided by law from one school district to another, there shall be assigned to each school district involved such proportion of the assets and liabilities of the school districts involved as the equalized valuation of all taxable property in the territory transferred bears to the equalized valuation of all taxable property of the school district from which the territory is taken. The equalized valuation shall be certified by the department of revenue upon application by the clerk of the school district to which the territory is transferred.

2. The clerk of any school district to which territory is transferred, within 30 days of the effective date of the transfer, shall certify to the clerk of the local governmental unit from which the territory was transferred a metes and bounds description of the land area involved. Upon receipt of the description the clerk of the local governmental unit from which the territory was transferred shall certify to the department of revenue the latest assessed value of the real and personal property located within the transferred territory, file one copy of the certification with the school district clerk and one copy with the department of public instruction and make any further reports as needed by the department of revenue in the performance of duties required by law.

(b) *Alternative procedure.* Two or more school districts may, by identical resolutions adopted by a three−fourths vote of the members of each school board concerned, establish an alternative method to govern any adjustment of their assets and liabilities. The authority of this paragraph applies wherever the boards find that the adoption of the resolution is necessary to provide a more equitable method than is provided in par. (a). The resolutions shall be adopted no later than 120 days after the effective date of the transfer of territory and may be adopted prior to the transfer. The resolutions adopted shall be recorded in the office of the register of deeds.

(2m) ATTACHMENT AND DETACHMENT WITHIN 5 YEARS. If territory is attached to or consolidated with a school district, and the territory or any part of the territory is detached from the district within 5 years after the attachment or consolidation, the school district to which it is transferred is entitled, in the apportionment of assets and liabilities, only to the assets or liabilities or proportionate part apportioned to the school district as the result of the original attachment or consolidation.

(3) REAL ESTATE. (a) The title to real estate may not be transferred under this section except by agreement, but the value of real estate shall be included in determining the assets of the local governmental unit owning the real estate and in making the adjustment of assets and liabilities.

(b) The right to possession and control of school buildings and sites passes to the school district in which they are situated immediately upon the attachment or detachment of any school district territory becoming effective, except that in 1st class city school districts the right to possession and control of school buildings and sites passes on July 1 following the adoption of the ordinance authorized by s. 66.0217 (8). The asset value of school buildings and sites shall be the value of the use of the buildings and sites, which shall be determined at the time of adjustment of assets and liabilities.

(c) When as a result of an annexation a school district is left without a school building, any moneys are received by the school district as a result of the division of assets and liabilities required by this section, which are derived from values that were capital assets, the moneys and interest on the moneys shall be held in trust by the school district and dispensed only for procuring new capital assets or remitted to an operating district as the remainder of the suspended district becomes a part of the operating district, and may not be used to meet current operating expenditures. The boards involved shall, as part of their duties in division of assets and liabilities in school districts, make a written report of the allocation of assets and liabilities to the state superintendent of public instruction and any local superintendent of schools whose territory is involved in the division of assets.

(4) PUBLIC UTILITIES. A public utility plant, including any dam, power house, power transmission line and other structures and property operated and used in connection with the plant, belongs to the local governmental unit in which the major portion of the patrons of the utility reside. The value of the utility, unless fixed by agreement of all parties interested shall be determined and fixed by the public service commission upon notice to the local governmental units interested, in the manner provided by law. The commission shall certify the amount of the compensation to the clerks of each local governmental unit interested and that amount shall be used by the apportionment board in adjusting assets and liabilities.

(5) APPORTIONMENT BOARD. The boards or councils of the local governmental units, or committees selected for that purpose, acting together, constitute an apportionment board. When a local governmental unit is dissolved because all of its territory is transferred the board or council of the local governmental unit existing at the time of dissolution shall, for the purpose of this section, continue to exist as the governing body of the local governmental unit until there has been an apportionment of assets by agreement of the interested local governmental units or by an order of the circuit court. After an agreement for apportionment of assets has been entered into between the interested local governmental units, or an order of the circuit court becomes final, a copy of the apportionment agreement, or of the order, certified to by the clerks of the interested local governmental units, shall be filed with the department of revenue, the department of natural resources, the department of transportation, the state superintendent of public instruction, the department of administration, and with any other department or agency of the state from which the town may be entitled by law to receive funds or certifications or orders relating to the distribution or disbursement of funds, with the county treasurer, with the treasurer of any local governmental unit, or with any other entity from which payment would have become due if the dissolved local governmental unit had continued in existence. Subject to ss. 79.006 and 86.303 (4), payments of forest crop taxes under s. 77.05, of transportation aids under s. 20.395, of state aids for school purposes under ch. 121, payments for managed forest land under subch. VI of ch. 77 and all payments due from a department or agency of the state, from a county, from a local governmental unit, or from any other entity from which payments would have become due if the dissolved local governmental unit had continued in existence, shall be paid to the interested local governmental unit as provided by the agreement for apportionment of assets or by any order of apportionment by the circuit court and

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the payments have the same force and effect as if made to the dissolved local governmental unit.

(6) MEETING. The board or council of the local governmental unit to which the territory is transferred shall fix a time and place for meeting and give a written notice of the meeting to the clerk of the local governmental unit from which the territory is taken at least 5 days prior to the date of the meeting. The apportionment may be made only by a majority of the members from each local governmental unit who attend, and in case of committees, the action shall be affirmed by the board or council represented by the committee.

(7) ADJUSTMENT, HOW MADE. (a) The apportionment board shall determine, except for public utilities, assets and liabilities from the best information obtainable and shall assign to the local governmental unit to which the territory is transferred its proper proportion of assets and liabilities by assigning the excess of liabilities over assets, or by assigning any particular asset or liability to either local governmental unit, or in another manner that meets the requirements of the particular case.

(b) If a proportionate share of any indebtedness existing by reason of municipal bonds or other obligations outstanding is assigned to a local governmental unit, that local governmental unit shall levy and collect upon all its taxable property, in one sum or in annual installments, the amount necessary to pay the principal and interest when due, and shall pay the amount collected to the treasurer of the local governmental unit which issued the bonds or incurred the obligations. The treasurer shall apply the moneys received strictly to the payment of the principal and interest.

(c) If the asset apportioned consists of an aid or tax to be distributed in the future according to population, the apportionment board shall certify to the officer, agency or department responsible for making the distribution each local governmental unit's proportionate share of the asset as determined in accordance with sub. (2). The officer, agency or department shall distribute the aid or tax directly to the several local governmental units according to the certification until the next federal census.

(8) APPEAL TO COURT. If the apportionment board is unable to agree, the circuit court of the county in which either local governmental unit is situated may, upon the petition of either local governmental unit, make the adjustment of assets and liabilities under this section, including review of any alternative method provided in sub. (2c) (b) and the correctness of the findings made under sub. (2c) (b).

(9) TRANSCRIPT OF RECORDS. If territory is detached from a local governmental unit, the proper officer of the local governmental unit from which the territory was detached shall furnish, upon demand by the proper officer of the local governmental unit created from the detached territory or to which it is annexed, an authenticated transcript of all public records in that officer's office pertaining to the detached territory. The local governmental unit receiving the transcript shall pay for the transcript.

(10) STATE TRUST FUND LOANS. When territory transferred in any manner provided by law from one local governmental unit to another is liable for state trust fund loans secured under subch. II of ch. 24, the clerk of the local governmental unit to which territory is transferred shall within 30 days of the effective date of the transfer certify a metes and bounds description of the transferred area to the clerk of the local governmental unit from which the land was transferred. The clerk of the local governmental unit from which territory was transferred shall then certify to the board of commissioners of public lands the effective date of the transfer of territory, the last preceding assessed valuation of the territory liable for state trust fund loans before transfer of a part of the territory and the assessed valuation of the territory transferred. The board shall in making its annual certifications of the amounts due on account of state trust fund loans distribute annual charges for interest and principal on outstanding loans covered by this subsection in the proportion that the assessed valuation of the territory transferred bears to the assessed valuation of the area liable for state trust fund loans as constituted immediately before the transfer of territory. A transfer of territory effective subsequent to January 1 of any year may not be considered until the succeeding year.

(10a) CORRECTIONS. The provisions of sub. (10) are applicable to school districts. Any errors, omissions or other defects in the tax certifications and levies in connection with the repayment of state trust fund loans by school districts for the year 1950 and all subsequent years may be corrected by the school district clerk in the tax levy certifications for following years.

(11) DESIGNATING DISTRICTS. (a) Whenever a transfer of territory from one school district to another results in a change in the name of a school district which is liable for one or more state trust fund loans secured under subch. II of ch. 24, the clerk of the school district to which the territory was transferred shall, within 30 days of the effective date of such transfer, certify to the board of commissioners of public lands and the county clerk:

1. The name of the school district from which territory was transferred;

2. The effective date of such transfer;

3. The name of the school district to which the transfer was made immediately prior to the effective date of the transfer;

4. The name of the school district to which the transfer was made immediately after the effective date of the transfer.

(b) In making the annual certifications of the amounts due on account of state trust fund loans the board of commissioners of public lands shall use the new name of the school district. A transfer of territory effective subsequent to January 1 of any year may not be considered by it until the succeeding year.

(12) TIME OF TRANSFER. When the governmental classification of a school district is changed, all of the assets and liabilities and the title to all school property shall vest in the new district by operation of law upon the effective date of the change.

(13) TAXES AND ASSESSMENT. (a) *General property taxes.* 1. Subject to subd. 2., if any territory is annexed, detached or incorporated in any year, general property taxes levied against the territory shall be collected by the treasurer of the local governmental unit in which the territory was located on January 1 of such year, and all moneys collected from the tax levied for local municipal purposes shall be allocated to each of the local governmental units on the basis of the portion of the calendar year the territory was located in each of the local governmental units, and paid accordingly.

2. If a city or village is incorporated after January 1 and before April 1, the procedures described in subd. 1. shall be applied as if the city or village was incorporated on January 1 of the year in which it was incorporated and the territory shall be treated for purposes of ch. 70 as if the incorporation had occurred on January 1.

(aa) *Apportionment when town is nonexistent.* If the town in which territory was located on January 1 is nonexistent when the city or village determines its budget, any taxes certified to the town or required by law to be levied against the territory shall be included in the budget of the city or village and levied against the territory, together with the city or village tax for local municipal purposes.

(b) *Special taxes and assessments.* If territory is transferred from one local governmental unit to another by annexation, detachment, consolidation or incorporation, or returns to its former status by reason of court determination, any special tax or assessment outstanding against property in the territory shall be collected by the treasurer of the local governmental unit in which the property is located, according to the terms of the ordinance or resolution levying the tax or assessment. The special tax or assessment, when collected, shall be paid to the treasurer of the local governmental unit which levied the special tax or assessment, or if the local governmental unit is nonexistent, the collecting treasurer shall apply the collected funds to any obligation for which purpose the tax or assessment was levied and which remains outstanding. If no obligation is outstanding, the collected

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funds shall be paid into the school fund of the school district in which the territory is located.

(bb) *Apportionment when court returns territory to former status.* If territory which has been annexed, consolidated, detached or incorporated returns to its former status by reason of a final court determination, there shall be an apportionment of general property taxes and current aids and shared revenues between the local governmental units, and no other apportionment of assets and liabilities. The basis of the apportionment shall be determined by the apportionment board subject to appeal to the circuit court. The apportionment shall to the extent practicable equitably adjust the taxes, aids and revenues between the local governmental units involved on the basis of the portion of the calendar year the territory was located in the respective local governmental units.

(c) *Certification by clerk.* The clerk of the local governmental unit which assessed the special and general tax and special assessment shall certify to the clerk of the local governmental unit to which the territory was attached or returned, a list of all the property located in the attached or returned territory to which is charged any uncollected taxes and assessments. The certification shall be made within 30 days after the effective date of the transfer of the property, but failure to certify does not affect the validity of the claim.

History: 1971 c. 125 s. 521; 1971 c. 154; 1973 c. 90; 1975 c. 41; 1977 c. 29 ss. 699, 700, 1646 (3), 1648 (1), 1654 (2), (8) (c); 1981 c. 169; 1985 a. 29; 1985 a. 225 ss. 32 to 38, 100; 1987 a. 399; 1989 a. 31; 1991 a. 39, 316; 1993 a. 399; 1995 a. 27 ss. 3313, 3314, 9145 (1); 1995 a. 216, 225; 1997 a. 27, 237; 1999 a. 150 s. 75; Stats. 1999 s. 66.0235; 2011 a. 32.

The method of division of assets and liabilities set forth is exclusive. Sheboygan v. Sheboygan Sanitary District #2, 145 Wis. 2d 424, 427 N.W.2d 390 (Ct. App. 1988).

Sewerage systems are not public utilities valued by the public service commission under sub. (4). Town of Beloit v. Public Service Commission, 180 Wis. 2d 610, 510 N.W.2d 140 (Ct. App. 1993).

SUBCHAPTER III

INTERGOVERNMENTAL COOPERATION

66.0301 Intergovernmental cooperation. (1) (a) Except as provided in pars. (b) and (c), in this section "municipality" means the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage district, sewer utility district, solid waste management system created under s. 59.70 (2), local exposition district created under subch. II of ch. 229, local professional baseball park district created under subch. III of ch. 229, local professional football stadium district created under subch. IV of ch. 229, local cultural arts district created under subch. V of ch. 229, long−term care district under s. 46.2895, water utility district, mosquito control district, municipal electric company, county or city transit commission, commission created by contract under this section, taxation district, regional planning commission, housing authority created under s. 66.1201, redevelopment authority created under s. 66.1333, community development authority created under s. 66.1335, or city−county health department.

(b) If the purpose of the intergovernmental cooperation is the establishment of a joint transit commission, "municipality" means any city, village, town or county.

(c) For purposes of sub. (6), "municipality" means any city, village, or town.

(2) In addition to the provisions of any other statutes specifically authorizing cooperation between municipalities, unless those statutes specifically exclude action under this section, any municipality may contract with other municipalities and with federally recognized Indian tribes and bands in this state, for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law. If municipal or tribal parties to a contract have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. A contract under this subsection may bind the contracting parties for the length of time specified in the contract. This section shall be interpreted liberally in favor of cooperative action between municipalities and between municipalities and Indian tribes and bands in this state.

(3) Any contract under sub. (2) may provide a plan for administration of the function or project, which may include but is not limited to provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets, creation of a commission, selection and removal of commissioners, and formation and letting of contracts.

(4) A commission created by contract under sub. (2) may finance the acquisition, development, remodeling, construction and equipment of land, buildings and facilities for regional projects under s. 66.0621. Participating municipalities acting jointly or separately may finance the projects, or an agreed share of the cost of the projects, under ch. 67.

(5) No commission created by contract under sub. (2) may, directly or indirectly, do any of the following:

(a) Acquire, construct or lease facilities used or useful in the business of a public utility engaged in production, transmission, delivery or furnishing of heat, light, power, natural gas or communications service, by any method except those set forth under this chapter or ch. 196, 197 or 198.

(b) Establish, lay out, construct, improve, discontinue, relocate, widen or maintain any road or highway outside the corporate limits of a village or city or acquire lands for those purposes except upon approval of the department of transportation and the county board of the county and the town board of the town in which the road is to be located.

(6) (a) Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement determining all or a portion of the common boundary line between the municipalities. An agreement under this subsection may include only the provisions authorized under this section and s. 66.0305, and one or more of the following:

1. That specified boundary lines apply on the effective date of the agreement.

2. That specified boundary line changes shall occur during the term of the agreement and the approximate dates by which the changes shall occur.

3. That specified boundary line changes may occur during the term of the agreement and the approximate dates by which the changes may occur.

4. That a required boundary line change under subd. 2. or an optional boundary line change under subd. 3. is subject to the occurrence of conditions set forth in the agreement.

5. That specified boundary lines may not be changed during the term of the agreement.

(b) The maximum term of an agreement under this subsection is 10 years. When an agreement expires, all provisions of the agreement expire, except that any boundary determined under the agreement remains in effect until subsequently changed.

(c) 1. Before an agreement under this subsection may take effect, and subject to par. (e), it must be approved by the governing body of each municipality by the adoption of a resolution. Before each municipality may adopt a resolution, each shall hold a public hearing on the agreement or both municipalities shall hold a joint public hearing on the agreement. Before the public hearing may be held, each municipality shall give notice of the pending agreement and public hearing by publishing a class 1 notice, under ch. 985, and by giving notice to each property owner whose property is currently located in that municipality and in, or immediately adjacent to, the territory whose jurisdiction will change. Notice shall be given at least 20 days before the public hearing and notice to property owners shall be made by certified mail.

2. An agreement under this subsection is subject to a referendum of the electors residing within the territory whose jurisdiction

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is subject to change as a result of the agreement. After each municipality approves the agreement by adoption of a resolution, each municipality shall publish the agreement in the territory whose jurisdiction is subject to change as a result of the agreement as a class 1 notice, under ch. 985. A referendum shall be held if, within 30 days after the publication of the agreement, a petition for a referendum conforming to the requirements of s. 8.40, signed by at least 20 percent of the electors residing within the territory whose jurisdiction is subject to change as a result of the agreement is filed, in accordance with s. 8.37, with the clerk of each municipality that is a party to the agreement. The referendum shall be conducted jointly by the municipalities and shall otherwise be conducted as are annexation referenda. If the agreement is approved in the referendum, it may take effect. If the agreement is not approved in the referendum, it may not take effect.

(d) An agreement under this subsection may provide that, during the term of the agreement, no other procedure for altering a municipality's boundaries may be used to alter a boundary that is affected by the agreement, except an annexation conducted under s. 281.43 (1m), regardless of whether the boundary is proposed to be maintained or changed or is allowed to be changed under the agreement. After the agreement has expired, the boundary may be altered.

(e) A boundary change included in an agreement under this subsection shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the agreement. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection. The requirements for the secretary of state under s. 66.0217 (9) (b), as they apply under that section, apply to the secretary of state when he or she receives an ordinance that is filed under this subsection.

(f) No action to contest the validity of an agreement under this subsection may be commenced after 60 days from the date the agreement becomes effective.

(g) This subsection is the exclusive authority under this section for entering into an agreement that determines all or a portion of the common boundary line between municipalities.

(h) An agreement under this section that has been entered into before January 19, 2008, that affects the location of a boundary between municipalities, is not invalid as lacking authority under this section to affect the location of the boundary.

History: 1999 a. 150 ss. 348, 349, 352, 353; 1999 a. 167 s. 38; 2001 a. 16, 30; 2007 a. 20, 43; 2009 a. 28, 112; 2011 a. 32.

Cross−reference: See also s. PI 14.01, Wis. adm. code.

Counties may enter into joint agreements to collectively furnish and fund nursing home services if the agreements do not violate federal and state Medicaid statutes and regulations prohibiting supplementation. Assessments resulting from such agreements that are computed without reference to and are not attributable to purchase of services contracts involving particular Medicaid patients would not be considered supplementation. Assessments that are computed with reference to or are attributable to purchase of services contracts involving particular Medicaid patients are not permissible. The validity of hybrid assessments that do not fit solely within either one of those two categories must be determined on a case−by−case basis. OAG 4−09.

66.0303 Municipal interstate cooperation. (1) In this section, "municipality" has the meaning given in s. 66.0301 (1) (a), except that with regard to agreements described in s. 66.0304, "municipality" includes a political subdivision, as defined in s. 66.0304 (1) (f).

(2) A municipality may contract with municipalities of another state or with federally recognized American Indian tribes or bands located in another state for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by statute to the extent that laws of the other state or of the United States permit the joint exercise.

(3) (a) Except as provided in par. (b) and s. 66.0825 (18), an agreement made under this section shall, prior to and as a condition precedent to taking effect, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted under this paragraph unless the attorney general finds that it does not meet the conditions set forth in this section and details in writing addressed to the concerned municipal governing bodies the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted under this paragraph within 90 days of its submission constitutes approval. The attorney general, upon submission of an agreement, shall transmit a copy of the agreement to the governor who shall consult with any state department or agency affected by the agreement. The governor shall forward to the attorney general any comments the governor may have concerning the agreement.

(b) An agreement under this section between a municipality of this state and a municipality of another state that relates to the receipt, furnishing, or joint exercise of fire fighting or emergency medical services need not be submitted to or approved by the attorney general before the agreement may take effect.

(4) An agreement entered into under this section has the status of an interstate compact, but in any case or controversy involving performance or interpretation of or liability under the agreement, the municipalities party to the agreement are real parties in interest and the state may commence an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party. The action by the state may be maintained against any municipality whose act or omission caused or contributed to the incurring of damage or liability by the state.

History: 1999 a. 150 ss. 77, 355; 2001 a. 109; 2005 a. 198; 2009 a. 205, 378, 379.

66.0304 Conduit revenue bonds. (1) DEFINITIONS. In this section:

(a) "Agreement" means a contract entered into under this section by the political subdivisions which form a commission. The contract may be amended according to the terms of the contract, and the amended contract remains an agreement.

(b) "Bond" means any bond, note or other obligation of a commission issued or entered into under this section, including any refunding bond or certificate of participation or lease−purchase, installment sale, or other financing agreement.

(c) "Commission" means an entity created by two or more political subdivisions, who contract with each other under s. 66.0301 (2) or 66.0303 (2), for the purpose of issuing bonds under this section.

(d) "Member" means a party to an agreement.

(e) "Participant" means any public or private entity or unincorporated association, including a federally recognized Indian tribe or band, that contracts with a commission for the purpose of financing or refinancing a project that is owned, sponsored, or controlled by the public or private entity or unincorporated association.

(f) "Political subdivision" means any city, village, town, or county in this state or any city, village, town, county, district, authority, agency, commission, or other similar governmental entity in another state or office, department, authority, or agency of any such other state or territory of the United States.

(g) "Project" means any capital improvement, purchase of receivables, property, assets, commodities, bonds or other revenue streams or related assets, working capital program, or liability or other insurance program, located within or outside of this state.

(ge) "Public official" means an individual who holds, or has held, a local public office, as that term is defined in s. 19.42 (7w), for a political subdivision in this state.

(h) "Revenue" means all moneys and fees received from any source by a commission.

(2) ATTORNEY GENERAL REVIEW. (a) Before an agreement may take effect, the proposed agreement shall be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. Subject to sub. (3) (d), the attorney general shall approve any agreement submitted under this subsection unless the attorney general finds that

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it does not meet the conditions set forth in this section and details in writing addressed to the concerned political subdivisions' governing bodies the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted under this subsection within 90 days of its submission constitutes approval. The attorney general, upon submission of an agreement, shall transmit a copy of the agreement to the governor, who may consult with any state department or agency. The governor shall forward to the attorney general any comments the governor may have concerning the agreement.

(b) No approval is required under this subsection for an amendment to an agreement to take effect, unless the amendment is to add a member or unless otherwise required by the terms of the agreement. A commission may not be dissolved under sub. (4m) without the approval of the attorney general, who shall certify to the commission and the participants that the dissolution resolution provides for the payment of any outstanding bonds or other obligations of the commission.

(3) CREATION AND ORGANIZATION. (a) Two or more political subdivisions may create a commission for the purpose of issuing bonds by entering into an agreement to do so under s. 66.0301 (2) or 66.0303 (2), except that upon its creation all of the initial members of a commission shall be political subdivisions that are located in this state. A commission that is created as provided in this section is a unit of government, and a body corporate and politic, that is separate and distinct from, and independent of, the state and the political subdivisions which are parties to the agreement.

(b) A commission shall be governed by a board, the members of which shall be appointed under the terms of the agreement. A majority of the board members shall be public officials or current or former employees of a political subdivision that is located in this state. Board members may be reimbursed for their actual and necessary expenses incurred in performing their duties to the extent provided in the agreement or the bylaws of the commission.

(c) An additional political subdivision may become a member of a commission, and a member may withdraw from a commission, as provided in the agreement. For an agreement to be valid, at least one commission member shall be a political subdivision that is located in this state and a commission shall consist of at least 2 political subdivisions. A commission may not take any action under this paragraph that would invalidate an agreement.

(d) No commission may be created under this section unless its agreement is submitted to the attorney general, under sub. (2), before October 1, 2010. Only one commission may be formed under this section. If more than one agreement is submitted to the attorney general before October 1, 2010, the attorney general must give preference to the agreement that submits with its documents a demonstration of support for its agreement from at least one statewide organization located in this state which represents the interests of political subdivisions and has political subdivisions among its membership.

(4) POWERS OF A COMMISSION. A commission has all of the powers necessary or convenient to carry out the purposes and provisions of this section. In addition to all other powers granted by this section, a commission may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name, plead and be impleaded.

(c) Acquire, buy, sell, lease as lessor or lessee, encumber, mortgage, hypothecate, pledge, assign, or transfer any property or interest in property that is located within or outside of this state.

(d) Enter into contracts related to the issuance of bonds.

(e) Issue bonds or refunding bonds, subject to sub. (5), to finance or refinance a project, including funding a reserve fund or capitalized interest, payment of costs of issuance and other costs related to the financing or refinancing, or credit enhancement, and enter into agreements related to the issuance of bonds, including liquidity and credit facilities, remarketing agreements, insurance policies, guaranty agreements, letter of credit or reimbursement agreements, indexing agreements, interest rate swap agreements, currency exchange agreements, commodity swap agreements, and other hedge agreements and any other like agreements, in each case with such payment, interest rate, currency security, remedy, and other terms and conditions as the commission determines.

(f) Employ or appoint agents, employees, finance professionals, and special advisers as the commission finds necessary and fix their compensation.

(g) Accept gifts, loans, or other aid.

(h) Establish and collect fees, plus administrative expenses, from participants who benefit from the commission's services, or services provided by an outside entity, and distribute the fees and expenses as provided in the agreement.

(i) Make loans to, lease property from or to, or enter into any other kind of an agreement with a participant or other entity, in connection with financing or refinancing a project.

(j) Mortgage, pledge, or otherwise encumber the commission's property or its interest in projects.

(k) Assign or pledge any portion of its interests in projects, mortgages, deeds of trust, indentures of mortgage or trust, leases, purchase or sale agreements or other financing agreements, or similar instruments, bonds, notes, and security interests in property, of a participant, or contracts entered into or acquired in connection with bonds.

(L) Issue, obtain, or aid in obtaining, from any person, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, on any loan, lease, bond, or other obligation evidencing or securing such a loan, lease, bond, or obligation that is entered into under this section.

(m) Apply on its own behalf or on behalf of a participant to any unit of government for an allocation of volume cap, tax credit, subsidy, grant, loan, credit enhancement, or any other federal, state, or local program in connection with the financing or refinancing of a project.

(n) Invest any bond proceeds or any money held for payment or security of the bonds, or any contract entered into under this section, in any securities or obligations permitted by the resolution, trust agreement, indenture, or other agreement providing for issuance of the bonds or the contract.

(o) At the request of a participant, combine and pledge revenues of multiple projects for repayment of one or more series of bonds issued under this section.

(p) Purchase bonds issued by or on behalf of, or held by, any participant, the state or a department, authority, or agency of the state, or any political subdivision. Bonds purchased under this paragraph may be held by the commission or sold, in whole or in part, separately or together with other bonds issued by the commission.

(4m) DISSOLUTION OF A COMMISSION. Subject to sub. (2) (b) and subject to providing for the payment of its bonds, including interest on the bonds, and the performance of its other contractual obligations, a commission may be dissolved, by resolution, as provided in the agreement. If the commission is dissolved, the property of the commission shall be transferred to the political subdivisions who are parties to the agreement creating the commission as provided in the agreement.

(5) ISSUANCE OF BONDS. (a) A commission may not issue bonds unless the issuance is first authorized by a bond resolution. A bond issued under this section shall meet all of the following requirements:

1. The face of the bond shall include the date of issuance and the date of maturity.

2. The face of the bond shall include the statements required under subs. (9) (c) and (11) (d).

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3. The date of maturity may not exceed 50 years from the date of issuance.

4. The bond shall bear a rate of interest, either fixed or variable, specified by the resolution. Any variable rate of interest shall be made subject to a maximum rate.

5. Interest and principal shall be paid at the time and place specified in the resolution.

6. Bonds in a single issue may be composed of a single denomination or 2 or more denominations, as provided in the resolution.

7. The bond shall be payable in lawful money of the United States or, if provided in the resolution, another currency.

8. Bonds shall be registered as provided in the resolution.

9. Bonds shall be in the form, and executed in the manner, provided in the resolution.

(am) Notwithstanding par. (a), as an alternative to specifying the matters required to be specified in the bond resolution under par. (a), the resolution may specify members of the board or officers or employees of the commission, by name or position, to whom the commission delegates authority to determine which of the matters under specified par. (a), and any other matters that the commission deems appropriate, for inclusion in the trust agreement, indenture, or other agreement providing for issuance of the bonds as finally executed. A resolution under this paragraph shall specify at least all of the following:

1. The maximum principal amount of bonds to be issued.

2. The maximum term of the bonds.

3. The maximum interest rate to be borne by the bonds.

(b) A bond issued under this section may include, or be subject to, any of the following:

1. Early mandatory or optional redemption or purchase in lieu of redemption or tender, as provided in the resolution.

2. A provision providing a right to tender.

3. A trust agreement or indenture containing any terms, conditions, and covenants that the commission determines to be necessary or appropriate, but such terms, conditions, and covenants may not be in conflict with the resolution.

(c) The commission may purchase any bond issued under this section. Subject to the terms of any agreement with the bondholders, the commission may hold, pledge, resell, or cancel any bond purchased under this paragraph, except that a purchase under this paragraph may not effect an extinguishment of a bond unless the commission cancels the bond or otherwise certifies its intention that the bond be extinguished.

(d) The proceeds of a bond issued under this section may be used for one or more projects located within or outside of this state.

(e) The commission shall send notification to the department of revenue, on a form prescribed by the department, whenever a bond is issued under this section.

(6) SALE OF BONDS. (a) The sale of bonds under this section shall be conducted as provided in the bond resolution.

(b) A sale may be public or private. Bonds may be sold at the price or prices, and upon the conditions, determined by the commission. The commission shall give due consideration to the recommendations of the participants in the project when determining the conditions of sale.

(c) Bonds that are sold under this section may be serial bonds or term bonds, or both.

(d) If at the time of sale definitive bonds are not available, the commission may issue interim certificates exchangeable for definitive bonds.

(e) The commission shall disclose to any person who purchases a tax−exempt bond issued under this section that the interest received on such a bond is exempt from taxation, as provided in ss. 71.05 (1) (c) 10., 71.26 (1m) (k), 71.36 (1m), and 71.45 (1t) (k).

(7) BOND SECURITY. (a) The commission may secure bonds by a trust agreement or indenture by and between the commission and one or more corporate trustees. A bond resolution, trust agreement, or indenture may contain provisions for pledging properties, revenues, and other collateral; holding and disbursing funds; protecting and enforcing the rights and remedies of bondholders; restricting individual rights of action by bondholders; and amendments, and any other provisions the commission determines to be reasonable and proper for the security of the bondholders or contracts entered into under this section in connection with the bonds.

(b) A pledge of property, revenues, or other collateral by a commission to secure the payment of the principal or redemption price of, or interest on, any bonds, or any reimbursement or similar agreement with any provider of credit enhancement for bonds, or any swap or other agreement entered into in connection with bonds, is binding on the parties and on any successors. The collateral shall immediately be subject to the pledge, and the pledge shall constitute a lien and security interest which shall attach immediately to the collateral and be effective, binding, and enforceable against the pledgor, its successors, purchasers of the collateral, creditors, and all others, to the extent set forth, and in accordance with, the pledge document irrespective of whether those parties have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act.

(8) NO PERSONAL LIABILITY. No board member of the commission is liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds, unless the personal liability or accountability is the result of willful misconduct.

(9) BONDS NOT PUBLIC DEBT. (a) Unless otherwise expressly provided in the bond resolution, each issue of bonds by the commission shall be the limited obligation of the commission payable solely from amounts received by the commission from revenues derived from the project to be financed or refinanced or from any contract entered into or investment made in connection with the bonds and pledged to the payment of the bonds.

(b) The state and the political subdivisions who are parties to the agreement creating a commission under this section are not liable on bonds or any other contract entered into under this section, or for any other debt, obligation, or liability of the commission, whether in tort, contract, or otherwise.

(c) The bonds are not a debt of the state or the political subdivisions contracting to create a commission under this section. A bond issue under this section does not obligate the state or a political subdivision to levy any tax or make any appropriation for payment of the bonds. All bonds issued by a commission are payable solely from the funds pledged for their payment in accordance with the bond resolution or trust agreement or indenture providing for their issuance. All bonds shall contain, on their face, a statement regarding the obligations of the state, the political subdivisions who are parties to the agreement creating the commission, and the commission as set forth in this paragraph.

(10) AUDITS, FISCAL YEAR. (a) The board of a commission shall adopt a calendar year as its fiscal year for accounting purposes. The board shall annually prepare a budget for the commission.

(b) A commission shall maintain an accounting system in accordance with generally accepted accounting principles and shall have its financial statements and debt covenants audited annually by an independent certified public accountant, except that the commission by a unanimous vote may decide to have an audit performed under this paragraph every 2 years.

(c) A copy of the budget and audit shall be sent to the governing body of each political subdivision which is a party to the agreement that created the commission and filed with the secretary of administration and the legislative audit bureau.

(11) LIMITATIONS. (a) A commission may not issue bonds to finance a capital improvement project in any state or territory of the United States unless a political subdivision within whose

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boundaries the project is to be located has approved the financing of the project. A commission may not issue bonds to finance a capital improvement project in this state unless all of the political subdivisions within whose boundaries the project is to be located has approved the financing of the project. An approval under this paragraph may be made by the governing body of the political subdivision or, except for a 1st class city or a county in which a 1st class city is located, by the highest ranking executive or administrator of the political subdivision.

(b) This section provides a complete alternative method, to all other methods provided by law, to exercise the powers authorized in this section, including the issuance of bonds, the entering into of contracts related to those bonds, and the financing or refinancing of projects.

(c) Any action brought to challenge the validity of the issuance of a bond under this section, or the enforceability of a contract entered into under this section, must be commenced in circuit court within 30 days of the commission adopting a resolution authorizing the issuance of the bond or the execution of the contract.

(d) Bonds issued under this section shall not be invalid for any irregularity or defect in the proceedings for their sale or issuance. The bonds shall contain a statement that they have been authorized and issued pursuant to the laws of this state. The statement shall be conclusive evidence of the validity of the bonds.

(e) Before issuing bonds on any economic development project, as that term is used in s. 234.01 (4n), in this state, or on any housing project, as defined in s. 234.01 (7), in this state, a commission must receive written approval from the Wisconsin Housing and Economic Development Authority.

(12) STATE PLEDGE. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a commission under this section, that the state will not limit, impair, or alter the rights and powers vested in a commission by this section, including the rights and powers under sub. (4), before the commission has met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with a commission. The commission may include this pledge in a contract with bondholders.

History: 2009 a. 205; 2011 a. 32, 239.

66.0305 Political subdivision revenue sharing. (1) DEFINITION. In this section, "political subdivision" means a city, village, town, or county.

(2) POLITICAL SUBDIVISION REVENUE SHARING AGREEMENT. Subject to the requirements of this section, any 2 or more political subdivisions may, by a majority vote of a quorum of their governing bodies, enter into an agreement to share all or a specified part of revenues derived from taxes and special charges, as defined in s. 74.01 (4). One or more political subdivisions may enter into agreements under this section with federally recognized American Indian tribes or bands.

(3) PUBLIC HEARING. At least 30 days before entering into an agreement under sub. (2), a political subdivision shall hold a public hearing on the proposed agreement. Notice of the hearing shall be published as a class 3 notice under ch. 985.

(4) SPECIFICATIONS. (a) An agreement entered into under sub. (2) shall meet all of the following conditions:

1. The term of the agreement shall be for at least 10 years.

2. The boundaries of the area within which the revenues are to be shared in the agreement shall be specified.

3. The formula or other means of determining the amount of revenues to be shared under the agreement shall be specified.

4. The date upon which revenues agreed to be shared under the agreement shall be paid to the appropriate political subdivision shall be specified.

5. The method by which the agreement may be invalidated after the expiration of the minimum period specified in par. (a) 1. shall be specified.

(b) An agreement entered into under sub. (2) may address any other appropriate matters, including any agreements with respect to services or agreements with respect to municipal boundaries under s. 66.0225, 66.0301 (6), or 66.0307.

(5) CONTIGUOUS BOUNDARIES. No political subdivision may enter into an agreement under sub. (2) with one or more political subdivisions unless the political subdivision is contiguous to at least one other political subdivision that enters into the agreement.

(6) ADVISORY REFERENDUM. (a) Within 30 days after the hearing under sub. (3), the governing body of a participating political subdivision may adopt a resolution calling for an advisory referendum on the agreement. An advisory referendum shall be held if, within 30 days after the hearing under sub. (3), a petition, signed by a number of qualified electors equal to at least 10% of the votes cast for governor in the political subdivision at the last gubernatorial election, is filed with the clerk of a participating political subdivision, requesting an advisory referendum on the revenue sharing plan. The petition shall conform to the requirements of s. 8.40 and shall be filed as provided in s. 8.37. If an advisory referendum is held, the political subdivision's governing body may not vote to approve the agreement under sub. (2) until the report under par. (d) is filed.

(b) The advisory referendum shall be held not less than 70 days nor more than 100 days after adoption of the resolution under par. (a) calling for the referendum or not less than 70 days nor more than 100 days after receipt of the petition under par. (a) by the municipal or county clerk. The municipal or county clerk shall give notice of the referendum by publishing a notice in a newspaper of general circulation in the political subdivision, both on the publication day next preceding the advisory referendum election and one week prior to that publication date.

(c) The advisory referendum shall be conducted by the political subdivision's election officials. The governing body of the political subdivision may specify the number of election officials for the referendum. The ballots shall contain the words "For the revenue sharing agreement" and "Against the revenue sharing agreement" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other municipal or county elections in accordance with chs. 6 and 7, insofar as applicable.

(d) The election inspectors shall report the results of the election, showing the total number of votes cast and the numbers cast for and against the revenue sharing. The election inspectors shall attach their affidavit to the report and immediately file the report in the office of the municipal or county clerk.

(e) The costs of the advisory referendum election shall be borne by the political subdivision that holds the election.

History: 1995 a. 270; 1999 a. 150 s. 72; Stats. 1999 s. 66.0305; 1999 a. 182 s. 202; 2005 a. 98; 2007 a. 43; 2011 a. 75.

66.0307 Boundary change pursuant to approved cooperative plan. (1) DEFINITIONS. In this section:

(af) "Comprehensive plan" means an adopted plan that contains the elements under s. 66.1001 (2) or, if a municipality has not adopted a plan that contains those elements, a master plan adopted under s. 62.23 (2) or (3).

(am) "Department" means the department of administration.

(b) "Municipality" means a city, village or town.

(2) BOUNDARY CHANGE AUTHORITY. Any combination of municipalities may determine the boundary lines between themselves under a cooperative plan that is approved by the department under this section. A single city or village and a single town may use the mediated agreement procedure under sub. (4m) to determine a common boundary line under a cooperative plan that is approved by the department under this section. No boundary of

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a municipality may be changed or maintained under this section unless the municipality is a party to the cooperative agreement. The cooperative plan shall provide one or more of the following:

(a) That specified boundary line changes shall occur during the planning period and the approximate dates by which the changes shall occur.

(b) That specified boundary line changes may occur during the planning period and the approximate dates by which the changes may occur.

(c) That a required boundary line change under par. (a) or an optional boundary line change under par. (b) shall be subject to the occurrence of conditions set forth in the plan.

(d) That specified boundary lines may not be changed during the planning period.

(3) COOPERATIVE PLAN. (a) *Who may prepare plan.* The municipalities that propose to set the boundary lines between themselves under this section shall prepare a cooperative plan.

(b) *Purpose of plan.* The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan consistent with the comprehensive plan of each participating municipality.

(c) *Content of plan; consistency with comprehensive plan.* The cooperative plan shall describe how it is consistent with each participating municipality's comprehensive plan.

(d) *Content of plan; boundaries and services.* The cooperative plan shall:

1. Identify any boundary change and any existing boundary that may not be changed during the planning period.

2. Identify any conditions that must be met before a boundary change may occur.

3. Include a schedule of the period during which a boundary change shall or may occur.

4. Include a statement explaining how any part of the plan related to the location of boundaries meets the approval criteria under sub. (5) (c) 5.

5. Describe the services to be provided to the territory covered by the plan, identify the providers of those services and indicate whether the provision of any service has received preliminary approval of any relevant governmental regulatory authority.

6. Include a schedule for delivery of the services described under subd. 5.

7. Include a statement explaining how provision under the plan for the delivery of necessary municipal services to the territory covered by the plan meets the approval criterion under sub. (5) (c) 3.

8. Designate the municipalities that are participating in the cooperative plan and that are required to ratify any boundary changes by enacting an ordinance under sub. (10).

(e) *Content of plan; compatibility with existing law.* The cooperative plan shall describe how the plan is consistent with current state and federal laws, county shoreland zoning ordinances under s. 59.692, municipal regulations and administrative rules that apply to the territory affected by the plan.

(f) *Content of plan; planning period.* The cooperative plan shall specify the duration of the proposed planning period, which shall be for a period of 10 years, except that the duration of the proposed planning period may be for a period greater than 10 years if a duration greater than 10 years is approved by the department.

(g) *Content of plan; zoning agreement.* The cooperative plan shall include all agreements under sub. (7m).

(h) *Existing plans may be used.* A cooperative plan may be based on, contain elements of or duplicate any existing plan for the same territory.

(4) PROCEDURE FOR ADOPTING COOPERATIVE PLAN. (a) *Authorizing resolution.* Each municipality that intends to participate in the preparation of a cooperative plan under this section shall adopt a resolution authorizing participation in the preparation of the plan. Notice of each resolution shall be given in writing, within 5 days after the resolution is adopted, to all of the following:

1. The department, the department of natural resources, the department of agriculture, trade and consumer protection and the department of transportation.

2. The clerks of any municipality, school district, technical college district, sewerage district or sanitary district which has any part of its territory within 5 miles of a participating municipality.

3. The clerk of each county in which a participating municipality is located.

4. Any county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes a participating municipality.

(b) *Public hearing.* At least 60 days after adoption under par. (a) of the last resolution by a participating municipality and at least 60 days before submitting a cooperative plan to the department for review and approval under sub. (5), the participating municipalities shall hold a joint hearing on the proposed plan. Notice of the hearing shall be given by each participating municipality by class 3 notice under ch. 985.

(c) *Comment on plan.* Any person may comment on the plan during the hearing and may submit written comments before, at or within 20 days following the hearing. All comments shall be considered by each participating municipality. A county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes any participating municipality shall comment in writing on the plan's effect on the master plan adopted by the regional planning commission under s. 66.0309 (9), or development plan adopted by the county board or county planning agency under s. 59.69 (3), and on the delivery of municipal services, and may comment on any other aspect of the plan. A county in the regional planning commission's jurisdiction may submit comments on the effect of the cooperative plan on the master plan adopted under s. 66.0309 (9) and on the delivery of county services or on any other matter related to the plan.

(d) *Adoption of final plan.* 1. Subject to subd. 2., after the public hearing under par. (b) and consideration of comments made on the proposed cooperative plan, the plan participants may revise the plan in response to the comments and may, by resolution adopted by each participating municipality, adopt a final version of the plan.

2. If within 30 days after the public hearing under par. (b) a petition opposing the plan, signed by a number of qualified electors equal to at least 10% of the votes cast for governor in the municipality at the last gubernatorial election, is filed with the clerk of a participating municipality, the final version of the plan may be adopted in that municipality only by an affirmative vote of three−fourths of the members of the municipality's governing body who are present and voting. The petition shall conform to the requirements of s. 8.40.

(e) *Advisory referendum.* 1. Within 30 days after adoption of a final plan under par. (d), the governing body of a participating municipality may adopt a resolution calling for an advisory referendum on the plan. An advisory referendum shall be held if, within 30 days after adoption of the final plan under par. (d), a petition, signed by a number of qualified electors equal to at least 10% of the votes cast for governor in the municipality at the last gubernatorial election, is filed with the clerk of a participating municipality and as provided in s. 8.37, requesting an advisory referendum on the cooperative plan. The petition shall conform to the requirements of s. 8.40.

2. The advisory referendum shall be held not less than 70 days nor more than 100 days after adoption of the resolution under subd. 1. calling for the referendum or not less than 70 days nor more than 100 days after receipt of the petition by the municipal clerk. The municipal clerk shall give notice of the referendum by publishing a notice in a newspaper of general circulation in the municipality, both on the publication day next preceding the advi-

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sory referendum election and one week prior to that publication date.

3. The advisory referendum shall be conducted by the municipal election officials. The governing body of the municipality may specify the number of election officials for the referendum. The ballots shall contain the words "For the cooperative plan" and "Against the cooperative plan" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other municipal elections in accordance with chs. 6 and 7, insofar as applicable.

4. The election inspectors shall report the results of the election, showing the total number of votes cast and the numbers cast for and against the cooperative plan. The election inspectors shall attach their affidavit to the report and immediately file the report in the office of the municipal clerk. The election inspector shall file a certified report of the results in the office of the clerk of each municipality that is a party to the cooperative plan.

5. The costs of the advisory referendum election shall be borne by the municipality that holds the election.

(f) *Submittal of final plan to department.* If no advisory referendum is held under par. (e), the plan participants may submit the final version of the cooperative plan to the department for approval under sub. (5) at least 60 days but not more than 180 days after the public hearing under par. (b). If an advisory referendum is held under par. (e), each participating municipality shall determine, by resolution, whether to submit the final version of the cooperative plan to the department for approval under sub. (5). The resolution shall be adopted within 60 days after the last advisory referendum is held. If any of the plan participants fails or refuses to approve submittal of the cooperative plan to the department, the plan may not be submitted. Any written comment received by a participating municipality on any version of the cooperative plan shall be submitted to the department at the time that the cooperative plan is submitted. If the cooperative plan is not submitted to and approved by the department, it may not be implemented under this section by any of the participating municipalities.

(4m) MEDIATED AGREEMENT PROCEDURE. (a) 1. As an alternative to the parties mutually invoking the procedure under this section, a city, village, or town may petition the department for mediation of a cooperative plan under this paragraph.

2. A city or village may petition for mediation if all of the following apply:

a. The city or village adopts an authorizing resolution under sub. (4) (a) (intro.) and requests in writing an adjacent town to adopt an authorizing resolution under sub. (4) (a) (intro.) and the town fails to adopt the resolution within 60 days after the request is received by the town.

b. The city or village has adopted a comprehensive plan.

3. A town may petition for mediation if all of the following apply:

a. The town adopts an authorizing resolution under sub. (4) (a) (intro.) and requests in writing an adjacent city or village to adopt an authorizing resolution under sub. (4) (a) (intro.) and the city or village fails to adopt the resolution within 60 days after the request is received by the city or village.

b. The town has adopted a comprehensive plan.

(b) A municipality that is authorized under par. (a) to petition the department for mediation and elects to do so shall submit the petition within 90 days after the municipality has adopted the authorizing resolution described in par. (a) 2. a. or 3. a. Upon receipt of a petition for mediation, the department shall notify the nonpetitioning adjacent municipality identified in the petition that the petition has been submitted. Within 45 days after receipt of notice from the department that a petition has been submitted, the nonpetitioning municipality shall notify the department whether it agrees to engage in mediation to develop a cooperative plan under this section. Failure of the nonpetitioning municipality to timely notify the department is considered notice that the municipality does not agree to engage in mediation. The department shall send written notice of the nonpetitioning municipality's decision, on whether it will participate, to the petitioning municipality. If the nonpetitioning municipality refuses to engage in mediation, the petitioning municipality may not submit a petition under this paragraph involving the same nonpetitioning municipality for a period of 3 years after the department sends notice of the refusal.

(c) 1. If a nonpetitioning town refuses under par. (b) to engage in mediation, the town may not contest any annexation of its territory to the petitioning city or village that is commenced during the shorter of the following periods:

a. The period of 270 days beginning after the town refuses under par. (b) to engage in mediation.

b. The period beginning on the date the town refuses under par. (b) to engage in mediation and ending on the date the town agrees to engage in mediation.

2. If a nonpetitioning city or village refuses under par. (b) to engage in mediation, an annexation of territory of the petitioning town to the nonpetitioning city or village that is commenced during the shorter of the following periods shall be reviewed by the department in the manner described under s. 66.0217 (6), regardless of the population of the county in which the annexation proceeding is commenced, and, notwithstanding s. 66.0217 (11) (c), may be contested by the town if the department determines that the annexation is not in the public interest:

a. The period of 270 days beginning after the city or village refuses under par. (b) to engage in mediation.

b. The period on the date the city or village refuses under par. (b) to engage in mediation and ending on the date the city or village agrees to engage in mediation.

(d) 1. If both the petitioning municipality and nonpetitioning municipality agree to engage in mediation to develop a cooperative plan under this section, the municipalities shall select a mediator. The department may assist the municipalities in selecting a mediator. If the municipalities are unable to agree on the selection of a mediator, the department shall furnish a list of 5 mediators to the municipalities. The municipalities shall alternatively strike a name from the list until one name remains, who shall be the mediator.

2. The mediator shall assist the parties through recognized mediation techniques to develop and reach agreement on a cooperative plan under this section. Unless the participating municipalities agree to extend the mediation period, the mediation period expires after 270 days. Unless they agree otherwise, the participating municipalities are equally responsible for the costs of the mediation.

(e) Before the participating municipalities engage in mediation under this subsection, each shall adopt a resolution under sub. (4) (a) (intro.) and provide the required notice of the resolution. Notwithstanding sub. (4) (b), if the participating municipalities agree on a cooperative plan under this subsection, a public hearing on the plan shall be held under sub. (4) (b) no sooner than 45 days after agreement is reached and at least 45 days before submitting the plan to the department for review and approval under sub. (5).

(f) If any litigation contesting annexation of territory of the petitioning or nonpetitioning town to the city or village is commenced during the 3−year period after the department receives the petition for mediation under par. (b), the judge shall under s. 802.12 (2), unless the nonpetitioning municipality objects, order the parties to select a settlement alternative under s. 802.12 (1) (i) as a means to attempt settlement.

(5) DEPARTMENT REVIEW AND APPROVAL OF LOCAL OR COOPERATIVE PLAN. (a) *Generally.* The department shall make a written determination of whether to approve a cooperative plan within 90 days after receiving the plan unless the department and the parties to the plan agree to a longer determination period. The department shall consider written comments on the plan received by a munici-

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pality under sub. (4) (c) that is submitted to the department under sub. (4) (f) or from any other source. The department may request information relating to the cooperative plan, including any comprehensive plan or land use plan currently being utilized by any participating municipality, from that municipality, and from any county or regional planning commission. The department may seek and consider comments from any state agency on whether the cooperative plan is consistent with state laws and administrative rules under the agency's jurisdiction. Any state agency requested to comment on a cooperative plan shall comply with the request. The department shall issue its determination of whether to approve the cooperative plan in writing, supported by specific findings based on the criteria under par. (c). The approval or disapproval of a cooperative plan by the department under this section is not a contested case, as defined in s. 227.01 (3), for purposes of ch. 227.

(b) *Hearing.* Any person may request a public hearing before the department on a cooperative plan submitted to the department for approval. A request for a public hearing shall be in writing and shall be submitted to the department within 10 days after the cooperative plan is received by the department. If requested, the department shall, and on its own motion the department may, hold a public hearing on the cooperative plan. If requested to hold a public hearing, the department is required to hold only one hearing, regardless of the number of requests for a hearing. Any public hearing under this paragraph shall be held in a municipality that is a party to the cooperative plan.

(c) *Approval of cooperative plan.* A cooperative plan shall be approved by the department if the department determines that all of the following apply:

1. The content of the plan under sub. (3) (c) to (e) is sufficient to enable the department to make the determinations under subds. 2. to 5.

2. The cooperative plan is consistent with each participating municipality's comprehensive plan and with current state laws, municipal regulations, and administrative rules that apply to the territory affected by the plan.

3. Adequate provision is made in the cooperative plan for the delivery of necessary municipal services to the territory covered by the plan.

5. The shape of any boundary maintained or any boundary change under the cooperative plan is not the result of arbitrariness and reflects due consideration for compactness of area. Considerations relevant to the criteria under this subdivision include quantity of land affected by the boundary maintenance or boundary change and compatibility of the proposed boundary maintenance or boundary change with natural terrain including general topography, major watersheds, soil conditions and such features as rivers, lakes and major bluffs.

6. Any proposed planning period exceeding 10 years is consistent with the plan.

(d) *Return and resubmittal of plan.* The department may return a cooperative plan, with comments, if the department determines that the cooperative plan, if revised, may constitute a plan that can be approved by the department. If a cooperative plan is returned under this paragraph, each participating municipality may revise the plan, as directed by the department, adopt the revised plan by resolution and resubmit the plan to the department within 90 days after the plan is returned. After receiving a resubmitted cooperative plan, the department shall make a determination on approval within 30 days.

(6) BINDING ELEMENTS OF COOPERATIVE PLAN. If a cooperative plan is approved by the department under sub. (5) or an amended plan is approved under sub. (8), provisions in the plan to maintain existing boundaries, the boundary changes in the plan, the schedule for those changes, the plan for delivery of services and the schedule for those services are binding on the parties to the plan and have the force and effect of a contract.

(7) OTHER BOUNDARY PROCEDURES. (a) *Other procedures after hearing.* After the joint hearing under sub. (4) (b) is held, no other procedure, except the procedure under s. 281.43 (1m), for altering a municipality's boundaries may be used to alter a boundary included in the proposed cooperative plan under sub. (3) (d) 1. until the boundary is no longer included in the proposed cooperative plan, the municipality withdraws from the proposed cooperative plan or the proposed cooperative plan fails to receive approval from the department, whichever occurs first.

(b) *Other boundary procedures during the planning period.* During the planning period specified under sub. (3) (f), no other procedure for altering a municipality's boundaries may be used to alter a boundary that is included in the cooperative plan under sub. (3) (d) 1., except if an annexation is conducted under s. 281.43 (1m), regardless of whether the boundary is proposed to be maintained or changed or is allowed to be changed under the plan. After the planning period has expired, the boundary may be altered.

(7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative plan with a city or village, the town and city or village may agree, as part of the cooperative plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The exercise of zoning authority by a town under this subsection is not subject to s. 60.61 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered by the plan, that ordinance and amendments to it continue until a zoning ordinance is adopted under this subsection. If a zoning ordinance is adopted under this subsection, that zoning ordinance continues in effect after the planning period ceases until a different zoning ordinance for the territory is adopted under other applicable law. This subsection does not affect zoning ordinances adopted under s. 59.692 or 87.30 or ch. 91.

(8) AMENDMENTS TO COOPERATIVE PLAN. (a) *Authority to amend plan.* A cooperative plan may be amended during the planning period if all the parties to the plan agree to the amendment and if the amendment is approved by the department.

(b) *When full procedure required.* An amendment to a cooperative plan that proposes to change a municipality's boundary or to change the approved planning period shall follow the same procedure as that required for an original plan.

(c) *When expedited procedure may occur.* An amendment to a cooperative plan that does not propose to change a boundary or the planning period shall follow the same procedure as that required for an original plan except that the hearing under sub. (4) (b) is not required unless objection to the amendment is made in writing by any person to the clerk of a participating municipality. An amendment under this paragraph shall be adopted by resolution of each of the participating municipalities. Notice of the amendment and adopting resolution shall follow the procedures specified in sub. (4) (a). Notice that the amendment will be submitted directly to the department unless objection is made in writing shall be given by each participating municipality by a class 3 notice under ch. 985. If no written objection to the amendment is received within 7 days after the last required notice is published, the amendment may be submitted directly to the department for approval. If written objection is timely made, the public hearing and other requirements under sub. (4) (b) and (c) apply.

(9) COURT REVIEW OF DEPARTMENT DECISION. The decision of the department under sub. (5) (c) or (d) or (8) to approve or not to approve a cooperative plan or an amendment to a plan is subject to judicial review under ch. 227.

(10) BOUNDARY CHANGE ORDINANCE; FILING AND RECORDING REQUIREMENTS. A boundary change under a cooperative plan shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the plan. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this

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subsection. The requirements for the secretary of state are the same as those required in s. 66.0217 (9) (b).

(11) TIME FOR BRINGING ACTION. No action to contest the validity of a cooperative plan under this section or an amendment to a cooperative plan, regardless of the grounds for the action, may be commenced after 60 days from the date on which the department approves the cooperative plan under sub. (5) or the amendment under sub. (8), respectively. No action relating to compliance with a binding element of a cooperative plan may be commenced later than 180 days after the failure to comply.

History: 1991 a. 269; 1993 a. 213, 301, 329, 399; 1995 a. 35, 201, 216, 227; 1997 a. 27, 35; 1999 a. 150 s. 67; Stats. 1999 s. 66.0307; 1999 a. 182 s. 199; 2001 a. 30; 2007 a. 43; 2009 a. 28; 2011 a. 75.

66.0309 Creation, organization, powers and duties of regional planning commissions. (1) DEFINITIONS. In this section:

(a) "Governing body" means the town, village or county board or the legislative body of a city.

(b) "Local governmental units" or "local units" means cities, villages, towns and counties.

(c) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate under s. 16.96.

(2) CREATION OF REGIONAL PLANNING COMMISSIONS. (a) A regional planning commission may be created by the governor, or a state agency or official as the governor designates, upon petition in the form of a resolution by the governing body of a local governmental unit and the holding of a public hearing on the petition. If the petition is joined in by the governing bodies of all the local units in the proposed region, including the county board of any county, part or all of which is in the proposed region, the governor may dispense with the hearing. Notice of any public hearing shall be given by the governor by mail at least 10 days in advance to the clerk of each local unit in the proposed region.

(b) If the governor finds that there is a need for a regional planning commission, and if the governing bodies of local units within the proposed region which include over 50% of the population and equalized assessed valuation of the region as determined by the last previous equalization of assessments, consent to the formation of such regional planning commission, the governor may create the regional planning commission by order and designate the area and boundaries of the commission's jurisdiction taking into account the elements of homogeneity based upon, but not limited to, such considerations as topographic and geographic conformations, extent of urban development, the existence of special or acute agricultural, forestry, conservation or other rural problems, uniformity of social or economic interests and values, park and recreational needs, civil defense, or the existence of physical, social and economic problems of a regional character.

(c) Territory included within a regional planning commission that consists of one county or less in area also may be included in the creation of a multicounty regional planning commission. The creation does not require that the existing regional planning commission consisting of one county or less in area be terminated or altered, but upon creation of the multicounty commission, the existing commission shall cease to have authority to make charges upon participating local governmental units under sub. (14) and shall adopt a name other than "regional planning commission".

(2m) LIMITATION ON TERRITORY. No regional planning commission may be created to include territory located in 3 or more uniform state districts as established by 1970 executive order 22 dated August 24, 1970. Any existing regional planning commission which includes territory located in 3 or more uniform state districts shall be dissolved no later than December 31, 1972.

(3) COMPOSITION OF REGIONAL PLANNING COMMISSIONS. (a) The membership composition of a regional planning commission which includes a city of the first class shall be as follows:

1. One member appointed by the county board of each county, part or all of which is initially within the region or is later added.

2. Two members from each participating county shall be appointed by the governor. At least one appointee shall be a person, selected from a list of 2 or more persons nominated by the county board, who has experience in local government in elective or appointive offices or who is professionally engaged in advising local governmental units in the fields of land−use planning, transportation, law, finance, engineering or recreation and natural resources development. The governor in making appointments under this subdivision shall give due weight to the place of residence of the appointees within the various counties encompassed by the region.

(b) For any region which does not include a 1st class city, the membership composition of a regional planning commission shall be in accordance with resolutions approved by the governing bodies of a majority of the local units in the region, and these units shall have in the aggregate at least half the population of the region. For the purposes of this determination a county, part or all of which is within the region, shall be counted as a local unit, but the population of an approving county shall not be counted. In the absence of the necessary approval by the local units, the membership composition of a commission shall be determined as follows:

1. For regions which include land in more than one county par. (a) shall apply.

2. For regions that include land in only one county, the commission shall consist of the following:

a. Three members appointed by the county board.

b. Three members appointed by the governing body of each city, village and town in the region having a population of 20,000 or more. If there is no city, village or town having a population of 20,000 or more, the governor shall appoint one member from each city, village or town with a population of 5,000 or more within the region. All governor appointees under this subd. 2. b. shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land−use planning, transportation, law, finance or engineering.

c. Three members appointed at large by the governor. All governor appointees under this subd. 2. c. shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land−use planning, transportation, law, finance or engineering.

(c) Terms of office for regional planning commission members shall be as follows:

1. If the composition of the commission is approved by local units under par. (b), the terms shall be as prescribed in the resolutions of approval.

2. For members of all other commissions the term is 6 years after the initial term. At the first meeting of the commission it shall be determined by lot which of the initial members shall have 2, 4 and 6−year terms, respectively, and each group shall be as nearly equal as may be.

(d) All regional planning commission members shall be electors of the state and reside within the region.

(4) COMPENSATION; EXPENSES. A per diem compensation may be paid members of regional planning commissions. This shall not affect in any way remuneration received by any state or local official who, in addition to serving as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

(5) CHAIRPERSON; RULES OF PROCEDURE; RECORDS. Each regional planning commission shall elect its own chairperson and executive committee and shall establish its own rules of procedure, and may create and fill other offices as it may determine necessary. The commission may authorize the executive committee to act for it on all matters under rules adopted by it. The commission shall meet at least once each year. It shall keep a record of its

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resolutions, transactions, findings and determinations, which shall be a public record.

(6) DIRECTOR AND EMPLOYEES. The regional planning commission shall appoint a director and such employees as it deems necessary for its work and may hire such experts and consultants for part−time or full−time service as may be necessary for the prosecution of its responsibilities.

(7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on all phases of the commission's program. Members of advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

(8) FUNCTIONS, GENERAL AND SPECIAL. (a) 1. The regional planning commission may take any of the following actions:

a. Conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties.

b. Consistent with the elements specified in s. 66.1001, make plans for the physical, social and economic development of the region, and, consistent with the elements specified in s. 66.1001, adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region.

c. Publicize and advertise its purposes, objectives and findings, and distribute reports concerning these items.

d. Provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a coordinating agency for programs and activities of local units and agencies as they relate to its objectives.

2. All public officials shall, upon request, furnish to the regional planning commission, within a reasonable time, available information as it requires for its work. In general, the regional planning commission shall have all powers necessary to enable it to perform its functions and promote regional planning. The functions of the regional planning commission shall be solely advisory to the local governments and local government officials comprising the region.

(b) The regional planning commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region, and shall submit 2 copies of the report to the legislative reference bureau.

(9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for physical development and shall contain at least the elements described in s. 66.1001. The regional planning commission may amend, extend or add to the master plan or carry any part or subject matter into greater detail.

(10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. The regional planning commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may by resolution adopt a part or parts of the master plan, any part to correspond with one or more of the elements specified in s. 66.1001. The resolution shall refer expressly to the maps, plats, charts, programs and descriptive and explanatory matter, and other matters intended by the regional planning commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part of the adopted plan by the identifying signature of the chairperson of the regional planning commission and a copy of the plan or part of the adopted plan shall be certified to the legislative bodies of the local governmental units within the region. The purpose and effect of adoption of the master plan shall be solely to aid the regional planning commission and the local governments and local government officials comprising the region in the performance of their functions and duties.

(11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSION. The officer or public body of a local governmental unit within the region having final authority may refer to the regional planning commission, for its consideration and report, the location or acquisition of land for any of the items or facilities which are included in the adopted regional master plan. Within 20 days after the matter is referred to the regional planning commission or a longer period as may be stipulated by the referring officer or public body, the commission shall report its recommendations to the referring officer or public body. The report and recommendations of the commission shall be advisory only. A state agency may authorize the regional planning commission with the consent of the commission to act for the agency in approving, examining or reviewing plats, under s. 236.12 (2) (a). A regional planning commission authorized by a local unit on November 1, 1980 to act for the local unit in approving plats may continue to so act until the commission withdraws its consent or the local unit its approval. A local unit may authorize a regional planning commission, with the consent of the commission, to conduct an advisory review of plats.

(12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION; CONTRACTS. (a) Any local governmental unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.

(b) In addition to the other powers specified in this section a regional planning commission may enter into a contract with any local unit within the region under s. 66.0301 to make studies and offer advice on any of the following topics:

1. Land use, thoroughfares, community facilities, and public improvements.

2. Encouragement of economic and other developments.

(13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. Aid, in any form, for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which aid is furnished are not incompatible with the other provisions of this section. The regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which the grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(14) BUDGET AND SERVICE CHARGES. (a) For the purpose of providing funds to meet the expenses of a regional planning commission, the commission shall annually on or before October 1 prepare and approve a budget reflecting the cost of its operation and services to the local governmental units within the region. The amount of the budget charged to any local governmental unit shall be in the proportion of the equalized value for tax purposes of the land, buildings, and other improvements on the land of the local governmental unit, within the region, to the total equalized value within the region. The amount charged to a local governmental unit shall not exceed .003 percent of equalized value under its jurisdiction and within the region, unless the governing body of the unit expressly approves the amount in excess of that percentage. All tax or other revenues raised for a regional planning commission shall be forwarded by the treasurer of the local unit to the treasurer of the commission on written order of the treasurer of the commission.

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(b) Where one−half or more of the land within a county is within a region, the chairperson of the regional planning commission shall certify to the county clerk, before August 1 of each year, the proportionate amount of the budget charged to the county for the services of the regional planning commission. Unless the county board finds the charges unreasonable, and institutes the procedures under par. (d), it shall take legislative action as necessary to provide the funds called for in the certified statement.

(c) Where less than one−half of the land within a county is within a region, the chairperson of the regional planning commission shall before August 1 of each year certify to the clerk of the local governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. The clerk shall extend the amount shown in the statement as a charge on the tax roll under s. 281.43 (2).

(d) If any local governmental unit makes a finding by resolution within 20 days of the certification to its clerk that the charges of the regional planning commission are unreasonable, it may take any of the following actions:

1. Submit the issue to arbitration by 3 arbitrators, one to be chosen by the local governmental unit, one to be chosen by the regional planning commission, and the third to be chosen by the first 2 arbitrators. If the arbitrators are unable to agree, the vote of 2 shall be the decision. The arbitrators may affirm or modify the report, and shall submit their decision in writing to the local governmental unit and the regional planning commission within 30 days of their appointment unless the time is extended by agreement of the commission and the local governmental unit. The decision is binding. An election to arbitrate is a waiver of the right to proceed by action. Two−thirds of the expenses of arbitration shall be paid by the party requesting arbitration and the balance by the other.

2. If a local governmental unit does not elect to arbitrate, it may institute a proceeding for judicial review under ch. 227.

(e) By agreement between the regional planning commission and a local governmental unit, special compensation to the commission for unique and special services provided to the local governmental unit may be arranged.

(f) The regional planning commission may accept from any local governmental unit supplies, the use of equipment, facilities and office space and the services of personnel as part or all of the financial support assessed against the local governmental unit.

(15) DISSOLUTION OF REGIONAL PLANNING COMMISSIONS. Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county board of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the commission has been paid and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made for the outstanding indebtedness or unexpended funds, the governor shall issue a certificate of dissolution of the commission which shall then cease to exist.

(16) WITHDRAWAL. Within 90 days of the issuance by the governor of an order creating a regional planning commission, any local unit of government within the boundaries of the region may withdraw from the jurisdiction of the commission by a two−thirds vote of the members−elect of the governing body after a public hearing. Notice of withdrawal shall be given to the commission by registered mail not more than 3 nor less than 2 weeks before withdrawal and by publication of a class 2 notice, under ch. 985. A local unit may withdraw from a regional planning commission at the end of any fiscal year by a two−thirds vote of the members−elect of the governing body taken at least 6 months before the effective date of the withdrawal. However, the local unit shall be responsible for its allocated share of the contractual obligations of the regional planning commission continuing beyond the effective date of its withdrawal.

History: 1971 c. 225, 227; 1977 c. 29, 187, 418; 1979 c. 110, 175, 248; 1979 c. 361 s. 112; 1991 a. 316; 1993 a. 184, 246; 1995 a. 27 s. 9116 (5); 1995 a. 225, 227; 1999 a. 9; 1999 a. 150 ss. 608 to 612; Stats. 1999 s. 66.0309; 2001 a. 103; 2009 a. 177; 2011 a. 32.

Withdrawal from the commission by a municipality has no effect on the county's authority to contract with the commission under this section. Tanck v. Dane County Regional Planning Commission, 81 Wis. 2d 76, 260 N.W.2d 18 (1977).

A plan commission is immune from suit with respect to claims of contractual interference and civil conspiracy. Busse v. Dane County Regional Planning Comm. 181 Wis. 2d 527, 510 N.W.2d 136 (Ct. App. 1993).

The representation provisions of sub. (3) do not violate the one man, one vote principle. 62 Atty. Gen. 136.

Appointments to regional planning commissions on behalf of a county, under sub. (3) (b), are made by the county board unless the county has a county executive or a county administrator, in which event the appointments are made by that county officer. 62 Atty. Gen. 197.

Commission employees have indemnity protection under s. 895.46 (1) (a). 77 Atty. Gen. 142.

The boundaries of existing multicounty regional planning commissions may only be altered following their dissolution under sub. (15). 81 Atty. Gen. 70.

66.0311 Intergovernmental cooperation in financing and undertaking housing projects. (1) In this section, "municipality" has the meaning given in s. 66.0301 (1) (a).

(2) Any municipality, housing authority, development authority or redevelopment authority authorized under ss. 66.1201 to 66.1211 and 66.1301 to 66.1337:

(a) To issue bonds or obtain other types of financing in furtherance of its statutory purposes may cooperate with any other municipality, housing authority, development authority or redevelopment authority similarly authorized under ss. 66.1201 to 66.1211 and 66.1301 to 66.1337 for the purpose of jointly issuing bonds or obtaining other types of financing.

(b) To plan, undertake, own, construct, operate and contract with respect to any housing project in accordance with its statutory purposes under ss. 66.1201 to 66.1211 and 66.1301 to 66.1337, may cooperate for the joint exercise of such functions with any other municipality, housing authority, development authority or redevelopment authority so authorized.

History: 1999 a. 150 ss. 80, 350; Stats. 1999 s. 66.0311.

66.0312 Local health departments; mutual assistance. (1) In this section "local health department" has the meaning given in s. 66.0314 (1) (e).

(2) (a) Subject to sub. (3), upon the request of a local health department, the personnel of any other local health department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision.

(b) If a request for assistance is made under par. (a), payment for the requested services shall be made by one of the following methods:

1. If an agreement under s. 66.0301, or any other agreement between the parties, for the payment of such services exists, the terms of the agreement shall be followed.

2. If no agreement described under subd. 1. for the payment of such services exists, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency if the responding agency requests payment of those costs.

(3) This section does not apply during a state of emergency declared by the governor under s. 323.10.

History: 2003 a. 186; 2009 a. 42.

NOTE: 2003 Wis. Act 186, which affected this section, contains extensive explanatory notes.

66.03125 Fire departments; mutual assistance. (1) In this section "fire department" has the meaning given in s. 66.0314 (1) (c).

(2) (a) Subject to sub. (3), upon the request of a fire department, the personnel of any other fire department may assist the

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requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision.

(b) If a request for assistance is made under par. (a), payment for the requested services shall be made by one of the following methods:

1. If an agreement under s. 66.0301, or any other agreement between the parties, for the payment of such services exists, the terms of the agreement shall be followed.

2. If no agreement described under subd. 1. for the payment of such services exists, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency if the responding agency requests payment of those costs.

(3) This section does not apply during a state of emergency declared by the governor under s. 323.10.

History: 2003 a. 186; 2009 a. 42.

NOTE: 2003 Wis. Act 186, which affected this section, contains extensive explanatory notes.

66.0313 Law enforcement; mutual assistance. (1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and includes a tribal law enforcement agency.

(b) "Tribal law enforcement agency" has the meaning given in s. 165.83 (1) (e).

(2) Except as provided in sub. (4), upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. For purposes of ss. 895.35 and 895.46, law enforcement personnel, while acting in response to a request for assistance, shall be deemed employees of the requesting agency and, to the extent that those sections apply to law enforcement personnel and a law enforcement agency acting under or affected by this section, ss. 895.35 and 895.46 shall apply to tribal law enforcement personnel and a tribal law enforcement agency acting under or affected by this section.

(3) The provisions of s. 66.0513 apply to this section and, to the extent that s. 66.0513 applies to law enforcement personnel and a law enforcement agency acting under or affected by this section, it applies to tribal law enforcement personnel and a tribal law enforcement agency acting under or affected by this section.

(4) A law enforcement agency, other than a tribal law enforcement agency, may not respond to a request for assistance from a tribal law enforcement agency at a location outside the law enforcement agency's territorial jurisdiction unless all of the following apply:

(a) One of the following applies:

1. The governing body of the tribe that created the tribal law enforcement agency adopts and has in effect a resolution that includes a statement that the tribe waives its sovereign immunity to the extent necessary to allow the enforcement in the courts of this state of its liability under sub. (2) and s. 66.0513 or another resolution that the department of justice determines will reasonably allow the enforcement in the courts of this state of the tribe's liability under sub. (2) and s. 66.0513.

2. The tribal law enforcement agency or the tribe that created the tribal law enforcement agency maintains liability insurance that does all of the following:

a. Covers the tribal law enforcement agency for its liability under sub. (2) and s. 66.0513.

b. Has a limit of coverage not less than $2,000,000 for any occurrence.

c. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

3. The law enforcement agency and the tribal law enforcement agency have in place an agreement under which the law enforcement agency accepts liability under sub. (2) and s. 66.0513 for instances in which it responds to a request for assistance from the tribal law enforcement agency.

(b) The tribal law enforcement agency requesting assistance has provided to the department of justice a copy of the resolution under par. (a) 1., proof of insurance under par. (a) 2., or a copy of the agreement under par. (a) 3., and the department of justice has posted either a copy of the document or notice of the document on the Internet site it maintains for exchanging information with law enforcement agencies.

History: 1999 a. 150 ss. 81, 362, 363; Stats. 1999 s. 66.0313; 2009 a. 264.

The statutes do not permit the creation of a separate regional law enforcement agency; 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 request for assistance may be implicit. United States v. Mattes, 687 F.2d 1039 (1982).

66.0314 State of emergency; mutual assistance. (1) In this section:

(a) "Emergency management program" means the emergency management program of a city, village, town, or county, under s. 323.14 (1).

(b) "Emergency medical services program" means a program established under s. 256.12.

(c) "Fire department" means any public organization engaged in fire fighting or a private sector employer fire company or fire department organized as a nonstock, nonprofit corporation under ch. 181 or ch. 213 without the input of a municipality.

(d) "Incident command system" means a functional management system established to control, direct, and manage the roles, responsibilities, and operations of all of the agencies involved in a multi−jurisdictional or multi−agency emergency response, which may include authorities designated by a participating tribe or band.

(e) "Local health department" has the meaning given in s. 250.01 (4), and also includes an entity designated by a participating tribe or band as a local health department.

(fe) "Tribe or band" means a federally recognized American Indian tribe or band in this state.

(2) (a) If the governor declares a state of emergency under s. 323.10, upon the request of a city, village, town, or county, or a person acting under an incident command system, the personnel of any emergency management program, emergency medical services program, fire department, or local health department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision.

(b) If a request for assistance is made under par. (a), the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency to the extent that federal, state, and other 3rd−party reimbursement is available if all of the following apply:

1. The responding agency meets the personnel and equipment requirements in the state plan under s. 323.13 (1) (b).

2. The responding agency requests payment of those costs.

History: 2003 a. 186; 2007 a. 130; 2009 a. 42.

NOTE: 2003 Wis. Act 186, which affected this section, contains extensive explanatory notes.

66.0315 Municipal cooperation; federal rivers, harbors or water resources projects. A county, town, city or village acting under its powers and in conformity with state law may enter into an agreement with an agency of the federal government to cooperate in the construction, operation or maintenance of any federally authorized rivers, harbors or water resources management or control project or to assume any potential liability appurtenant to a project and may do all things necessary to consummate the agreement. If a project will affect more than one municipality, the municipalities affected may jointly enter into an agreement under this section with an agency of the federal government carrying any terms and provisions concerning the division of costs and responsibilities that are mutually agreed upon. The affected municipalities may by agreement submit any determina-

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tions of the division of construction costs, responsibilities, or any other liabilities among them to an arbitration board. The determination of the arbitration board shall be final. This section shall not be construed as a grant or delegation of power or authority to any county, town, city, village or other local municipality to do any work in or place any structures in or on any navigable water except as it is otherwise expressly authorized by state law to do.

History: 1999 a. 150 s. 456; Stats. 1999 s. 66.0315.

66.0316 Renew Wisconsin performance review. **(1)** DEFINITIONS. In this section:

(a) "Analysis" means a performance analysis of the cost and benefit of a political subdivision providing a governmental service compared to a private person providing the same service.

(b) "Chief executive officer" has the meaning given in s. 66.1106 (1) (a).

(c) "Department" means the department of revenue.

(d) "Extension" has the meaning given in s. 36.05 (7).

(e) "Governmental service" means a service related to any of the following:

1. Law enforcement.
2. Fire protection.
3. Emergency services.
4. Public health.
5. Solid waste collection and disposal.
6. Recycling.
7. Public transportation.
8. Public housing.
9. Animal control.
10. Libraries.
11. Recreation and culture.
12. Human services.
13. Youth services.

(f) "Political subdivision" means any city, village, town, or county with a population greater than 2,500.

(2) PILOT PROGRAM. The department shall establish a pilot program to study governmental services delivered by and to political subdivisions. The department shall solicit political subdivisions to participate in the program. Based on the department's solicitation, the department shall select 5 political subdivisions to form councils as provided under sub. (3) and shall include in that selection at least one county and at least one city, village, or town.

(3) CREATION OF COUNCIL. (a) No later than January 1, 2002, each political subdivision selected under sub. (2) shall create a council consisting of 5 members, as follows:

1. The chief executive officer of the political subdivision, or his or her designee.

2. A member who is an employee of the political subdivision.

3. A member with cost accounting experience who is a resident of the political subdivision and who is not a political subdivision officer or employee.

4. Two members, not including the member under subd. 3., who are residents of the political subdivision and who are not political subdivision officers or employees.

(b) The political subdivision's chief executive officer shall appoint the council members under par. (a) 2. to 4. The chief executive officer shall appoint 2 members to initial terms of 2 years and the remaining 2 members to initial terms of 4 years. The chief executive officer shall appoint the respective successors of the members under par. (a) 2. to 4. to terms of 4 years. All members under par. (a) 2. to 4. shall serve until their successors are appointed and qualified.

(c) The council shall organize annually at its first meeting to elect a chairperson. Four members of the council shall constitute a quorum.

(4) DUTIES OF COUNCIL. The council shall conduct an analysis of governmental services provided by the political subdivision with which the council is affiliated. In conducting such an analysis, the council shall do all of the following:

(a) Establish specific benchmarks for performance, including goals related to intergovernmental cooperation to provide governmental services.

(b) Conduct research and establish new methods to promote efficiency in the delivery of governmental services.

(c) Identify and recommend collaborative agreements to be developed with other political subdivisions to deliver governmental services.

(5) DATA COLLECTION AND ANALYSIS. (a) A council may conduct an analysis of a governmental service provided by the political subdivision with which the council is affiliated on its own or after receiving any of the following:

1. A written suggestion regarding delegating a governmental service to a private person.

2. A written complaint that a governmental service provided by the political subdivision is competing with the same or a similar service provided by a private person.

3. A written suggestion by a political subdivision employee or political subdivision employee labor organization to review a governmental service delegated to a private person.

(b) After receiving a suggestion or complaint under par. (a), the council shall meet to decide whether an analysis of the governmental service indicated in the suggestion or complaint is necessary. The council may hold hearings, conduct inquiries, and gather data to make its decision. If the council decides to analyze a governmental service under this paragraph, the council shall do all of the following:

1. Determine the costs of providing the governmental service, including the cost of personnel and capital assets used in providing the service.

2. Determine how often and to what extent the governmental service is provided and the quality of the governmental service provided.

3. Make a cost−benefit determination based on the findings under subds. 1. and 2.

4. Determine whether a private person can provide the governmental service at a cost savings to the political subdivision providing the service and at a quality at least equal to the quality of the service provided by the political subdivision.

5. If the council decides that a governmental service is not suitable for delegating to a private person, determine whether the governmental service should be retained in its present form, modified, or eliminated.

(c) After completing an analysis under par. (b), the council shall make a recommendation to the political subdivision providing the governmental service analyzed under par. (b) and publish the council's recommendation. The recommendation shall specify the recommendation's impact on the political subdivision and the political subdivision's employees.

(6) TRAINING AND ASSISTANCE. The board of regents of the University of Wisconsin System shall direct the extension to assist councils created under this section in performing their duties under subs. (4) and (5). The board of regents shall ensure that council members are trained in how to do all of the following:

(a) Conduct an analysis of a governmental service.

(b) Determine ways to improve the efficiency of delivering a governmental service.

(c) Establish, quantify, and monitor performance standards.

(d) Prepare the reports required under sub. (7) (a) and (b).

(7) REPORTS. (a) On or before June 30, 2002, each council shall submit a report to the department describing the council's activities.

(b) On or before June 30, 2003, each council shall submit a final report to the department describing the council's activities and recommendations and the extent to which its recommendations have been adopted by the political subdivision with which

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the council is affiliated. A report submitted under this paragraph shall provide a detailed explanation of all analyses conducted under subs. (4) and (5).

(c) On or before July 31, 2003, the department shall submit a report concerning the activities and recommendations described in the reports submitted under pars. (a) and (b) to the legislature under s. 13.172 (2) and to the governor. The department's report shall describe ways to implement such recommendations statewide.

History: 2001 a. 16.

66.0317 Cooperation region. (1) DEFINITIONS. In this section:

(a) "Cooperation region" means a federal standard metropolitan statistical area. For purposes of this section, if only a part of a county is located in a federal standard metropolitan statistical area the entire county is considered to be located in the federal standard metropolitan statistical area.

(b) "Governmental service" has the meaning given in s. 66.0316 (1) (e).

(c) "Metropolitan service delivery" means any governmental service provided to a city that is provided by the city or by another city or by a town, village, or county and provided on a multijurisdictional basis.

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

(2) AREA COOPERATION COMPACTS. (a) 1. Except as provided in subd. 3., beginning in 2003, a municipality shall enter into an area cooperation compact with at least 2 municipalities or counties located in the same cooperation region as the municipality, or with any combination of at least 2 such entities, to perform at least 2 governmental services.

3. A municipality that is not adjacent to at least 2 other municipalities located in the same cooperation region as the municipality may enter into a cooperation compact with any adjacent municipality or with the county in which the municipality is located to perform the number of governmental services as specified under subd. 1.

(b) An area cooperation compact shall provide a plan for any municipalities or counties that enter into the compact to collaborate to provide governmental services. The compact shall provide benchmarks to measure the plan's progress and provide outcome−based performance measures to evaluate the plan's success. Municipalities and counties that enter into the compact shall structure the compact in a way that results in significant tax savings to taxpayers within those municipalities and counties.

History: 2001 a. 16, 106; 2005 a. 164.

SUBCHAPTER IV

REGULATION

66.0401 Regulation relating to solar and wind energy systems. (1e) DEFINITIONS. In this section:

(a) "Application for approval" means an application for approval of a wind energy system under rules promulgated by the commission under s. 196.378 (4g) (c) 1.

(b) "Commission" means the public service commission.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Wind energy system" has the meaning given in s. 66.0403 (1) (m).

(1m) AUTHORITY TO RESTRICT SYSTEMS LIMITED. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:

(a) Serves to preserve or protect the public health or safety.

(b) Does not significantly increase the cost of the system or significantly decrease its efficiency.

(c) Allows for an alternative system of comparable cost and efficiency.

(2) AUTHORITY TO REQUIRE TRIMMING OF BLOCKING VEGETATION. Subject to sub. (6) (a), a political subdivision may enact an ordinance relating to the trimming of vegetation that blocks solar energy, as defined in s. 66.0403 (1) (k), from a collector surface, as defined under s. 700.41 (2) (b), or that blocks wind from a wind energy system. The ordinance may include a designation of responsibility for the costs of the trimming. The ordinance may not require the trimming of vegetation that was planted by the owner or occupant of the property on which the vegetation is located before the installation of the solar or wind energy system.

(3) TESTING ACTIVITIES. A political subdivision may not prohibit or restrict any person from conducting testing activities to determine the suitability of a site for the placement of a wind energy system. A political subdivision objecting to such testing may petition the commission to impose reasonable restrictions on the testing activity.

(4) LOCAL PROCEDURE. (a) 1. Subject to subd. 2., a political subdivision that receives an application for approval shall determine whether it is complete and, no later than 45 days after the application is filed, notify the applicant about the determination. As soon as possible after receiving the application for approval, the political subdivision shall publish a class 1 notice, under ch. 985, stating that an application for approval has been filed with the political subdivision. If the political subdivision determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the political subdivision has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application for approval. If the political subdivision fails to determine whether an application for approval is complete within 45 days after the application is filed, the application shall be considered to be complete.

2. If a political subdivision that receives an application for approval under subd. 1. does not have in effect an ordinance described under par. (g), the 45−day time period for determining whether an application is complete, as described in subd. 1., does not begin until the first day of the 4th month beginning after the political subdivision receives the application. A political subdivision may notify an applicant at any time, after receipt of the application and before the first day of the 4th month after its receipt, that it does not intend to enact an ordinance described under par. (g).

3. On the same day that an applicant makes an application for approval under subd. 1. for a wind energy system, the applicant shall mail or deliver written notice of the application to the owners of land adjoining the site of the wind energy system.

4. A political subdivision may not consider an applicant's minor modification to the application to constitute a new application for the purposes of this subsection.

(b) A political subdivision shall make a record of its decision making on an application for approval, including a recording of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the political subdivision in connection with the application for approval. The political subdivision's record shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 2.

(c) A political subdivision shall base its decision on an application for approval on written findings of fact that are supported by the evidence in the record under par. (b). A political subdivision's procedure for reviewing the application for approval shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 3.

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(d) Except as provided in par. (e), a political subdivision shall approve or disapprove an application for approval no later than 90 days after the day on which it notifies the applicant that the application for approval is complete. If a political subdivision fails to act within the 90 days, or within any extended time period established under par. (e), the application is considered approved.

(e) A political subdivision may extend the time period in par. (d) if, within that 90−day period, the political subdivision authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for all extensions granted under this paragraph may not exceed 90 days:

1. An extension of up to 45 days if the political subdivision needs additional information to determine whether to approve or deny the application for approval.

2. An extension of up to 90 days if the applicant makes a material modification to the application for approval.

3. An extension of up to 90 days for other good cause specified in writing by the political subdivision.

(f) 1. Except as provided in subd. 2., a political subdivision may not deny or impose a restriction on an application for approval unless the political subdivision enacts an ordinance that is no more restrictive than the rules the commission promulgates under s. 196.378 (4g) (b).

2. A political subdivision may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under s. 66.1001 (2) (b) and (f), before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under s. 66.1001 (2) (i). This subdivision applies to a wind energy system that has a nominal capacity of at least one megawatt.

(g) A political subdivision that chooses to regulate wind energy systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive than the applicable standards established by the commission in rules promulgated under s. 196.378 (4g).

(5) PUBLIC SERVICE COMMISSION REVIEW. (a) A decision of a political subdivision to determine that an application is incomplete under sub. (4) (a) 1., or to approve, disapprove, or impose a restriction upon a wind energy system, or an action of a political subdivision to enforce a restriction on a wind energy system, may be appealed only as provided in this subsection.

(b) 1. Any aggrieved person seeking to appeal a decision or enforcement action specified in par. (a) may begin the political subdivision's administrative review process. If the person is still aggrieved after the administrative review is completed, the person may file an appeal with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the political subdivision has completed its administrative review process. For purposes of this subdivision, if a political subdivision fails to complete its administrative review process within 90 days after an aggrieved person begins the review process, the political subdivision is considered to have completed the process on the 90th day after the person began the process.

2. Rather than beginning an administrative review under subd. 1., an aggrieved person seeking to appeal a decision or enforcement action of a political subdivision specified in par. (a) may file an appeal directly with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the decision or initiation of the enforcement action.

3. An applicant whose application for approval is denied under sub. (4) (f) 2. may appeal the denial to the commission. The commission may grant the appeal notwithstanding the inconsistency of the application for approval with the political subdivision's planned residential or commercial development if the commission determines that granting the appeal is consistent with the public interest.

(c) Upon receiving an appeal under par. (b), the commission shall notify the political subdivision. The political subdivision shall provide a certified copy of the record upon which it based its decision or enforcement action within 30 days after receiving notice. The commission may request of the political subdivision any other relevant governmental records and, if requested, the political subdivision shall provide such records within 30 days after receiving the request.

(d) The commission may confine its review to the records it receives from the political subdivision or, if it finds that additional information would be relevant to its decision, expand the records it reviews. The commission shall issue a decision within 90 days after the date on which it receives all of the records it requests under par. (c), unless for good cause the commission extends this time period in writing. If the commission determines that the political subdivision's decision or enforcement action does not comply with the rules it promulgates under s. 196.378 (4g) or is otherwise unreasonable, the political subdivision's decision shall be superseded by the commission's decision and the commission may order an appropriate remedy.

(e) In conducting a review under par. (d), the commission may treat a political subdivision's determination that an application under sub. (4) (a) 1. is incomplete as a decision to disapprove the application if the commission determines that a political subdivision has unreasonably withheld its determination that an application is complete.

(f) Judicial review is not available until the commission issues its decision or order under par. (d). Judicial review shall be of the commission's decision or order, not of the political subdivision's decision or enforcement action. The commission's decision or order is subject to judicial review under ch. 227. Injunctive relief is available only as provided in s. 196.43.

(6) APPLICABILITY OF A POLITICAL SUBDIVISION OR COUNTY ORDINANCE. (a) 1. A county ordinance enacted under sub. (2) applies only to the towns in the county that have not enacted an ordinance under sub. (2).

2. If a town enacts an ordinance under sub. (2) after a county has enacted an ordinance under sub. (2), the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(b) 1. Subject to subd. 2., a county ordinance enacted under sub. (4) applies only in the unincorporated parts of the county.

2. If a town enacts an ordinance under sub. (4), either before or after a county enacts an ordinance under sub. (4), the more restrictive terms of the 2 ordinances apply to the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(c) If a political subdivision enacts an ordinance under sub. (4) (g) after the commission's rules promulgated under s. 196.378 (4g) take effect, the political subdivision may not apply that ordinance to, or require approvals under that ordinance for, a wind energy system approved by the political subdivision under a previous ordinance or under a development agreement.

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

This section is a legislative restriction on the ability of municipalities to regulate solar and wind energy systems. The statute is not superseded by s. 66.0403 or municipal zoning or conditional use powers. A municipality's consideration of an application for a conditional use permit for a system under this section must be in light of the restrictions placed on local regulation by this section. State ex rel. Numrich v. City of Mequon Board of Zoning Appeals, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00−1643.

Sub. (1) requires a case−by−case approach, such as a conditional use permit procedure, and does not allow political subdivisions to find legislative facts or make policy. The local governing arm must hear the specifics of the particular system and then decide whether a restriction is warranted. It may not promulgate an ordinance in which it arbitrarily sets a "one size fits all" scheme of requirements for any system. The conditions listed in sub. (1) (a) to (c) are the standards circumscribing the power of political subdivisions, not openings for them to make policy that is contrary to the

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state's expressed policy. Ecker Brothers v. Calumet County, 2009 WI App 112, 321 Wis. 2d 51, 772 N.W.2d 240, 07−2109.

66.0403 Solar and wind access permits. (1) DEFINITIONS. In this section:

(a) "Agency" means the governing body of a municipality which has provided for granting a permit or the agency which the governing body of a municipality creates or designates under sub. (2). "Agency" includes an officer or employee of the municipality.

(b) "Applicant" means an owner applying for a permit under this section.

(c) "Application" means an application for a permit under this section.

(d) "Collector surface" means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, supports and mounting hardware.

(e) "Collector use period" means 9 a.m. to 3 p.m. standard time daily.

(f) "Impermissible interference" means the blockage of wind from a wind energy system or solar energy from a collector surface or proposed collector surface for which a permit has been granted under this section during a collector use period if such blockage is by any structure or vegetation on property, an owner of which was notified under sub. (3) (b). "Impermissible interference" does not include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially interfere with absorption of solar energy by a solar collector or does not substantially block wind from a wind energy system.

2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under sub. (3) (b).

3. Blockage by any vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b) unless a municipality by ordinance under sub. (2) defines impermissible interference to include such vegetation.

(g) "Municipality" means any county with a zoning ordinance under s. 59.69, any town with a zoning ordinance under s. 60.61, any city with a zoning ordinance under s. 62.23 (7), any 1st class city or any village with a zoning ordinance under s. 61.35.

(h) "Owner" means at least one owner, as defined under s. 66.0217 (1) (d), of a property or the personal representative of at least one owner.

(i) "Permit" means a solar access permit or a wind access permit issued under this section.

(j) "Solar collector" means a device, structure or a part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(k) "Solar energy" means direct radiant energy received from the sun.

(L) "Standard time" means the solar time of the ninetieth meridian west of Greenwich.

(m) "Wind energy system" means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.

(2) PERMIT PROCEDURE. The governing body of every municipality may provide for granting a permit. A permit may not affect any land except land which, at the time the permit is granted, is within the territorial limits of the municipality or is subject to an extraterritorial zoning ordinance adopted under s. 62.23 (7a), except that a permit issued by a city or village may not affect extraterritorial land subject to a zoning ordinance adopted by a county or a town. The governing body may appoint itself as the agency to process applications or may create or designate another agency to grant permits. The governing body may provide by ordinance that a fee be charged to cover the costs of processing applications. The governing body may adopt an ordinance with any provision it deems necessary for granting a permit under this section, including but not limited to:

(a) Specifying standards for agency determinations under sub. (5) (a).

(b) Defining an impermissible interference to include vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b), provided that the permit holder shall be responsible for the cost of trimming such vegetation.

(3) PERMIT APPLICATIONS. (a) In a municipality which provides for granting a permit under this section, an owner who has installed or intends to install a solar collector or wind energy system may apply to an agency for a permit.

(b) An agency shall determine if an application is satisfactorily completed and shall notify the applicant of its determination. If an applicant receives notice that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand a notice to the owner of any property which the applicant proposes to be restricted by the permit under sub. (7). The applicant shall submit to the agency a copy of a signed receipt for every notice delivered under this paragraph. The agency shall supply the notice form. The information on the form may include, without limitation because of enumeration:

1. The name and address of the applicant, and the address of the land upon which the solar collector or wind energy system is or will be located.

2. That an application has been filed by the applicant.

3. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.

4. The telephone number, address and office hours of the agency.

5. That any person may request a hearing under sub. (4) within 30 days after receipt of the notice, and the address and procedure for filing the request.

(4) HEARING. Within 30 days after receipt of the notice under sub. (3) (b), any person who has received a notice may file a request for a hearing on the granting of a permit or the agency may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the agency determines that a hearing is necessary, the agency shall conduct a hearing on the application within 90 days after the last notice is delivered. At least 30 days prior to the hearing date, the agency shall notify the applicant, all owners notified under sub. (3) (b) and any other person filing a request of the time and place of the hearing.

(5) PERMIT GRANT. (a) The agency shall grant a permit if the agency determines that:

1. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the municipality;

2. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sub. (3) (b), has expended at least $500 on planning or designing such a structure or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference; and

3. The benefits to the applicant and the public will exceed any burdens.

(b) An agency may grant a permit subject to any condition or exemption the agency deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may include but are not limited to restrictions on the location of the solar collector or wind energy system and require-

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ments for the compensation of persons affected by the granting of the permit.

(6) RECORD OF PERMIT. If an agency grants a permit:

(a) The agency shall specify the property restricted by the permit under sub. (7) and shall prepare notice of the granting of the permit. The notice shall include the identification required under s. 706.05 (2) (c) for the owner and the property upon which the solar collector or wind energy system is or will be located and for any owner and property restricted by the permit under sub. (7), and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector or wind energy system which is the subject of the permit unless the permit affecting the property is terminated under sub. (9) or unless an agreement affecting the property is filed under sub. (10).

(b) The applicant shall record with the register of deeds of the county in which the property is located the notice under par. (a) for each property specified under par. (a) and for the property upon which the solar collector or wind energy system is or will be located.

(7) REMEDIES FOR IMPERMISSIBLE INTERFERENCE. (a) Any person who uses property which he or she owns or permits any other person to use the property in a way which creates an impermissible interference under a permit which has been granted or which is the subject of an application shall be liable to the permit holder or applicant for damages, except as provided under par. (b), for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:

1. The building permit was applied for prior to receipt of a notice under sub. (3) (b) or the agency determines not to grant a permit after a hearing under sub. (4).

2. A permit affecting the property is terminated under sub. (9).

3. An agreement affecting the property is filed under sub. (10).

(b) A permit holder is entitled to an injunction to require the trimming of any vegetation which creates or would create an impermissible interference as defined under sub. (1) (f). If the court finds on behalf of the permit holder, the permit holder shall be entitled to a permanent injunction, damages, court costs and reasonable attorney fees.

(8) APPEALS. Any person aggrieved by a determination by a municipality under this section may appeal the determination to the circuit court for a review.

(9) TERMINATION OF SOLAR OR WIND ACCESS RIGHTS. (a) Any right protected by a permit under this section shall terminate if the agency determines that the solar collector or wind energy system which is the subject of the permit is:

1. Permanently removed or is not used for 2 consecutive years, excluding time spent on repairs or improvements.

2. Not installed and functioning within 2 years after the date of issuance of the permit.

(b) The agency shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under par. (a).

(c) If the agency terminates a permit, the agency may charge the permit holder for the cost of recording and record a notice of termination with the register of deeds, who shall record the notice with the notice recorded under sub. (6) (b) or indicate on any notice recorded under sub. (6) (b) that the permit has been terminated.

(10) WAIVER. A permit holder by written agreement may waive all or part of any right protected by a permit. A copy of such agreement shall be recorded with the register of deeds, who shall record such copy with the notice recorded under sub. (6) (b).

(11) PRESERVATION OF RIGHTS. The transfer of title to any property shall not change the rights and duties under this section or under an ordinance adopted under sub. (2).

(12) CONSTRUCTION. (a) This section may not be construed to require that an owner obtain a permit prior to installing a solar collector or wind energy system.

(b) This section may not be construed to mean that acquisition of a renewable energy resource easement under s. 700.35 is in any way contingent upon the granting of a permit under this section.

History: 1981 c. 354; 1983 a. 189 s. 329 (14); 1983 a. 532 s. 36; 1993 a. 414; 1995 a. 201; 1999 a. 150 s. 82; Stats. 1999 s. 66.0403; 2007 a. 97; 2009 a. 40.

The common law right to solar access is discussed. Prah v. Maretti, 108 Wis. 2d 223, 321 N.W.2d 182 (1982).

The owner of an energy system does not need a permit under this section. Barring enforceable municipal restrictions, an owner may construct a system without prior municipal approval. This section benefits and protects the owner of the system by restricting the use of nearby property to prevent an interference with the system. State ex rel. Numrich v. City of Mequon Board of Zoning Appeals, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00−1643.

Wisconsin recognizes the power of the sun: Prah v. Maretti and the solar access act. 1983 WLR 1263.

66.0405 Removal of rubbish. Cities, villages and towns may remove ashes, garbage, and rubbish from such classes of places in the city, village or town as the board or council directs. The removal may be from all of the places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property. The cost of removal may be funded by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village or town. If a city, village or town contracts for ash, garbage or rubbish removal service, it may contract with one or more service providers.

History: 1993 a. 246; 1999 a. 150 s. 119; Stats. 1999 s. 66.0405.

66.0407 Noxious weeds. (1) In this section:

(a) "Destroy" means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.

(b) "Noxious weed" means Canada thistle, leafy spurge, field bindweed, any weed designated as a noxious weed by the department of natural resources by rule, and any other weed the governing body of any municipality or the county board of any county by ordinance or resolution declares to be noxious within its respective boundaries.

(3) A person owning, occupying or controlling land shall destroy all noxious weeds on the land. The person having immediate charge of any public lands shall destroy all noxious weeds on the lands. The highway patrolman on all federal, state or county trunk highways shall destroy all noxious weeds on that portion of the highway which that highway patrolman patrols. The town board is responsible for the destruction of all noxious weeds on the town highways.

(4) The chairperson of each town, the president of each village and the mayor or manager of each city may annually on or before May 15 publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds, as defined in this section, on lands in the municipality which the person owns, occupies or controls. A town, village or city which has designated as its official newspaper or which uses for its official notices the same newspaper as any other town, village or city may publish the notice under this subsection in combination with the other town, village or city.

(5) This section does not apply to Canada thistle or annual noxious weeds that are located on land that the department of natural resources owns, occupies or controls and that is maintained in whole or in part as habitat for wild birds by the department of natural resources.

History: 1975 c. 394 s. 12; 1975 c. 421; Stats. 1975 s. 66.96; 1983 a. 112, 189; 1989 a. 56 s. 258; 1991 a. 39, 316; 1997 a. 287; 1999 a. 150 ss. 617 to 619; Stats. 1999 s. 66.0407; 2009 a. 55.

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66.0409 Local regulation of firearms. (1) In this section:

(a) "Firearm" has the meaning given in s. 167.31 (1) (c).

(b) "Political subdivision" means a city, village, town or county.

(c) "Sport shooting range" means an area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.

(2) Except as provided in subs. (3) and (4), no political subdivision may enact an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(3) (a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subch. V of ch. 77 on any firearm or part of a firearm, including ammunition and reloader components, sold in the county.

(b) Nothing in this section prohibits a city, village or town that is authorized to exercise village powers under s. 60.22 (3) from enacting an ordinance or adopting a resolution that restricts the discharge of a firearm. Any ordinance or resolution that restricts the discharge of a firearm does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in s. 939.45.

(4) (a) Nothing in this section prohibits a political subdivision from continuing to enforce an ordinance or resolution that is in effect on November 18, 1995, and that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, if the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(am) Nothing in this section prohibits a political subdivision from continuing to enforce until November 30, 1998, an ordinance or resolution that is in effect on November 18, 1995, and that requires a waiting period of not more than 7 days for the purchase of a handgun.

(b) If a political subdivision has in effect on November 17, 1995, an ordinance or resolution that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, and the ordinance or resolution is not the same as or similar to a state statute, the ordinance or resolution shall have no legal effect and the political subdivision may not enforce the ordinance or resolution on or after November 18, 1995.

(c) Nothing in this section prohibits a political subdivision from enacting and enforcing a zoning ordinance that regulates the new construction of a sport shooting range or when the expansion of an existing sport shooting range would impact public health and safety.

(5) A county ordinance that is enacted or a county resolution that is adopted by a county under sub. (2) or a county ordinance or resolution that remains in effect under sub. (4) (a) or (am) applies only in those towns in the county that have not enacted an ordinance or adopted a resolution under sub. (2) or that continue to enforce an ordinance or resolution under sub. (4) (a) or (am), except that this subsection does not apply to a sales or use tax that is imposed under subch. V of ch. 77.

(6) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, no person may be in violation of, or be charged with a violation of, an ordinance of a political subdivision relating to disorderly conduct or other inappropriate behavior for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried. Any ordinance in violation of this subsection does not apply and may not be enforced.

History: 1995 a. 72; 1999 a. 150 s. 260; Stats. 1999 s. 66.0409; 2011 a. 35.

This section does not prohibit municipalities from enacting and enforcing zoning ordinances that apply to sport shooting ranges. Town of Avon v. Oliver, 2002 WI App 97, 253 Wis. 2d 647, 644 N.W.2d 260, 01−1851.

66.0410 Local regulation of ticket reselling. (1) DEFINITIONS. In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "Ticket" means a ticket that is sold to an entertainment or sporting event.

(2) RESELLING OF TICKETS. (a) A political subdivision may not enact an ordinance or adopt a resolution and the Board of Regents of the University of Wisconsin System may not promulgate a rule or adopt a resolution prohibiting the resale of any ticket for an amount that is equal to or less than the ticket's face value.

(b) If a political subdivision or the Board of Regents of the University of Wisconsin System has in effect on April 22, 2004 an ordinance, rule, or resolution that is inconsistent with par. (a), the ordinance, rule, or resolution does not apply and may not be enforced.

History: 2003 a. 191.

66.0411 Sound−producing devices; impoundment; seizure and forfeiture. (1) In this section, "sound−producing device" does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.

(1m) (a) Any city, village, town or county may, by ordinance, authorize a law enforcement officer, at the time of issuing a citation for a violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise, to impound any radio, electric sound amplification device or other sound−producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound amplification device or other sound−producing device and has 2 or more prior convictions within a 3−year period of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise. The ordinance may provide for impoundment of a vehicle for not more than 5 working days to permit the city, village, town or county or its authorized agent to remove the radio, electric sound amplification device or other sound−producing device if the vehicle is owned by the person charged with the violation and the sound−producing device may not be easily removed from the vehicle. Upon removal of the sound−producing device, an impounded vehicle shall be returned to its rightful owner.

(b) The ordinance under par. (a) may provide for recovery by the city, village, town or county of the cost of impounding the sound−producing device and, if a vehicle is impounded, the cost of impounding the vehicle and removing the sound−producing device. The ordinance under par. (a) shall provide that, upon disposition of the forfeiture action for the violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise and payment of any forfeiture imposed, the sound−producing device shall be returned to its rightful owner.

(c) The city, village, town or county may dispose of any impounded sound−producing device or, following the procedure for an abandoned vehicle under s. 342.40, any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.

(d) This subsection does not apply to a radio, electric sound amplification device or other sound−producing device on a motorcycle.

(2) (a) Notwithstanding sub. (1m), any city, village, town or county may, by ordinance, authorize a law enforcement officer, at

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the time of issuing a citation for a violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise, to seize any radio, electric sound amplification device or other sound−producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound amplification device or other sound−producing device and has 3 or more prior convictions within a 3−year period of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise.

(b) The ordinance under par. (a) may provide for impoundment of a vehicle for not more than 5 working days to permit the city, village, town or county or its authorized agent to remove the radio, electric sound amplification device or other sound−producing device if the vehicle is owned by the person charged with the violation and the sound−producing device may not be easily removed from the vehicle. Upon removal of the sound−producing device, an impounded vehicle shall be returned to its rightful owner upon payment of the reasonable costs of impounding the vehicle and removing the sound−producing device.

(c) The ordinance under par. (a) shall include provisions that treat any seized sound−producing device in substantially the manner provided in ss. 973.075 (3), 973.076 and 973.077 for property realized through the commission of any crime, except that the sound−producing device shall remain in the custody of the applicable law enforcement agency; a district attorney or city, village or town attorney, whichever is applicable, shall institute the forfeiture proceedings; and, if the sound−producing device is sold by the law enforcement agency, all proceeds of the sale shall be retained by the applicable city, village, town or county.

(d) The city, village, town or county may, following the procedure for an abandoned vehicle under s. 342.40, dispose of any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.

(e) This subsection does not apply to a radio, electric sound amplification device or other sound−producing device on a motorcycle.

History: 1995 a. 373; 1999 a. 150 s. 613; Stats. 1999 s. 66.0411.

66.0413 Razing buildings. (1) AUTHORITY AND PROCEDURE. (a) *Definitions.* In this subsection:

1. "Building" includes any building or structure or any portion of a building or structure.

2. "Raze a building" means to demolish and remove the building and to restore the site to a dust−free and erosion−free condition.

(b) *Raze order.* The governing body, building inspector or other designated officer of a municipality may:

1. If a building is old, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair, order the owner of the building to raze the building or, if the building can be made safe by reasonable repairs, order the owner to either make the building safe and sanitary or to raze the building, at the owner's option.

2. If there has been a cessation of normal construction of a building for a period of more than 2 years, order the owner of the building to raze the building.

(br) *Notice of unfitness for occupancy or use; penalty.* 1. If a building subject to an order under par. (b) is unsanitary and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the building inspector or other designated officer shall post a placard on the premises containing the following notice: "This Building May Not Be Used For Human Habitation, Occupancy or Use." The building inspector or other designated officer shall prohibit use of the building for human habitation, occupancy or use until necessary repairs have been made.

2. Any person who rents, leases or occupies a building which has been condemned for human habitation, occupancy or use under subd. 1. shall be fined not less than $5 nor more than $50 or imprisoned not more than 30 days for each week of the violation, or both.

(c) *Reasonableness of repair; presumption.* Except as provided in sub. (3), if a municipal governing body, building inspector or designated officer determines that the cost of repairs of a building described in par. (b) 1. would exceed 50% of the assessed value of the building divided by the ratio of the assessed value to the recommended value as last published by the department of revenue for the municipality within which the building is located, the repairs are presumed unreasonable for purposes of par. (b) 1.

(d) *Service of order.* An order under par. (b) shall be served on the owner of record of the building that is subject to the order or on the owner's agent if the agent is in charge of the building in the same manner as a summons is served in circuit court. An order under par. (b) shall be served on the holder of an encumbrance of record by 1st class mail at the holder's last−known address and by publication as a class 1 notice under ch. 985. If the owner and the owner's agent cannot be found or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class 1 notice under ch. 985 before the time limited in the order begins to run. The time limited in the order begins to run from the date of service on the owner or owner's agent or, if the owner and agent cannot be found, from the date that the order was posted on the building.

(e) *Effect of recording order.* If a raze order issued under par. (b) is recorded with the register of deeds in the county in which the building is located, the order is considered to have been served, as of the date the raze order is recorded, on any person claiming an interest in the building or the real estate as a result of a conveyance from the owner of record unless the conveyance was recorded before the recording of the raze order.

(f) *Failure to comply with order; razing building.* An order under par. (b) shall specify the time within which the owner of the building is required to comply with the order and shall specify repairs, if any. If the owner fails or refuses to comply within the time prescribed, the building inspector or other designated officer may proceed to raze the building through any available public agency or by contract or arrangement with private persons, or to secure the building and, if necessary, the property on which the building is located if unfit for human habitation, occupancy or use. The cost of razing or securing the building may be charged in full or in part against the real estate upon which the building is located, and if that cost is so charged it is a lien upon the real estate and may be assessed and collected as a special tax. Any portion of the cost charged against the real estate that is not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement may be assessed and collected as a special tax.

(g) *Court order to comply.* A municipality, building inspector or designated officer may commence and prosecute an action in circuit court for an order of the court requiring the owner to comply with an order to raze a building issued under this subsection if the owner fails or refuses to do so within the time prescribed in the order, or for an order of the court requiring any person occupying a building whose occupancy has been prohibited under this subsection to vacate the premises, or any combination of the court orders. A hearing on actions under this paragraph shall be given preference. Court costs are in the discretion of the court.

(h) *Restraining order.* A person affected by an order issued under par. (b) may within the time provided by s. 893.76 apply to the circuit court for an order restraining the building inspector or other designated officer from razing the building or forever be barred. The hearing shall be held within 20 days and shall be given preference. The court shall determine whether the raze order is reasonable. If the order is found reasonable the court shall dissolve the restraining order. If the order is found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs are in the discretion of the court. If the court finds that the order is unreasonable, the building inspector

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or other designated officer shall issue no other order under this subsection in regard to the same building until its condition is substantially changed. The remedies provided in this paragraph are exclusive remedies and anyone affected by an order issued under par. (b) is not entitled to recover any damages for the razing of the building.

(i) *Removal of personal property.* If a building subject to an order under par. (b) contains personal property or fixtures which will unreasonably interfere with the razing or repair of the building or if the razing makes necessary the removal, sale or destruction of the personal property or fixtures, the building inspector or other designated officer may order in writing the removal of the personal property or fixtures by a date certain. The order shall be served as provided in par. (d). If the personal property or fixtures are not removed by the time specified the inspector may store, sell or, if it has no appreciable value, destroy the personal property or fixture. If the property is stored the amount paid for storage is a lien against the property and against the real estate and, to the extent that the amount is not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement, shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner of the property, if known, shall be notified of the place of storage and if the property is not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. The handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be as specified in par. (j) and a report made to the circuit court as specified in par. (j). A person affected by any order made under this paragraph may appeal as provided in par. (h).

(j) *Sale of salvage.* If an order to raze a building has been issued, the governing body or other designated officer under the contract or arrangement to raze the building may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of the sale, after deducting the expenses of razing the building, shall be promptly remitted to the circuit court with a report of the sale or transaction, including the items of expense and the amounts deducted, for the use of any person entitled to the net proceeds, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state.

(k) *Public nuisance procedure.* A building which is determined under par. (b) 1. to be old, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair may be proceeded against as a public nuisance under ch. 823.

(L) *Effect of subsection.* 1. Acts of municipal authorities under this subsection do not increase the liability of an insurer.

2. This section does not limit powers otherwise granted to municipalities by other laws of this state.

(2) RAZING BUILDING THAT IS A PUBLIC NUISANCE; IN REM PROCEDURE. (a) *Definitions.* In this subsection:

1. "Building" means a building, dwelling or structure.

2. "Public nuisance" means a building that, as a result of vandalism or any other reason, has deteriorated or is dilapidated or blighted to the extent that windows, doors or other openings, plumbing or heating fixtures, or facilities or appurtenances of the building are damaged, destroyed or removed so that the building offends the aesthetic character of the immediate neighborhood and produces blight or deterioration.

3. "Raze a building" means to demolish and remove the building and to restore the site to a dust−free and erosion−free condition.

(b) *Notification of nuisance.* If the owner of a building in a city, village or town permits the building to become a public nuisance, the building inspector or other designated officer of the city, village or town shall issue a written notice of the defect that makes the building a public nuisance. The written notice shall be served on the owner of the building as provided under sub. (1) (d) and shall direct the owner to remedy the defect within 30 days following service.

(c) *Failure to remedy; court order to remedy or raze.* 1. If an owner fails to remedy or improve the defect in accordance with the written notice under par. (b) within the 30−day period specified in the written notice, the building inspector or other designated officer shall apply to the circuit court of the county in which the building is located for an order determining that the building constitutes a public nuisance. As a part of the application for the order from the circuit court the building inspector or other designated officer shall file a verified petition which recites the giving of written notice, the defect in the building, the owner's failure to comply with the notice and other pertinent facts. A copy of the petition shall be served upon the owner of record or the owner's agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1) (d). The owner shall reply to the petition within 20 days following service upon the owner. Upon application by the building inspector or other designated officer the circuit court shall set promptly the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence on the petition and answer determines that the building constitutes a public nuisance, the court shall issue promptly an order directing the owner of the building to remedy the defect and to make such repairs and alterations as may be required. The court shall set a reasonable period of time in which the defect shall be remedied and the repairs or alterations completed. A copy of the order shall be served upon the owner as provided in sub. (1) (d). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, the court will appoint a receiver or authorize the building inspector or other designated officer to proceed to raze the building under par. (d).

2. In an action under this subsection, the circuit court before which the action is commenced shall exercise jurisdiction in rem or quasi in rem over the property that is the subject of the action. The owner of record of the property, if known, and all other persons of record holding or claiming any interest in the property shall be made parties defendant, and service of process may be made upon them.

3. It is not a defense to an action under this subsection that the owner of record of the property is a different person or entity than the owner of record of the property on or after the date the action was commenced if a lis pendens was filed before the change of ownership.

(d) *Failure to comply with court order.* If the order of the circuit court under par. (c) is not complied with within the time fixed by the court under par. (c), the court shall authorize the building inspector or other designated officer to raze the building or shall appoint a disinterested person to act as receiver of the property to do either of the following within a reasonable period of time set by the court:

1. Remedy the defect and make any repairs and alterations necessary to meet the standards required by the building code or any health order. A receiver appointed under this subdivision, with the approval of the circuit court, may borrow money against and mortgage the property held in receivership as security in any amount necessary to remedy the defect and make the repairs and alterations. For the expenses incurred to remedy the defect and make the repairs and alterations necessary under this subdivision, the receiver has a lien upon the property. At the request of and with the approval of the owner, the receiver may sell the property at a price equal to at least the appraised value of the property plus the cost of any repairs made under this subdivision. The selling owner is liable for those costs.

2. Secure and sell the building to a buyer who demonstrates to the circuit court an ability and intent to rehabilitate the building and to have the building reoccupied in a legal manner.

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(e) *Receiver; order to raze.* 1. A receiver appointed under par. (d) shall collect all rents and profits accruing from the property held in receivership and pay all costs of management, including all general and special real estate taxes or assessments and interest payments on first mortgages on the property. A receiver under par. (d) shall apply moneys received from the sale of property held in receivership to pay all debts due on the property in the order set by law and shall pay any balance to the selling owner if the circuit court approves.

2. The circuit court shall set the fees and bond of a receiver appointed under par. (d) and may discharge the receiver as the court considers appropriate.

3. Nothing in this subsection relieves the owner of property for which a receiver has been appointed under par. (d) from any civil or criminal responsibility or liability except that the receiver has civil and criminal responsibility and liability for all matters and acts directly under the receiver's authority or performed at his or her discretion.

4. If a defect is not remedied and repairs and alterations are not made within the time limit set by the circuit court under par. (d), the court shall order that the building inspector or other designated officer proceed to raze the building.

5. All costs and disbursements to raze a building under this subsection shall be as provided under sub. (1) (f).

(3) RAZING HISTORIC BUILDINGS. (a) In this subsection:

1. "Cost of repairs" includes the estimated cost of repairs that are necessary to comply with applicable building codes, or other ordinances or regulations, governing the repair or renovation of a historic building.

1m. "Historic building" means any building or object listed on, or any building or object within and contributing to a historic district listed on, the national register of historic places in Wisconsin, the state register of historic places or a list of historic places maintained by a municipality.

2. "Municipality" means a city, village, county or town.

(b) The state historical society shall notify a municipality of any historic building located in the municipality. If a historic district lies within a municipality, the historical society shall furnish to the municipality a map delineating the boundaries of the district.

(c) If an order is issued under this section to raze and remove a historic building and restore the site to a dust−free and erosion−free condition, an application is made for a permit to raze and remove a historic building and restore the site to a dust−free and erosion−free condition or a municipality intends to raze and remove a municipally owned historic building and restore the site to a dust−free and erosion−free condition, the municipality in which the historic building is located shall notify the state historical society of the order, application or intent. No historic building may be razed and removed nor the site restored to a dust−free and erosion−free condition for 30 days after the notice is given, unless a shorter period is authorized by the state historical society. If the state historical society authorizes a shorter period, however, such a period shall be subject to any applicable local ordinance. During the 30−day period, the state historical society shall have access to the historic building to create or preserve a historic record. If the state historical society completes its creation or preservation of a historic record, or decides not to create or preserve a historic record, before the end of the 30−day period, the society may waive its right to access the building and may authorize the person who intends to raze and remove the building, and restore the site to a dust−free and erosion−free condition, to proceed before the end of such period, except that such a person shall be subject to any applicable local ordinance.

(d) If a municipal governing body, inspector of buildings or designated officer determines that the cost of repairs to a historic building would be less than 85% of the assessed value of the building divided by the ratio of the assessed value to the recommended value as last published by the department of revenue for the municipality within which the historic building is located, the repairs are presumed reasonable.

(4) FIRST CLASS CITIES; OTHER PROVISIONS. (a) First class cities may adopt by ordinance alternate or additional provisions governing the placarding, closing, razing and removal of a building and the restoration of the site to a dust−free and erosion−free condition.

(b) This subsection shall be liberally construed to provide 1st class cities with the largest possible power and leeway of action.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413; 2001 a. 103; 2005 a. 442.

The 30−day time limitation within which an owner may apply to the circuit court for an order restraining a municipality from razing a building applicable to sub. (3) [(now (1) (h)], requires an application to the court within the 30−day period. Service of the application or resultant order need not be made within that period, although a hearing on the merits of the controversy must be held within 20 days. Berkoff v. Milwaukee Department of Building Inspection & Safety Engineering, 47 Wis. 2d 215, 177 N.W.2d 142 (1970).

The owner has no option to repair buildings ordered razed when the cost of repair would be unreasonable, i.e., exceeding 50% of value. Appleton v. Brunschweiler, 52 Wis. 2d 303, 190 N.W.2d 545 (1971).

The statute only creates a presumption that repairs in excess of 50% are unreasonable; the property owner has the burden to show that the presumption is unreasonable in the particular case. Posnanski v. City of West Allis, 61 Wis. 2d 461, 213 N.W.2d 51 (1973).

The trial court exceeded its authority in modifying a building inspector's order to raze a building by instead ordering repairs necessary to make the building fit for human habitation. Modification of an inspector's order must be made in light of the purpose of protecting the public from unsafe buildings. Donley v. Boettcher, 79 Wis. 2d 393, 255 N.W.2d 574 (1977).

Persons affected by a raze order have an exclusive remedy under sub. (3) [now sub. (1) (h)]. Gehr v. Sheboygan, 81 Wis. 2d 117, 260 N.W.2d 30 (1977).

A city was properly held in contempt for razing a building protected by a foreclosure judgment. Mohr v. Milwaukee, 106 Wis. 2d 80, 315 N.W.2d 504 (1982).

A land contract vendor is not an owner of real estate under this section. City of Milwaukee v. Greenberg, 163 Wis. 2d 28, 471 N.W.2d 33 (1991).

The 20−day time limit under sub. (1) (h) is directory rather than mandatory. The trial court shall attempt to hold the hearing within 20 days of the application. If a timely request for judicial substitution is filed that increases the time requirements, the court shall schedule the hearing at the earliest convenient time. Matlin v. City of Sheboygan, 2001 WI App 179, 247 Wis. 2d 270, 634 N.W.2d 115, 00−2389.

Sub. (1) (h) does not bar a property owner from: 1) asserting claims for torts committed in the carrying out of the raze order that are not premised on the wrongfulness or unreasonableness of the order; 2) challenging the reasonableness of a lien imposed under sub. (1) (f) if one has been imposed; and 3) asserting a claim that salvage and valuable materials have been removed from the real estate for the benefit of the contractor without giving the owner a credit against the charges for the costs of razing and removing under sub. (1) (j). Smith v. Williams, 2001 WI App 285, 249 Wis. 2d 419, 638 N.W.2d 635, 00−3399.

A constructive total loss occurs following the issuance of a raze order. However, there is no requirement on the city to prove that the property was a total loss prior to issuance of a raze order under an ordinance adopted under sub. (4). A&A Enterprises v. City of Milwaukee, 2008 WI App 43, 308 Wis. 2d 479, 747 N.W.2d 751, 07−0300.

There was no constitutional "taking" when tenants were ordered to temporarily vacate their uninhabitable dwelling to permit repairs pursuant to the housing code. Devines v. Maier, 728 F.2d 876 (1984).

66.0415 Offensive industry. (1) The common council of a city or village board may direct the location, management and construction of, and license, regulate or prohibit, any industry, thing or place where any nauseous, offensive or unwholesome business is carried on, that is within the city or village or within 4 miles of the boundaries of the city or village, except that the Milwaukee, Menominee and Kinnickinnic rivers with their branches to the outer limits of the county of Milwaukee, and all canals connecting with these rivers, together with the lands adjacent to these rivers and canals or within 100 yards of them, are within the jurisdiction of the city of Milwaukee. A town board has the same powers as are provided in this section for cities and villages as to the area within the town that is not licensed, regulated or prohibited by a city or village under this section. A business that is conducted in violation of a city, village or town ordinance that is authorized under this section is a public nuisance. An action for the abatement or removal of the business or an injunction to prevent operation of the business may be brought and maintained by the common council or village or town board in the name of this state on the relation of the city, village or town as provided in ss. 823.01, 823.02 and 823.07, or as provided in s. 254.58. Section 97.42 does not limit the powers granted by this section. Section 95.72 does not limit the powers granted by this section to cities or villages but

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powers granted to towns by this section are limited by s. 95.72 and by any orders and rules promulgated under s. 95.72.

(2) To prevent nuisance, a city or village may, subject to the approval of the appropriate town board, by ordinance enact reasonable regulations governing areas where refuse, rubbish, ashes or garbage are dumped or accumulated in a town within one mile of the corporate limits of the city or village.

History: 1973 c. 206; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1993 a. 27; 1999 a. 150 s. 155; Stats. 1999 s. 66.0415.

The social and economic roots of judge−made air pollution policy in Wisconsin. Laitos, 58 MLR 465.

66.0417 Local enforcement of certain food and health regulations. (1) An employee or agent of a local health department designated by the department of health services under s. 254.69 (2) or the department of agriculture, trade and consumer protection under s. 97.41 may enter, at reasonable hours, any premises for which the local health department issues a permit under s. 97.41 or 254.69 (2) to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce subch. VII of ch. 254, ch. 97 or s. 254.47, relating to those premises. If samples of food are taken, the local health department shall pay or offer to pay the market value of those samples. The local health department, department of health services or department of agriculture, trade and consumer protection shall examine the samples and specimens secured and shall conduct other inspections and examinations needed to determine whether there is a violation of subch. VII of ch. 254, ch. 97 or s. 254.47, rules adopted by the departments under those statutes, ordinances adopted by the village, city or county or regulations adopted by the local board of health under s. 97.41 (7) or 254.69.

(2) (a) Whenever, as a result of an examination, a village, city or county has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition, operation or method of operation of the premises or equipment used on the premises creates an immediate danger to health, the administrator of the village, city or county agency responsible for the village's, city's or county's agent functions under s. 97.41 or 254.69 (2) may issue a temporary order and cause it to be delivered to the permittee, or to the owner or custodian of the food, or to both. The order may prohibit the sale or movement of the food for any purpose, prohibit the continued operation or method of operation of specific equipment, require the premises to cease any other operation or method of operation which creates the immediate danger to health, or set forth any combination of these requirements. The administrator may order the cessation of all operations authorized by the permit only if a more limited order does not remove the immediate danger to health. Except as provided in par. (c), no temporary order is effective for longer than 14 days from the time of its delivery, but a temporary order may be reissued for one additional 14−day period, if necessary to complete the analysis or examination of samples, specimens or other evidence.

(b) No food described in a temporary order issued and delivered under par. (a) may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the village, city or county, until the order has terminated or the time period specified in par. (a) has run out, whichever occurs first. If the village, city or county, upon completed analysis and examination, determines that the food, construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health, the permittee, owner or custodian of the food or premises shall be promptly notified in writing and the temporary order shall terminate upon his or her receipt of the written notice.

(c) If the analysis or examination shows that the food, construction, sanitary condition, operation or method of operation of the premises or equipment constitutes an immediate danger to health, the permittee, owner or custodian shall be notified within the effective period of the temporary order issued under par. (a). Upon receipt of the notice, the temporary order remains in effect until a final decision is issued under sub. (3), and no food described in the temporary order may be sold or moved and no operation or method of operation prohibited by the order may be resumed without the approval of the village, city or county.

(3) A notice issued under sub. (2) (c) shall be accompanied by notice of a hearing as provided in s. 68.11 (1). The village, city or county shall hold a hearing no later than 15 days after the service of the notice, unless both parties agree to a later date. Notwithstanding s. 68.12, a final decision shall be issued under s. 68.12 within 10 days of the hearing. The decision may order the destruction of food, the diversion of food to uses which do not pose a danger to health, the modification of food so that it does not create a danger to health, changes to or replacement of equipment or construction, other changes in or cessations of any operation or method of operation of the equipment or premises, or any combination of these actions necessary to remove the danger to health. The decision may order the cessation of all operations authorized by the permit only if a more limited order will not remove the immediate danger to health.

(4) A proceeding under this section, or the issuance of a permit for the premises after notification of procedures under this section, does not constitute a waiver by the village, city or county of its authority to rely on a violation of ch. 97, s. 254.47 or subch. VII of ch. 254 or any rule adopted under those statutes as the basis for any subsequent suspension or revocation of the permit or any other enforcement action arising out of the violation.

(5) (a) Except as provided in par. (b), any person who violates this section or an order issued under this section may be fined not more than $10,000 plus the retail value of any food moved, sold or disposed of in violation of this section or the order, or imprisoned not more than one year in the county jail, or both.

(b) Any person who does either of the following may be fined not more than $5,000 or imprisoned not more than one year in a county jail, or both:

1. Assaults, restrains, threatens, intimidates, impedes, interferes with or otherwise obstructs a village, city or county inspector, employee or agent in the performance of his or her duties under this section.

2. Gives false information to a village, city or county inspector, employee or agent engaged in the performance of his or her duties under this section, with the intent to mislead the inspector, employee or agent.

History: 1983 a. 203; 1987 a. 27 ss. 1217oc, 3200 (24); 1993 a. 27; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 293; Stats. 1999 s. 66.0417; 2007 a. 20 s. 9121 (6) (a).

66.0420 Video service. (1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

(a) Video service brings important daily benefits to state residents by providing news, education, and entertainment.

(b) Uniform regulation of all video service providers by this state is necessary to ensure that state residents receive adequate and efficient video service and to protect and promote the public health, safety, and welfare.

(c) Fair competition in the provision of video service will result in new and more video programming choices for consumers in this state, and a number of providers have stated their desire to provide that service.

(d) Timely entry into the market is critical for new entrants seeking to compete with existing providers.

(e) This state's economy would be enhanced by additional investment in communications and video programming infrastructure by existing and new providers of video service.

(f) Minimal regulation of all providers of video service within a uniform framework will promote the investment described in par. (e).

(g) Ensuring that existing providers of video service are subject to the same regulatory requirements and procedures as new entrants will ensure fair competition among all providers.

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(h) This section is an enactment of statewide concern for the purpose of providing uniform regulation of video service that promotes investment in communications and video infrastructures and the continued development of this state's video service marketplace within a framework that is fair and equitable to all providers.

(2) DEFINITIONS. In this section:

(a) "Affiliate," when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with such person.

(b) "Basic local exchange service area" means the area on file with the public service commission in which a telecommunications video service provider provides basic local exchange service, as defined in s. 196.01 (1g).

(c) "Cable franchise" means a franchise granted under s. 66.0419 (3) (b), 2005 stats.

(d) "Cable operator" has the meaning given in 47 USC 522 (5).

(e) "Cable service" has the meaning given in 47 USC 522 (6).

(f) "Cable system" has the meaning given in 47 USC 522 (7).

(g) Except as provided in sub. (8) (ag), "department" means the department of financial institutions.

(h) "FCC" means the federal communications commission.

(i) "Franchise fee" has the meaning given in 47 USC 542 (g), and includes any compensation required under s. 66.0425.

(j) 1. "Gross receipts" means all revenues received by and paid to a video service provider by subscribers residing within a municipality for video service, or received from advertisers, including all of the following:

a. Recurring charges for video service.

b. Event−based charges for video service, including pay−per−view and video−on−demand charges.

c. Rental of set top boxes and other video service equipment.

d. Service charges related to the provision of video service, including activation, installation, repair, and maintenance charges.

e. Administrative charges related to the provision of video service, including service order and service termination charges.

f. Revenues received from the provision of home shopping or similar programming.

g. All revenue, except for refunds, rebates, and discounts, derived by the video service provider for advertising over its video service network to subscribers within a municipality. If such revenue is derived under a regional or national compensation contract or arrangement between the video service provider and one or more advertisers or advertising representatives, the amount of revenue derived for a municipality shall be determined by multiplying the total revenue derived under the contract or arrangement by the percentage resulting from dividing the number of subscribers in the municipality by the total number of regional or national subscribers that potentially receive the advertising under the contract or arrangement.

2. Notwithstanding subd. 1., "gross receipts" does not include any of the following:

a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by a video service provider.

b. Uncollectible fees, except that any uncollectible fees that are written off as bad debt but subsequently collected shall be included as gross receipts in the period collected, less the expenses of collection.

c. Late payment charges.

e. Amounts billed to video service subscribers to recover taxes, fees, surcharges or assessments of general applicability or otherwise collected by a video service provider from video service subscribers for pass through to any federal, state, or local government agency, including video service provider fees and regulatory fees paid to the FCC under 47 USC 159.

f. Revenue from the sale of capital assets or surplus equipment not used by the purchaser to receive video service from the seller of those assets or surplus equipment.

g. Charges, other than those described in subd. 1., that are aggregated or bundled with amounts described in subd. 1., including but not limited to any revenues received by a video service provider or its affiliates for telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing, if a video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means.

h. Reimbursement by programmers of marketing costs actually incurred by a video service provider.

(k) "Household" means a house, apartment, mobile home, group of rooms, or single room that is intended for occupancy as separate living quarters. For purposes of this paragraph, "separate living quarters" are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

(L) "Incumbent cable operator" means a person who, immediately before the effective date of this paragraph, was providing cable service under a cable franchise, expired cable franchise, or cable franchise extension, or under an ordinance or resolution adopted or enacted by a municipality.

(m) "Institutional network" means a network that connects governmental, educational, and community institutions.

(n) "Interim cable operator" means an incumbent cable operator that elects to continue to provide cable service under a cable franchise as specified in sub. (3) (b) 2. a.

(p) "Large telecommunications video service provider" means a telecommunications video service provider that, on January 1, 2007, had more than 500,000 basic local exchange access lines in this state or an affiliate of such a telecommunication video service provider.

(r) "Municipality" means a city, village, or town.

(s) "PEG channel" means a channel designated for public, educational, or governmental use.

(sm) "Qualified cable operator" means any of the following:

1. A cable operator that has been providing cable service in this state for at least 3 years prior to applying for a video service franchise and that has never had a cable franchise revoked by a municipality.

2. An affiliate of a cable operator specified in subd. 1.

3. A cable operator that, on the date that it applies for a video service franchise, individually or together with its affiliates or parent company, is one of the 10 largest cable operators in the United States as determined by data collected and reported by the FCC or determined by information available to the public through a national trade association representing cable operators.

(t) "Service tier" means a category of video service for which a separate rate is charged.

(u) "State agency" means any board, commission, department, or office in the state government.

(um) "Telecommunications utility" has the meaning given in s. 196.01 (10).

(v) "Telecommunications video service provider" means a video service provider that uses facilities for providing telecommunications service, as defined in s. 196.01 (9m), also to provide video service.

(w) "Video franchise area" means the area or areas described in an application for a video service franchise under sub. (3) (d) 2.

(x) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

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(y) "Video service" means any video programming service, cable service, or service provided via an open video system that complies with 47 USC 573, that is provided through facilities located at least in part in public rights−of−way, without regard to delivery technology, including Internet protocol technology or any other technology. "Video service" does not include any of the following:

1. Video programming provided by a commercial mobile radio service provider, as defined in s. 196.01 (2g).

2. Video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or any other service offered over the public Internet.

(z) "Video service franchise" means a franchise issued under sub. (3) (f) 2.

(zb) "Video service network" means wireline facilities, or any component thereof, located at least in part in the public right−of−way that deliver video service, without regard to delivery technology, including Internet protocol technology or any other technology. "Video service network" includes a cable system.

(zg) "Video service provider" means a person, including an incumbent cable operator, who is issued a video service franchise or a successor or assign of such a person.

(zm) "Video service provider fee" means the fee paid by a video service provider under sub. (7).

(3) AUTHORITY TO PROVIDE VIDEO SERVICE. (a) *In general.* Except for an interim cable operator, and except as provided in par. (c) and sub. (11), no person may provide video service in this state unless the department has issued a video service franchise to the person and the person has provided the notice required under par. (h).

(b) *Incumbent cable operators.* 1. A municipality may not renew or extend the cable franchise of an incumbent cable operator that expires after January 9, 2008.

2. An incumbent cable operator may do one of the following:

a. Continue to provide cable service as an interim cable operator until the cable franchise expires.

b. Apply for a video service franchise. If an incumbent cable operator applies for a video service franchise, the cable franchise shall terminate and have no effect upon issuance of the video service franchise. Upon termination of the cable franchise, the municipality that granted the franchise shall, at the request of the incumbent cable operator, surrender, return, or take such other action as may be necessary to nullify any bond, letter of credit, or similar instrument intended to secure the performance of the incumbent cable operator under the cable franchise.

3. An incumbent cable operator whose cable franchise expires after January 9, 2008, may not, after expiration of the cable franchise, provide video service in this state unless the incumbent cable operator applies for a video service franchise under subd. 2. b. and, upon issuance of the video service franchise, provides the notice required under par. (h). An incumbent cable operator whose cable franchise expired before January 9, 2008, and who was providing cable service immediately before the effective date of this subdivision, may continue to provide cable service if, no later than March 1, 2008, the incumbent cable operator applies for a video service franchise under subd. 2. b.

(c) *Other providers.* A person, other than an incumbent cable operator, who was providing video service immediately before January 9, 2008, may provide video service without a video service franchise issued by the department. This paragraph ceases to apply to such a person if the person does not apply for a video service franchise no later than March 1, 2008.

(d) *Application.* An applicant for a video service franchise shall submit an application to the department that consists of all of the following:

1. The location and telephone number of the applicant's principal place of business, the names of the principal executive officers of the applicant, and the names of any persons authorized to represent the applicant before the department.

2. A description of the area or areas of the state in which the applicant intends to provide video service.

3. The date on which the applicant intends to begin providing video service in the video franchise area.

4. An affidavit signed by an officer or general partner of the applicant that affirms all of the following:

a. That the applicant has filed or will timely file with the FCC all forms required by the FCC in advance of offering video service.

b. That the applicant agrees to comply with this section and all applicable federal statutes and regulations.

c. That the applicant is legally, financially, and technically qualified to provide video service.

5. A description of the services that the applicant proposes to provide.

(e) *Service upon municipalities.* 1. At the time that an applicant submits an application under par. (d), or a video service provider submits a notification regarding a modification to an application under par. (j), to the department, the applicant or video service provider shall serve a copy of the application or notification on each municipality in the video franchise area.

2. a. This subdivision applies only to a municipality that, under subd. 1., is served a copy of an application or that, under subd. 1., is served a copy of a notification relating to an expansion of the area or areas of the state in which a video service provider intends to provide video service, if the municipality has not previously been served a copy of an application under subd. 1. by that video service provider.

b. If a municipality specified in subd. 2. a. has granted any cable franchise that is in effect immediately before January 9, 2008, the municipality shall, no later than 10 business days after receipt of the copy, notify the applicant in writing of the number of PEG channels for which incumbent cable operators are required to provide channel capacity in the municipality, the amount and type of monetary support for access facilities for PEG channels required of incumbent cable operators as described in sub. (7) (em), and the percentage of revenues that incumbent cable operators are required to pay the municipality as franchise fees.

(f) *Department duties.* 1. After the filing of an application, the department shall notify the applicant in writing as to whether the application is complete and, if the department has determined that the application is not complete, the department shall state the reasons for the determination.

2. After the filing of an application that the department has determined is complete, the department shall determine whether an applicant is legally, financially, and technically qualified to provide video service. If the department determines that an applicant is legally, financially, and technically qualified to provide video service, the department shall issue a video service franchise to the applicant. If the department determines that an applicant is not legally, financially, and technically qualified to provide video service, the department shall reject the application and shall state the reasons for the determination.

4. The department shall promulgate rules for determining whether an applicant is legally, financially, and technically qualified to provide video service.

(g) *Effect of video service franchise.* A video service franchise issued by the department authorizes a video service provider to occupy the public rights−of−way and to construct, operate, maintain, and repair a video service network to provide video service in the video franchise area.

(h) *Notice before providing service.* No later than 10 business days before providing video service in a municipality in a video franchise area, a video service provider shall provide notice to the department and the municipality.

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(i) *Expiration and revocation of video service franchise.* The department may revoke a video service franchise issued to a video service provider if the department determines that the video service provider has failed to substantially meet a material requirement imposed upon it by the department. Before commencing a revocation proceeding, the department shall provide the video service provider written notice of the department's intention to revoke the franchise and the department's reasons for the revocation and afford the video service provider a reasonable opportunity to cure any alleged violation. The department must, before revoking any video service franchise, afford a video service provider full due process that, at a minimum, must include a proceeding before a hearing officer during which the video service provider must be afforded the opportunity for full participation, including the right to be represented by counsel, to introduce evidence, to require the production of evidence, and to question or cross−examine witnesses under oath. A transcript shall be made of any such hearing. A video service provider may bring an action to appeal the decision of the department.

(j) *Modifications.* If there is any change in the information included in an application filed by a video service provider under this subsection, the video service provider shall notify the department and update the information within 10 business days after the change, except that if the video service provider determines to expand the area or areas of the state in which the video service provider intends to provide video service, the video service provider shall apply to the department for a modified video service franchise under par. (d). A video service provider that makes a notification regarding a change in the information specified in par. (d) 3., 4., or 5., shall include with the notification a fee of $100. No fee is required for a notification regarding a change in the information specified in par. (d) 1.

(k) *Annual fee.* 1. A video service provider shall pay an annual fee.

2. If a video service provider has 10,000 or less subscribers, the first annual fee required under subd. 1. shall be $2,000 and each subsequent annual fee shall be $100.

(4) FRANCHISING AUTHORITY. For purposes of 47 USC 521 to 573, the state is the exclusive franchising authority for video service providers in this state. No municipality may require a video service provider to obtain a franchise to provide video service.

(5) PEG CHANNELS. (a) *Maximum number of PEG channels.* 1. If an incumbent cable operator is providing channel capacity for PEG channels to a municipality under a cable franchise in effect immediately before January 9, 2008, the municipality shall require each interim cable operator or video service provider that provides video service in the municipality to provide channel capacity for the same number of PEG channels for which channel capacity is provided immediately before January 9, 2008.

2. a. Except as provided in subd. 2. b. and c., if no incumbent cable operator is providing channel capacity for PEG channels to a municipality under a cable franchise that is in effect immediately before January 9, 2008, then, if the municipality has a population of 50,000 or more, the municipality may require each interim cable operator and video service provider that provides video service in the municipality to provide channel capacity for up to 3 PEG channels, and, if the municipality has a population of less than 50,000, the municipality may require each interim cable operator and video service provider that provides video service in the municipality to provide channel capacity for no more than 2 PEG channels.

b. If an interim cable operator or video service provider distributes video programming to more than one municipality through a single headend or video hub office and the aggregate population of the municipalities is 50,000 or more, the municipalities may not require the interim cable operator or video service provider to provide, in the aggregate, channel capacity for more than 3 PEG channels under subd. 2. a.

c. If an interim cable operator or video service provider distributes video programming to more than one municipality through a single headend or video hub office and the aggregate population of the municipalities is less than 50,000, the municipalities may not require the interim cable operator or video service provider to provide, in the aggregate, channel capacity for more than 2 PEG channels under subd. 2. a.

3. An interim cable operator or video service provider shall provide any channel capacity for PEG channels required under this paragraph on any service tier that is viewed by more than 50 percent of the interim cable operator's or video service provider's customers.

4. If a municipality is not required to provide notice to a video service provider under sub. (3) (e) 2., the video service provider's duty to provide any additional channel capacity for PEG channels that is required by the municipality under this paragraph first applies on the date that the video service provider begins to provide service in the municipality, and, if the municipality is required to provide notice under sub. (3) (e) 2., the video service provider's duty to provide any such additional channel capacity first applies on the date that the video service provider begins to provide video service in the municipality or on the 90th day after the video service provider receives the municipality's notice, whichever is later.

(b) *Exceptions.* 1. a. Notwithstanding par. (a), an interim cable operator or video service provider may reprogram for any other purpose any channel capacity provided for a PEG channel required by a municipality under par. (a) if the PEG channel is not substantially utilized by the municipality. If the municipality certifies to the interim cable operator or video service provider that reprogrammed channel capacity for a PEG channel will be substantially utilized by the municipality, the interim cable operator or video service provider shall, no later than 120 days after receipt of the certification, restore the channel capacity for the PEG channel. Notwithstanding par. (a) 3., an interim cable operator or video service provider may provide restored channel capacity for a PEG channel on any service tier.

b. For purposes of this subdivision, a PEG channel is substantially utilized by a municipality if the municipality provides 40 hours or more of programming on the PEG channel each week and at least 60 percent of that programming is locally produced.

2. Notwithstanding par. (a), if a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim cable operator or video service provider is required to provide channel capacity for any PEG channel, or monetary support for access facilities for PEG channels pursuant to sub. (7) (em), until the 90th day after the municipality provides such notice.

(c) *Powers and duties of municipalities.* 1. Except as otherwise required under pars. (a) and (d) and sub. (7) (em), a municipality may not require an interim cable operator or video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity.

2. The operation of any PEG channel for which a municipality requires an interim cable operator or video service provider to provide channel capacity under par. (a), and the production of any programming appearing on such a PEG channel, shall be the sole responsibility of the municipality and, except as provided in par. (d) 1., the interim cable operator or video service provider shall bear only the responsibility to transmit programming appearing on the PEG channel.

3. A municipality that requires an interim cable operator or video service provider to provide channel capacity for a PEG channel under par. (a) shall do all of the following:

a. Ensure that all content and programming that the municipality provides or arranges to provide for transmission on the PEG channel is submitted to the interim cable operator or video service

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provider in a manner and form that is capable of being accepted and transmitted by the interim cable operator or video service provider over its video service network without changing the content or transmission signal and that is compatible with the technology or protocol, including Internet protocol television, utilized by the interim cable operator or video service provider to deliver video service.

b. Make the content and programming that the municipality provides or arranges to provide for transmission on a PEG channel available in a nondiscriminatory manner to all interim cable operators and video service providers that provide video service in the municipality.

(d) *Duties of interim cable providers and video service providers.* 1. If a municipality requires an interim cable operator or video service provider to provide capacity for PEG channels under par. (a), the interim cable operator or video service provider shall be required to provide transmission capacity sufficient to connect the interim cable operator's or video service provider's headend or video hub office to the municipality's PEG access channel origination points existing as of January 9, 2008. A municipality shall permit the interim cable operator or video service provider to determine the most economically and technologically efficient means of providing such transmission capacity. If a municipality requests that such a PEG access channel origination point be relocated, the interim cable operator or video service provider shall be required to provide only the first 200 feet of transmission line that is necessary to connect the interim cable operator or video service provider's headend or video hub office to such origination point. A municipality shall be liable for the costs of construction of such a transmission line beyond the first 200 feet and for any construction costs associated with additional origination points, but not for the costs associated with the transmission of PEG programming over such line. The interim cable operator or video service provider may recover its costs to provide transmission capacity under this subdivision by identifying and collecting a "PEG Transport Fee" as a separate line item on customer bills.

2. If the interconnection of the video service networks of interim cable operators or video service providers is technically necessary and feasible for the transmission of programming for any PEG channel for which channel capacity is required by a municipality under par. (a), the interim cable operators and video service providers shall negotiate in good faith for interconnection on mutually acceptable rates, terms, and conditions, except that an interim cable operator or video service provider who requests interconnection is responsible for interconnection costs, including the cost of transmitting programming from its origination point to the interconnection point. Interconnection may be accomplished by direct cable, microwave link, satellite, or any other reasonable method.

(5m) CONTRACTS WITH UNIVERSITY OF WISCONSIN CAMPUSES. If an incumbent cable operator has entered into an agreement with an institution or college campus within the University of Wisconsin System that is in effect on January 9, 2008, and that requires the incumbent cable operator to broadcast University of Wisconsin events on one of its channels, any video service provider that provides video service in the area in which the events are broadcast by the incumbent cable operator shall, upon the request of the institution or college campus, enter into an agreement with the institution or college campus that requires the video service provider to provide the same service on the same terms and conditions as the agreement between the institution or college campus and the incumbent cable operator.

(6) INSTITUTIONAL NETWORKS. Notwithstanding any franchise, ordinance, or resolution in effect on January 9, 2008, no state agency or municipality may require an interim cable operator or video service provider to provide any institutional network or equivalent capacity on its video service network.

(7) VIDEO SERVICE PROVIDER FEE. (a) *Duty to pay fee.* 1. Notwithstanding s. 66.0611 and except as provided in subds. 2. and 2m., a video service provider shall, on a quarterly calendar basis, calculate and pay to each municipality in which the video service provider provides video service a video service provider fee equal to the percentage of the video service provider's gross receipts that is specified in par. (b) and the monetary support for access facilities for PEG channels described in par. (em). A video service provider shall remit the fee to the municipality no later than 45 days after the end of each quarter. Except as provided in subd. 2. or par. (b) 1., if the municipality is not required to provide notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide service in the municipality, and, if the municipality is required to provide notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide service in the municipality or to the quarter that includes the 45th day after the video service provider receives the municipality's notice, whichever quarter is later.

2. If a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no video service provider is required to pay a video service provider fee, and no interim cable operator is required to pay a franchise fee, to the municipality until the 45th day after the end of the quarter in which the municipality provides the notice specified in sub. (3) (e) 2.

2m. If a municipality requires a video service provider to pay a cost−based permit fee under a regulation under s. 182.017 (1r), the video service provider may deduct the amount of the fee from any other compensation that is due to the municipality including the video service provider fee under subd. 1.

(b) *Amount of fee.* The percentage applied to a video service provider's gross receipts under par. (a) 1. for each municipality shall be 5 percent or one of the following percentages, whichever is less:

1. If no incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before January 9, 2008, the municipality may specify a percentage of no more than 5 percent. The duty of a video service provider to pay the municipality a video service fee equal to such percentage shall first apply to the quarter that includes the 45th day after the municipality provides notice of the percentage to the video service provider.

2. If an incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before January 9, 2008, that percentage.

3. If more than one incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before January 9, 2008, the lowest such percentage.

(c) *Generally accepted accounting principles.* All determinations and computations made under this subsection shall be made pursuant to generally accepted accounting principles.

(d) *Record review.* A municipality may, upon reasonable written request, for the purpose of ensuring proper and accurate payment of a video service provider fee, review the business records of a video service provider that is required to pay the municipality a video service provider fee.

(e) *Actions to enforce payment.* 1. A municipality or a video service provider may not bring an action concerning the amount of a video service provider fee allegedly due to the municipality unless the parties have first participated in and completed good faith settlement discussions. For purposes of any future litigation, all negotiations pursuant to this paragraph shall be treated as compromise negotiations under s. 904.08.

2. An action regarding a dispute over the amount of a video service provider fee paid or allegedly due under this subsection

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shall be commenced within 4 years following the end of the calendar quarter to which the disputed amount relates or be barred, unless the parties agree in writing to an extension of time. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in the action to either party.

(em) *PEG channel monetary support.* 1. This subdivision applies to an incumbent cable operator whose cable franchise is terminated under sub. (3) (b) 2. b. The obligation that is actually imposed by a municipality prior to April 18, 2007, on such an incumbent cable operator to provide monetary support for access facilities for PEG channels and that is contained in a cable franchise existing on January 9, 2008, shall continue until January 1, 2011.

2. The duty of an interim cable operator to provide monetary support for access facilities for PEG channels that is contained in a cable franchise existing on January 9, 2008, shall continue until January 1, 2011.

3. Each video service provider providing video service in a municipality shall have the same obligation to provide monetary support for access facilities for PEG channels as the incumbent cable operator with the most subscribers in the municipality as of January 9, 2008. To the extent that such incumbent cable operator provides such support in the form of a percentage of gross revenues or a per subscriber fee, any other video service provider shall pay the same percentage of gross revenues or per subscriber fee to the municipality as the incumbent cable operator. To the extent that such incumbent cable operator provides such support in the form of a lump sum payment without an offset to its franchise fee or video service provider fee, any other video service provider that commences service in the municipality shall pay the municipality a sum equal to the pro rata amount of such lump sum payment based on its proportion of video service customers in such municipality. The obligation to provide monetary support required under this subdivision shall continue until January 1, 2011.

4. For purposes of this paragraph, the proportion of video service customers of a video service provider shall be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations.

(f) *Itemization.* A video service provider may identify and collect the amount related to a video service provider fee and any fee imposed for monetary support for access facilities for PEG channels as described in par. (em) as a separate line item on customer bills.

(g) *Other fees.* A municipality may require the video service provider to pay any compensation under s. 66.0425, or, except as provided in a regulation under s. 182.017 (1r), any permit fee, encroachment fee, degradation fee, or any other fee, for the occupation of or work within public rights−of−way.

(8) DISCRIMINATION; ACCESS TO SERVICES. (ag) *Definition.* In this subsection, "department" means the department of agriculture, trade and consumer protection.

(am) *Discrimination prohibited.* 1. No video service provider may deny access to video service to any group of potential residential customers in the video service provider's video franchise area because of the race or income of the residents in the local area in which the group resides.

2. It is a defense to an alleged violation of subd. 1. based on income if the video service provider has met the following:

a. No later than 3 years after the date on which the video service provider began providing video service under this section, at least 30 percent of the households with access to the video service provider's video service are low−income households.

(b) *Access.* 1. A large telecommunications video service provider shall provide access to its video service to the following percentages of households within the large telecommunications video service provider's basic local exchange service area:

a. Not less than 35 percent no later than 3 years after the date on which the large telecommunications video service provider began providing video service under this section.

b. Not less than 50 percent no later than 5 years after the date on which the large telecommunications video service provider began providing video service under this section, or no later than 2 years after at least 30 percent of households with access to the large telecommunications video service provider's video service subscribe to the service for 6 consecutive months, whichever occurs later.

2. A large telecommunications video service provider shall file an annual report with the department regarding the large telecommunications video service provider's progress in complying with subd. 1.

(c) *Extensions and waivers.* A video service provider may apply to the department for an extension of any time limit specified in par. (am) 2. or (b) or a waiver of a requirement to comply with par. (b). The department shall grant the extension or waiver if the video service provider demonstrates to the satisfaction of the department that the video service provider has made substantial and continuous efforts to comply with the requirements of this subsection and that the extension or waiver is necessary due to one or more of the following factors:

1. The video service provider's inability to obtain access to public and private rights−of−way under reasonable terms and conditions.

2. Developments and buildings that are not subject to competition because of exclusive service arrangements.

3. Developments and buildings that are not accessible using reasonable technical solutions under commercially reasonable terms and conditions.

4. Natural disasters.

5. Other factors beyond the control of the video service provider.

(d) *Alternative technologies.* A video service provider may satisfy the requirements of this subsection through the use of an alternative technology, other than satellite service, that does all of the following:

1. Offers service, functionality, and content demonstrably similar to the service, functionality, and content provided through the video service provider's video service network.

2. Provides access to PEG channels and messages broadcast over the emergency alert system.

(e) *Limitations.* Notwithstanding any other provision of this section, a telecommunications video service provider is not required to provide video service outside the provider's basic local exchange service area, and a video service provider that is an incumbent cable operator is not required to provide video service outside the area in which the incumbent cable operator provided cable service at the time the department of financial institutions issued a video service franchise to the incumbent cable operator.

(9) CUSTOMER SERVICE STANDARDS. (a) Except as provided in par. (b), upon 90 days' advance notice, a municipality may require a video service provider to comply with the customer service standards specified in 47 CFR 76.309 (c) in its provision of video service. Neither the department nor any municipality shall have the authority to impose additional or different customer service standards that are specific to the provision of video service.

(b) Except as provided in s. 100.209, no video service provider that provides video service in a municipality may be subject to any customer service standards if there is at least one other person offering cable or video service in the municipality or if the video service provider is subject to effective competition, as determined under 47 CFR 76.905, in the municipality. This paragraph does not apply to any customer service standards promulgated by rule by the department of agriculture, trade and consumer protection.

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(9m) LOCAL BROADCAST STATIONS. (a) In this subsection, a "noncable video service provider" means a video service provider that is not a cable operator.

(b) If a local broadcast station is authorized to exercise against a cable operator the right to require mandatory carriage under 47 USC 534, or the right to grant or withhold retransmission consent under 47 USC 325 (b), the local broadcast station may exercise the same right against a noncable video service provider to the same extent as the local broadcast station may exercise such right against a cable operator under federal law.

(c) A noncable video service provider shall transmit, without degradation, the signals that a local broadcast station delivers to the noncable video service provider, but is not required to utilize the same or similar reception technology as the local broadcast station or the programming providers of the local broadcast station.

(d) A noncable video service provider may not do any of the following:

1. Discriminate among or between local broadcast stations, or programming providers of local broadcast stations, with respect to the transmission of their signals.

2. Delete, change, or alter a copyright identification transmitted as part of a local broadcast station's signal.

(10) LIMITATION ON RATE REGULATION. The department or a municipality may not regulate the rates charged for any video service by an interim cable operator or video service provider that provides video service in a municipality if at least one other interim cable operator or video service provider is providing video service in the municipality and the other interim cable operator or video service provider is not an affiliate of the interim cable operator or video service provider. This subsection applies regardless of whether any affected interim cable operator or video service provider has sought a determination from the FCC regarding effective competition under 47 CFR 76.905.

(11) TRANSFER OF VIDEO SERVICE FRANCHISE. A person who is issued a video service franchise may transfer the video service franchise to any successor−in−interest, including a successor−in−interest that arises through merger, sale, assignment, restructuring, change of control, or any other transaction. No later than 15 days after the transfer is complete, the successor−in−interest shall apply for a video service franchise under sub. (3) (d) and comply with sub. (3) (e) 1. The successor−in−interest may provide video service in the video franchise area during the period that the department reviews the application.

(12) MUNICIPAL CABLE SYSTEM COSTS. (a) Except for costs for any of the following, a municipality that owns and operates a cable system, or an entity owned or operated, in whole or in part, by such a municipality, may not require nonsubscribers of the cable system to pay any of the costs of the cable system:

1. PEG channels.

2. Debt service on bonds issued under s. 66.0619 to finance the construction, renovation, or expansion of a cable system.

3. The provision of broadband service by the cable system, if the requirements of s. 66.0422 (3d) (a), (b), or (c) are satisfied.

(am) Paragraph (a) does not apply to a municipality that, on March 1, 2004, was providing cable service to the public.

(b) Paragraph (a) does not apply to a municipality if all of the following conditions apply:

1. On November 1, 2003, the public service commission has determined that the municipality is an alternative telecommunications utility under s. 196.203.

2. A majority of the governing board of the municipality votes to submit the question of supporting the operation of a cable system by the municipality to the electors in an advisory referendum and a majority of the voters in the municipality voting at the advisory referendum vote to support the operation of a cable system by the municipality.

(13) RULE−MAKING; ENFORCEMENT. (a) The department of financial institutions may promulgate rules interpreting or establishing procedures for this section and the department of agriculture, trade and consumer protection may promulgate rules interpreting or establishing procedures for sub. (8).

(b) Except as provided in sub. (7) (e), a municipality, interim cable operator, or video service provider that is affected by a failure to comply with this section may bring an action to enforce this section. If a court finds that a municipality, interim cable operator, or video service provider has not complied with this section, the court shall order the municipality, interim cable operator, or video service provider to comply with this section. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in an action under this paragraph to any party.

(c) The department shall enforce this section, except sub. (8). The department may bring an action to recover any fees that are due and owing under this section or to enjoin a violation of this section, except sub. (8), or any rule promulgated under sub. (3) (f) 4. An action shall be commenced under this paragraph within 3 years after the occurrence of the unlawful act or practice or be barred.

History: 2007 a. 42 ss. 6, 8; 2009 a. 178, 180.

Cross−reference: See also ch. DFI−CCS 20, Wis. adm. code.

66.0421 Access to video service. (1) DEFINITIONS. (c) "Video service" has the meaning given in s. 66.0420 (2) (y).

(d) "Video service provider" has the meaning given in s. 66.0420 (2) (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

(2) INTERFERENCE PROHIBITED. The owner or manager of a multiunit dwelling under common ownership, control or management or of a mobile home park or the association or board of directors of a condominium may not prevent a video service provider from providing video service to a subscriber who is a resident of the multiunit dwelling, mobile home park or of the condominium or interfere with a video service provider providing video service to a subscriber who is a resident of the multiunit dwelling, mobile home park or of the condominium.

(3) INSTALLATION IN MULTIUNIT BUILDING. Before installation, a video service provider shall consult with the owner or manager of a multiunit dwelling or with the association or board of directors of a condominium to establish the points of attachment to the building and the methods of wiring. A video service provider shall install facilities to provide video service in a safe and orderly manner and in a manner designed to minimize adverse effects to the aesthetics of the multiunit dwelling or condominium. Facilities installed to provide video service may not impair public safety, damage fire protection systems or impair fire−resistive construction or components of a multiunit dwelling or condominium.

(4) REPAIR RESPONSIBILITY. A video service provider is responsible for any repairs to a building required because of the construction, installation, disconnection or servicing of facilities to provide video service.

History: 1989 a. 143; 1999 a. 9; 1999 a. 150 ss. 252 to 254; Stats. 1999 s. 66.0421; 2007 a. 42.

66.0422 Video service, telecommunications, and broadband facilities. (1) In this section:

(b) "Local government" means a city, village, or town.

(c) "Telecommunications service" has the meaning given in s. 196.01 (9m).

(d) "Video service" has the meaning given in s. 66.0420 (2) (y).

(2) Except as provided in subs. (3), (3d), (3m), and (3n), no local government may enact an ordinance or adopt a resolution authorizing the local government to construct, own, or operate any facility for providing video service, telecommunications service, or broadband service, directly or indirectly, to the public, unless all of the following are satisfied:

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(a) The local government holds a public hearing on the proposed ordinance or resolution.

(b) Notice of the public hearing is given by publication of a class 3 notice under ch. 985 in the area affected by the proposed ordinance or resolution.

(c) No less than 30 days before the public hearing, the local government prepares and makes available for public inspection a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility and including a cost−benefit analysis of the facility for a period of at least 3 years. The costs that are subject to this paragraph include personnel costs and costs of acquiring, installing, maintaining, repairing, or operating any plant or equipment, and include an appropriate allocated portion of costs of personnel, plant, or equipment that are used to provide jointly both telecommunications services and other services.

(3) Subsection (2) does not apply to a local government if all of the following conditions apply:

(a) On November 1, 2003, the public service commission has determined that the local government is an alternative telecommunications utility under s. 196.203.

(b) A majority of the governing board of the local government votes to submit the question of supporting the operation of the facility for providing video service, telecommunications service, or Internet access service, directly or indirectly to the public, by the local government to the electors in an advisory referendum and a majority of the voters in the local government voting at the advisory referendum vote to support operation of such a facility by the local government.

(3d) Subsection (2) does not apply to a facility for providing broadband service to an area within the boundaries of a local government if any of the following are satisfied:

(a) The local government asks, in writing, each person that provides broadband service within the boundaries of the local government whether the person currently provides broadband service to the area or intends to provide broadband service within 9 months to the area and within 60 days after receiving the written request no person responds in writing to the local government that the person currently provides broadband service to the area or intends to provide broadband service to the area within 9 months.

(b) The local government determines that a person who responded to a written request under par. (a) that the person currently provides broadband service to the area did not actually provide broadband service to the area and no other person makes the response to the local government described in par. (a).

(c) The local government determines that a person who responded to a written request under par. (a) that the person intended to provide broadband service to the area within 9 months did not actually provide broadband service to the area within 9 months and no other person makes the response to the local government described in par. (a).

(3m) Subsection (2) does not apply to a facility for providing broadband service if all of the following apply:

(a) The municipality offers use of the facility on a nondiscriminatory basis to persons who provide broadband service to end users of the service.

(b) The municipality itself does not use the facility to provide broadband service to end users.

(c) The municipality determines that, at the time that the municipality authorizes the construction, ownership, or operation of the facility, whichever occurs first, the facility does not compete with more than one provider of broadband service.

(3n) Subsection (2) does not apply to a local government that, on March 1, 2004, was providing video service to the public.

(4) Notwithstanding sub. (2), a local government may enact an ordinance or adopt a resolution authorizing the local government to prepare a report specified in sub. (2) (c).

(5) If a local government enacts an ordinance or adopts a resolution that complies with the requirements of sub. (2), the local government must determine the cost incurred in preparing the report specified in sub. (2) (c). As soon as practicable after the local government generates revenue from a facility specified in sub. (2) (intro.), the local government shall use the revenues to reimburse the treasury of the local government for the cost determined under this subsection.

History: 2003 a. 278, 327; 2007 a. 42.

66.0423 Transient merchants. (1) In this section:

(a) "Sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

(b) "Transient merchant" means a person who engages in the sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of that place.

(2) Cities and villages, and towns not subject to an ordinance enacted under s. 59.55 (4), may, by ordinance, regulate the retail sales, other than auction sales, made by transient merchants and provide penalties for violations of those ordinances.

History: 1989 a. 301, 359; 1999 a. 150 ss. 110, 250, 251; Stats. 1999 s. 66.0423.

66.0425 Privileges in streets. (1) In this section, "privilege" means the authority to place an obstruction or excavation beyond a lot line, or within a highway in a town, village, or city, other than by general ordinance affecting the whole public.

(2) A person may apply to a town or village board or the common council of a city for a privilege. A privilege may be granted if the applicant assumes primary liability for damages to person or property by reason of the granting of the privilege, is obligated to remove an obstruction or excavation upon 10 days' notice by the state or the municipality and waives the right to contest in any manner the validity of this section or the amount of compensation charged. The grantor of the privilege may require the applicant to file a bond that does not exceed $10,000; that runs to the town, village, or city and to 3rd parties that may be injured; and that secures the performance of the conditions specified in this subsection. If there is no established lot line and the application is accompanied by a blue print, the town or village board or the common council of the city may impose any conditions on the privilege that it considers advisable.

(3) Compensation for a privilege shall be paid into the general fund and shall be fixed by the governing body of a city, village or town or by the designee of the governing body.

(4) The holder of a privilege is not entitled to damages for removal of an obstruction or excavation, and if the holder does not remove the obstruction or excavation upon due notice, it shall be removed at the holder's expense.

(5) Third parties whose rights are interfered with by the granting of a privilege have a right of action against the holder of the privilege only.

(6) Subsections (1) to (5) do not apply to telecommunications carriers, as defined in s. 196.01 (8m), telecommunications utilities, as defined in s. 196.01 (10), alternative telecommunications utilities, as defined in s. 196.01 (1d), public service corporations, or cooperatives organized under ch. 185 to render or furnish gas, light, heat, or power, or to cooperatives organized under ch. 185 or 193 to render or furnish telecommunications service, but the carriers, utilities, corporations and associations shall secure a permit from the proper official for temporary obstructions or excavations in a highway and are liable for all injuries to person or property caused by the obstructions or excavations.

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(7) This section does not apply to an obstruction or excavation that is in place for less than 90 days, and for which a permit has been granted by the proper official.

(8) This section applies to an obstruction or excavation by a city, village or town in any street, alley, or public place belonging to any other municipality.

(9) Any person who violates this section may be fined not less than $25 nor more than $500 or imprisoned for not less than 10 days nor more than 6 months or both.

(10) A privilege may be granted only as provided in this section.

History: 1985 a. 297; 1991 a. 316; 1993 a. 184, 246; 1997 a. 27; 1999 a. 150 ss. 111, 114; Stats. 1999 s. 66.0425; 2005 a. 441.

When the plaintiff fell due to a depression in a street enclosed as a temporary sidewalk, the city, not the indemnitor contractor, was primarily liable since the contractor did no excavation in the street and its enclosing of the street did not cause the defect. Webster v. Klug & Smith, 81 Wis. 2d 334, 260 N.W.2d 686 (1978).

66.0427 Open excavations in populous counties. In a town, city or village in a county with a population of 500,000 or more no excavation for building purposes, whether or not completed, may be left open for more than 6 months without proceeding with the erection of a building on the excavation. If an excavation remains open for more than 6 months, the building inspector or other designated officer of the town, village or city shall order that the erection of a building on the excavation begin forthwith or that the excavation be filled to grade. The order shall be served upon the owner of the land or the owner's agent and upon the holder of any encumbrance of record as provided in s. 66.0413 (1) (d). If the owner of the land fails to comply with the order within 15 days after service of the order upon the owner, the building inspector or other designated officer shall fill the excavation to grade and the cost shall be charged against the real estate as provided in s. 66.0413 (1) (f). Section 66.0413 (1) (h) applies to orders issued under this section. This section does not impair the authority of a city or village to enact ordinances in this field.

History: 1999 a. 150 s. 145.

66.0429 Street barriers; neighborhood watch signs. (1) The governing body of a city, village or town may set aside streets or roads that are not a part of any federal, state or county trunk highway system for the safety of children in coasting or other play activities, and may obstruct or barricade the streets or roads to safeguard the children from accidents. The governing body of the city, village or town may erect and maintain on the streets or roads barriers or barricades, lights, or warning signs and is not liable for any damage caused by the erection or maintenance.

(2) A city or village which has a neighborhood watch program authorized by the law enforcement agency of the city or village and in which the residents of the city or village participate may, in a manner approved by the city council or village board, place within the right−of−way of a street or highway within its limits a neighborhood watch sign of a uniform design approved by the department of transportation. No sign under this subsection may be placed within the right−of−way of a highway designated as part of the national system of interstate and defense highways.

(3) (a) The governing body of a city may monitor or limit access to streets that are not part of any federal, state or county trunk highway system or connecting highway, as described in s. 84.02 (11), for the purposes of security or public safety. The governing body of a city may authorize gates or security stations, or both, to be erected and maintained to monitor traffic or limit access on these streets. The restriction of access to streets that is authorized under this subsection does not affect a city's eligibility for state transportation aids.

(b) This subsection applies only to the city of Arcadia.

History: 1985 a. 194; 1987 a. 205; 1993 a. 113, 246; 1999 a. 150 s. 115; Stats. 1999 s. 66.0429.

66.0431 Prohibiting operators from leaving keys in parked motor vehicles. The governing body of a city, village or town may by ordinance require every passenger motor vehicle to be equipped with a lock suitable to lock either the starting lever, throttle, steering apparatus, gear shift lever or ignition system; prohibit any person from permitting a motor vehicle in the person's custody from standing or remaining unattended on any street, road, or alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of the vehicle is locked and the key for that lock is removed from the vehicle; and provide forfeitures for violations of the ordinance. This section does not apply to motor vehicles operated by common carriers of passengers under ch. 194.

History: 1991 a. 316; 1993 a. 246; 1999 a. 150 s. 615; Stats. 1999 s. 66.0431.

66.0433 Licenses for nonintoxicating and soda water beverages. (1) NONINTOXICATING BEVERAGES. (a) A town board, village board or common council may grant licenses to persons it considers proper for the sale of beverages containing less than 0.5% of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of these beverages. The fee for a license shall be not less than $5 nor more than $50, to be fixed by the board or council, except that where these beverages are sold for consumption off the premises the license fee shall be $5. The license shall be issued by the town, village or city clerk, shall designate the specific premises for which granted and shall expire the next June 30 after issuance. The full license fee shall be charged for the whole or a fraction of the year. No beverages described in this paragraph may be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail or for consumption on the premises where sold, without a license issued under this paragraph.

(am) If a place of business moves from the premises designated in the license to another location in the town, village or city within the license period, the licensee shall give notice of the change of location, and the license shall be amended accordingly without payment of an additional fee. A license is not transferable from one person to another.

(b) No license or permit may be granted to any person, unless to a domestic corporation or domestic limited liability company, not a resident of this state and of the town, village or city in which the license is applied for, nor, subject to ss. 111.321, 111.322 and 111.335, to any person who has been convicted of a felony, unless the person has been restored to civil rights.

(c) A town board, village board or common council may by resolution or ordinance adopt reasonable and necessary regulations regarding the location of licensed premises, the conduct of the licensed premises, the sale of beverages containing less than 0.5% of alcohol by volume and the revocation of any license.

(2) SODA WATER BEVERAGES. A town board, village board or common council of any city may grant licenses to persons it considers proper for the sale of soda water beverages, as defined in s. 97.34, to be consumed on or off the premises where sold. A license fee shall be fixed by the governing body of the city, village or town but shall not exceed $5. The license shall be issued by the town, city or village clerk, shall designate the specific premises for which granted and shall expire on the next June 30 after issuance. The governing body may by resolution or ordinance adopt reasonable and necessary regulations regarding the location of licensed premises, the conduct of the licensed premises and the revocation of any license.

History: 1977 c. 125; 1981 c. 334 s. 25 (1); 1981 c. 380, 391; 1993 a. 112; 1999 a. 150 s. 156; Stats. 1999 s. 66.0433.

66.0435 Manufactured and mobile home communities. (1) DEFINITIONS. In this section:

(am) "Community" means a manufactured and mobile home community.

(b) "Licensee" means any person licensed to operate and maintain a manufactured and mobile home community under this section.

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(c) "Licensing authority" means the city, town or village wherein a manufactured and mobile home community is located.

(cg) "Manufactured and mobile home community" means any plot or plots of ground upon which 3 or more manufactured homes or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for the accommodation.

(cm) "Manufactured home" has the meaning given in s. 101.91 (2) and includes any additions, attachments, annexes, foundations, and appurtenances.

(d) "Mobile home" has the meaning given in s. 101.91 (10) and includes any additions, attachments, annexes, foundations and appurtenances.

(h) "Person" means any natural individual, firm, trust, partnership, association, corporation or limited liability company.

(hm) "Recreational mobile home" means a prefabricated structure that is no larger than 400 square feet, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI A119.5, and that is designed to be towed and used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes.

(i) "Space" means a plot of ground within a manufactured and mobile home community, designed for the accommodation of one manufactured or mobile home.

(j) "Unit" means a single manufactured or mobile home.

(2) GRANTING, REVOKING OR SUSPENDING LICENSE. (a) It is unlawful for any person to maintain or operate a community within the limits of a city, town or village, unless the person has received a license from the city, town or village.

(b) In order to protect and promote the public health, morals and welfare and to equitably defray the cost of municipal and educational services required by persons and families using communities for living, dwelling or sleeping purposes, a city council, village board and town board may do any of the following:

1. Establish and enforce by ordinance reasonable standards and regulations for every community.

2. Require an annual license fee to operate a community and levy and collect special assessments to defray the cost of municipal and educational services furnished to a community.

3. Limit the number of units that may be located in any one community.

4. Limit the number of licenses for communities in any common school district, if the development of a community would cause the school costs to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal in the particular area.

(c) In a town in which the town board enacts an ordinance regulating manufactured and mobile homes under this section and has also enacted and approved a county zoning ordinance under the provisions of s. 59.69, the provisions of the ordinance which is most restrictive apply with respect to the establishment and operation of a community in the town.

(d) A license granted under this section is subject to revocation or suspension for cause by the licensing authority that issued the license upon complaint filed with the clerk of the licensing authority, if the complaint is signed by a law enforcement officer, local health officer, as defined in s. 250.01 (5), or building inspector, after a public hearing upon the complaint. The holder of the license shall be given 10 days' written notice of the hearing, and is entitled to appear and be heard as to why the license should not be revoked. A holder of a license that is revoked or suspended by the licensing authority may within 20 days of the date of the revocation or suspension appeal the decision to the circuit court of the county in which the community is located by filing a written notice of appeal with the clerk of the licensing authority, together with a bond executed to the licensing authority, in the sum of $500 with 2 sureties or a bonding company approved by the clerk, conditioned for the faithful prosecution of the appeal and the payment of costs adjudged against the license holder.

(3) LICENSE AND MONTHLY MUNICIPAL PERMIT FEE. (a) The licensing authority shall collect from the licensee an annual license fee of not less than $25 nor more than $100 for each 50 spaces or fraction of 50 spaces within each community within its limits. If the community lies in more than one municipality the amount of the license fee shall be determined by multiplying the gross fee by a fraction the numerator of which is the number of spaces in the community in a municipality and the denominator of which is the entire number of spaces in the community.

(b) The licensing authority may collect a fee of $10 for each transfer of a license.

(c) 1. In addition to the license fee provided in pars. (a) and (b), each licensing authority shall collect from each unit occupying space or lots in a community in the licensing authority, except from recreational mobile homes as provided under par. (cm), from manufactured and mobile homes that constitute improvements to real property under s. 70.043 (1), from recreational vehicles as defined in s. 340.01 (48r), and from camping trailers as defined in s. 340.01 (6m), a monthly municipal permit fee computed as follows:

a. On January 1, the assessor shall determine the total fair market value of each unit in the taxation district subject to the monthly municipal permit fee.

b. The fair market value, determined under subd. 1. a., minus the tax−exempt household furnishings thus established, shall be equated to the general level of assessment for the prior year on other real and personal property in the district.

c. The value of each unit, determined under subd. 1. b., shall be multiplied by the general property gross tax rate, less any credit rate for the property tax relief credit, established on the preceding year's assessment of general property.

d. The total annual permit fee, computed under subd. 1. c., shall be divided by 12 and shall represent the monthly municipal permit fee.

2. The monthly municipal permit fee is applicable to units moving into the tax district any time during the year. The community operator shall furnish information to the tax district clerk and the assessor on units added to the community within 5 days after their arrival, on forms prescribed by the department of revenue. As soon as the assessor receives the notice of an addition of a unit to a community, the assessor shall determine its fair market value and notify the clerk of that determination. The clerk shall equate the fair market value established by the assessor and shall apply the appropriate tax rate, divide the annual permit fee thus determined by 12 and notify the unit owner of the monthly fee to be collected from the unit owner. Liability for payment of the fee begins on the first day of the next succeeding month and continues for the months in which the unit remains in the tax district.

3. A new monthly municipal permit fee and a new valuation shall be established each January and shall continue for that calendar year.

4. The valuation established is subject to review as are other values established under ch. 70. If the board of review reduces a valuation on which previous monthly payments have been made the tax district shall refund past excess fee payments.

5. The monthly municipal permit fee shall be paid by the unit owner to the local taxing authority on or before the 10th of the month following the month for which the monthly municipal permit fee is due.

6. The licensee of a community is liable for the monthly municipal permit fee for any unit occupying space in the community as well as the owner and occupant of each such unit, except that the licensee is not liable until the licensing authority has failed, in an action under ch. 799, to collect the fee from the owner and occupant of the unit. A municipality, by ordinance, may

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require the community operator to collect the monthly municipal permit fee from the unit owner.

8. The credit under s. 79.10 (9) (bm), as it applies to the principal dwelling on a parcel of taxable property, applies to the estimated fair market value of a unit that is the principal dwelling of the owner. The owner of the unit shall file a claim for the credit with the treasurer of the municipality in which the property is located. To obtain the credit under s. 79.10 (9) (bm), the owner shall attest on the claim that the unit is the owner's principal dwelling. The treasurer shall reduce the owner's monthly municipal permit fee by the amount of any allowable credit. The treasurer shall furnish notice of all claims for credits filed under this subdivision to the department of revenue as provided under s. 79.10 (1m).

9. No monthly municipal permit fee may be imposed on a financial institution, as defined in s. 69.30 (1) (b), that relates to a vacant unit that has been repossessed by the financial institution.

(cm) Recreational mobile homes and recreational vehicles, as defined in s. 340.01 (48r), are exempt from the monthly municipal permit fee under par. (c). The exemption under this paragraph also applies to steps and a platform, not exceeding 50 square feet, that lead to a recreational mobile home or recreational vehicle, but does not apply to any other addition, attachment, patio, or deck.

(d) This section does not apply to a community that is owned and operated by any county under the provisions of s. 59.52 (16) (b).

(e) If a unit is permitted by local ordinance to be located outside of a licensed community, the monthly municipal permit fee shall be paid by the owner of the land on which it stands, and the owner of the land shall comply with the reporting requirements of par. (c). The owner of the land may collect the fee from the owner of the unit and, on or before January 10 and on or before July 10, shall transmit to the taxation district all fees owed for the 6 months ending on the last day of the month preceding the month when the transmission is required.

(f) Nothing in this subsection prohibits the regulation by local ordinance of a community.

(g) Failure to timely pay the tax prescribed in this subsection shall be treated as a default in payment of personal property tax and is subject to all procedures and penalties applicable under chs. 70 and 74.

(h) Each local governing body may enact an ordinance providing a forfeiture of up to $25 for failure to comply with the reporting requirements of par. (c) or (e). Each failure to report is a separate offense.

(3m) COMMUNITY OPERATOR REIMBURSEMENT. A community operator who collects a monthly municipal permit fee from a unit owner may deduct, for administrative expenses, 2 percent of the monthly fees collected.

(4) APPLICATION FOR LICENSE. Original application for a community license shall be filed with the clerk of the licensing authority. Applications shall be in writing, signed by the applicant and shall contain the following:

(a) The name and address of the applicant.

(b) The location and legal description of the community.

(c) The complete plan of the community.

(6) RENEWAL OF LICENSE. Upon application by any licensee, after approval by the licensing authority and upon payment of the annual license fee, the clerk of the licensing authority shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by the licensing authority.

(7) TRANSFER OF LICENSE; FEE. Upon application for a transfer of license the clerk of the licensing authority, after approval of the application by the licensing authority, shall issue a transfer upon payment of the required $10 fee.

(8) DISTRIBUTION OF FEES. The licensing authority may retain 10 percent of the monthly municipal permit fees collected in each month, without reduction for any amounts deducted under sub. (3m), to cover the cost of administration. The licensing authority shall pay to the school district in which the community is located, within 20 days after the end of each month, such proportion of the remainder of the fees collected in the preceding month as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for all purposes in the licensing authority. If the community is located in more than one school district, each district shall receive a share in the proportion that its property tax levy for school purposes bears to the total school tax levy.

(9) MUNICIPALITIES; MONTHLY MUNICIPAL PERMIT FEES ON RECREATIONAL MOBILE HOMES AND RECREATIONAL VEHICLES. A licensing authority may assess monthly municipal permit fees at the rates under this section on recreational mobile homes and recreational vehicles, as defined in s. 340.01 (48r), except recreational mobile homes and recreational vehicles that are located in campgrounds licensed under s. 254.47, recreational mobile homes that constitute improvements to real property under s. 70.043 (1), and recreational mobile homes or recreational vehicles that are located on land where the principal residence of the owner of the recreational mobile home or recreational vehicle is located, regardless of whether the recreational mobile home or recreational vehicle is occupied during all or part of any calendar year.

(10) The powers conferred on licensing authorities by this section are in addition to all other grants of authority and are limited only by the express language of this section.

History: 1999 a. 5; 1999 a. 150 ss. 112, 158 to 161; Stats. 1999 s. 66.0435; 2005 a. 298; 2007 a. 11.

Cross−reference: See also ch. ATCP 125, Wis. adm. code.

A license issued without prior approval of park plans is void and the owner cannot complain if it is revoked. A mobile home park zoning ordinance adopted without compliance with the notice of hearing requirements of s. 60.74 (2) [now 60.61 (4)] is void. Edelbeck v. Town of Theresa, 57 Wis. 2d 172, 203 N.W.2d 694 (1973).

The time for appeal under sub. (2) (d) begins on the date of the action revoking the license, not on the effective date of the revocation. Reusch v. City of Baraboo, 85 Wis. 2d 294, 270 N.W.2d 229 (1978).

A town had authority outside this section to require a building permit for a mobile home located outside a mobile home park and that the mobile home be connected to a well and septic system. Town of Clearfield v. Cushman, 150 Wis. 2d 10, 440 N.W.2d 777 (1989).

A state university is not subject to local licensing in the operation of a university mobile home park. 60 Atty. Gen. 7.

A town cannot have a more restrictive ordinance regulating use and location of mobile homes outside of mobile home parks than the county. 60 Atty. Gen. 131.

A town board that has given conditional approval to plans for a mobile home park has power to alter conditions as long as it acts reasonably. Molgaard v. Town of Caledonia, 527 F. Supp. 1073 (1981).

SUBCHAPTER V

OFFICERS AND EMPLOYEES

66.0501 Eligibility for office. (1) DEPUTY SHERIFFS AND MUNICIPAL POLICE. No person may be appointed deputy sheriff of any county or police officer for any city, village or town unless that person is a citizen of the United States. This section does not apply to common carriers or to a deputy sheriff not required to take an oath of office.

(2) ELIGIBILITY OF OTHER OFFICERS. Except as expressly authorized by statute, no member of a town, village or county board, or city council, during the term for which the member is elected, is eligible for any office or position which during that term has been created by, or the selection to which is vested in, the board or council, but the member is eligible for any elective office. The governing body may be represented on city, village or town boards and commissions where no additional compensation, except a per diem, is paid to the representatives of the governing body and may fix the tenure of these representatives notwithstanding any other statutory provision. A representative of a governing body who is a member of a city, village or town board or commission may receive a per diem only if the remaining members of the board or commission may receive a per diem. This subsection does not apply to a member of any board or council described in

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this subsection who resigns from the board or council before being appointed to an office or position which was not created during the member's term in office.

(3) APPOINTMENTS ON CONSOLIDATION OF OFFICES. Whenever offices are consolidated, the occupants of which are members of the same statutory committee or board and which are serving in that office because of holding another office or position, the common council or village board may designate another officer or officers or make any additional appointments as may be necessary to procure the number of committee or board members provided for by statute.

(4) COMPATIBLE OFFICES AND POSITIONS. A volunteer fire fighter, emergency medical technician, or first responder in a city, village, or town whose annual compensation from one or more of those positions, including fringe benefits, does not exceed the amount specified in s. 946.13 (2) (a) may also hold an elective office in that city, village, or town. It is compatible with his or her office for an elected town officer to receive wages under s. 60.37 (4) for work that he or she performs for the town.

(5) EMPLOYEES MAY BE CANDIDATES. (a) In this subsection:

1. "Political subdivision" means a city, village, town, or county.

2. "Public employee" means any individual employed by a political subdivision, other than an individual to whom s. 164.06 applies and other than an individual to whom 5 USC 1502 (a) (3) applies.

(b) No political subdivision may prohibit a public employee from being a candidate for any elective public office, if that individual is otherwise qualified to be a candidate. No public employee may be required, as a condition of being a candidate for any elective public office, to take a leave of absence during his or her candidacy. This subsection does not affect the authority of a political subdivision to regulate the conduct of a public employee while the public employee is on duty or otherwise acting in an official capacity.

History: 1979 c. 110; 1987 a. 27, 403; 1991 a. 316; 1993 a. 246; 1999 a. 56; 1999 a. 150 s. 267; Stats. 1999 s. 66.0501; 2001 a. 16; 2003 a. 79.

A citizenship requirement for peace officers is constitutional. 68 Atty. Gen. 61.

The offices of commissioner of a town sanitary district and supervisor of a town board are incompatible when the town board also serves as the appointing authority for the commissioners. 69 Atty. Gen. 108.

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.

66.0503 Combination of municipal offices. (1) The office of county supervisor may be consolidated by charter ordinance under s. 66.0101:

(a) With the office of village president in any village which has boundaries coterminous with the boundaries of any supervisory district established under s. 59.10 (3).

(b) With the office of alderperson or council member in any city in which the district from which the alderperson or council member is elected is coterminous with the boundaries of any supervisory district established under s. 59.10 (3).

(2) After the effective date of adoption or repeal of a charter ordinance under this section, the clerk of the municipality shall file a copy of the ordinance with the clerk of the county within which the supervisory district lies. When so consolidated, nomination papers shall contain that number of signatures required under s. 8.10 for county supervisors and shall be filed in the office of the county clerk.

(3) Removal from office of any incumbent of an office consolidated under this section vacates the office in its entirety whether effected under ss. 17.09, 17.12 and 17.13 or other pertinent statute.

(4) Compensation for an office consolidated under this section shall be separately established by the several governing bodies affected by the consolidation as though no consolidation of offices had occurred.

(5) Tenure for an officer of an office consolidated under this section shall coincide with the term for county supervisors.

History: 1971 c. 94; 1973 c. 118 s. 7; 1985 a. 135 s. 83 (1); 1993 a. 184; 1995 a. 201; 1999 a. 150 s. 311; Stats. 1999 s. 66.0503; 2001 a. 30.

66.0505 Compensation of governing bodies. (1) DEFINITIONS. In this section:

(a) "Elective officer" means a member or member−elect of the governing body of a political subdivision.

(b) "Political subdivision" means any city, village, town, or county.

(2) ESTABLISHMENT OF SALARY. An elected official of any political subdivision, who by virtue of the office held by that official is entitled to participate in the establishment of the salary attending that office, shall not during the term of the office collect salary in excess of the salary provided at the time of that official's taking office. This provision is of statewide concern and applies only to officials elected after October 22, 1961.

(3) REFUSAL OF SALARY. (a) 1. Notwithstanding the provisions of s. 59.10 (1) (c), (2) (c), (3) (f) to (j), 60.32, 61.193, 61.32, or 62.09 (6), an elective officer may send written notification to the clerk and treasurer of the political subdivision on whose governing body he or she serves that he or she wishes to refuse to accept the salary that he or she is otherwise entitled to receive.

2. Except as provided in subd. 3., to be valid the notification must be sent no later than 30 days after an elective officer's election is certified, and the notification applies only to the taxable year in which the officer's election is certified or, if the elective officer's current taxable year ends within 3 months of his or her certification, the notification applies until the end of his or her next taxable year.

3. Except as provided in subd. 2., to be valid the notification must be sent at least 30 days before the start of the elective officer's next taxable year, and the notification applies only to that taxable year although the notification may be renewed annually as provided in this subdivision.

4. If a clerk and treasurer receive notification as described in subd. 2. or 3., the treasurer may not pay the elective officer his or her salary during the time period to which the notification applies. Upon receipt of such notification, the political subdivision's treasurer shall not pay the elective officer the salary that he or she is otherwise entitled to receive, beginning with the first pay period that commences after notification applies.

(b) An elective officer, or officer−elect, who sends the written notification described under par. (a) may not rescind the notification. If an elective officer's notification no longer applies, the political subdivision's treasurer shall pay the elective officer any salary that he or she is entitled to receive, beginning with the first pay period that commences after the expiration of the notification.

History: 1991 a. 316; 1993 a. 213; 1999 a. 150 s. 312; Stats. 1999 s. 66.0505; 2007 a. 49; 2009 a. 173.

66.0506 Referendum; increase in employee wages. (1) In this section, "local governmental unit" means any city, village, town, county, metropolitan sewerage district, long−term care district, transit authority under s. 59.58 (7) or 66.1039, local cultural arts district under subch. V of ch. 229, or any other political subdivision of the state, or instrumentality of one or more political subdivisions of the state.

NOTE: Sections 59.58 (7) and 66.1039 were repealed by 2011 Wis. Act 32. Corrective legislation is pending.

(2) If any local governmental unit wishes to increase the total base wages of its general municipal employees, as defined in s. 111.70 (1) (fm), who are part of a collective bargaining unit under subch. IV of ch. 111, in an amount that exceeds the limit under s. 111.70 (4) (mb) 2., the governing body of the local governmental unit shall adopt a resolution to that effect. The resolution shall specify the amount by which the proposed total base wages increase will exceed the limit under s. 111.70 (4) (mb) 2. The resolution may not take effect unless it is approved in a referendum

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called for that purpose. The referendum shall occur in November for collective bargaining agreements that begin the following January 1. The results of a referendum apply to the total base wages only in the next collective bargaining agreement.

(3) The referendum question shall be substantially as follows: "Shall the .... [general municipal employees] in the .... [local governmental unit] receive a total increase in wages from $....[current total base wages] to $....[proposed total base wages], which is a percentage wage increase that is .... [x] percent higher than the percent of the consumer price index increase, for a total percentage increase in wages of .... [x]?"

History: 2011 a. 10, 32.

66.0507 Automatic salary schedules. Whenever the governing body of any city, village, or town enacts by ordinance a salary schedule for some or all employees and officers of the city, village or town, other than members of the city council or village or town board, the salary schedule may include an automatic adjustment for some or all of the personnel in conformity with fluctuations upwards and downwards in the cost of living, notwithstanding ss. 60.32, 61.193, 61.32, 62.09 (6) and 62.13 (7).

History: 1971 c. 125 s. 522 (1); 1971 c. 154; 1985 a. 225; 1993 a. 246; 1999 a. 150 s. 314; Stats. 1999 s. 66.0507; 2009 a. 173.

66.0508 Collective bargaining. (1) In this section, "local governmental unit" has the meaning given in s. 66.0506 (1).

(1m) Except as provided under subch. IV of ch. 111, no local governmental unit may collectively bargain with its employees.

(2) If a local governmental unit has in effect on June 29, 2011, an ordinance or resolution that is inconsistent with sub. (1m), the ordinance or resolution does not apply and may not be enforced.

(3) Each local governmental unit that is collectively bargaining with its employees shall determine the maximum total base wages expenditure that is subject to collective bargaining under s. 111.70 (4) (mb) 2., calculating the consumer price index change using the same method the department of revenue uses under s. 73.03 (68).

History: 2011 a. 10.

66.0509 Civil service system; veterans preference. (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or 66.0101 to establish a civil service system of selection, tenure and status, and the system may be made applicable to all municipal personnel except the chief executive and members of the governing body, members of boards and commissions including election officials, employees subject to s. 62.13, members of the judiciary and supervisors. Any town may establish a civil service system under this subsection. For veterans there shall be no restrictions as to age, and veterans and their spouses shall be given preference points in accordance with s. 230.16 (7). The system may also include uniform provisions in respect to attendance, leave regulations, compensation and payrolls for all personnel included in the system. The governing body of any city, village or town establishing a civil service system under this section may exempt from the system the librarians and assistants subject to s. 43.09 (1).

(1m) (a) A local governmental unit, as defined in s. 66.0131 (1) (a), that does not have a civil service system on June 29, 2011, shall establish a grievance system not later than October 1, 2011.

(b) To comply with the grievance system that is required under par. (a), a local governmental unit may establish either a civil service system under any provision authorized by law, to the greatest extent practicable, if no specific provision for the creation of a civil service system applies to that local governmental unit, or establish a grievance procedure as described under par. (d).

(c) Any civil service system that is established under any provision of law, and any grievance procedure that is created under this subsection, shall contain at least all of the following provisions:

1. A grievance procedure that addresses employee terminations.

2. Employee discipline.

3. Workplace safety.

(d) If a local governmental unit creates a grievance procedure under this subsection, the procedure shall contain at least all of the following elements:

1. A written document specifying the process that a grievant and an employer must follow.

2. A hearing before an impartial hearing officer.

3. An appeal process in which the highest level of appeal is the governing body of the local governmental unit.

(e) If an employee of a local governmental unit is covered by a civil service system on June 29, 2011, and if that system contains provisions that address the provisions specified in par. (c), the provisions that apply to the employee under his or her existing civil service system continue to apply to that employee.

(2) (a) Any town may establish a civil service system under sub. (1) and in the departments that the town board may determine. Any person who has been employed in a department for more than 5 years before the establishment of a civil service system applicable to that department is eligible to appointment without examination.

(b) Any town not having a civil service system and having exercised the option of placing assessors under civil service under s. 60.307 (3) may establish a civil service system for assessors under sub. (1), unless the town has come within the jurisdiction of a county assessor under s. 70.99.

(3) When any town has established a system of civil service, the ordinance establishing the system may not be repealed for a period of 6 years after its enactment, and after the 6−year period it may be repealed only by proceedings under s. 9.20 by referendum vote. This subsection does not apply if a town comes, before the expiration of the 6 years, within the jurisdiction of a county assessor under s. 70.99.

(4) Any civil service system established under the provisions of this section shall provide for the appointment of a civil service board or commission and for the removal of the members of the board or commission for cause by the mayor with approval of the council, by the city manager and the council in a city organized under ss. 64.01 to 64.15, and by the board in a village or town.

(5) All examinations given in a civil service system established under this section, including minimum training and experience requirements, for positions in the classified service shall be job−related in compliance with appropriate validation standards and shall be subject to the approval of the board or commission appointed under sub. (4). All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

History: 1971 c. 152 s. 38; 1971 c. 154, 211; 1977 c. 196; 1983 a. 532; 1985 a. 225; 1991 a. 101; 1993 a. 246; 1999 a. 150 s. 310; Stats. 1999 s. 66.0509; 2005 a. 22; 2011 a. 10.

66.0511 Law enforcement agency policies on use of force and citizen complaint procedures. (1) DEFINITION. In this section, "law enforcement agency" has the meaning given under s. 165.83 (1) (b).

(2) USE OF FORCE POLICY. Each person in charge of a law enforcement agency shall prepare in writing and make available for public scrutiny a policy or standard regulating the use of force by law enforcement officers in the performance of their duties.

(3) CITIZEN COMPLAINT PROCEDURE. Each person in charge of a law enforcement agency shall prepare in writing and make available for public scrutiny a specific procedure for processing and resolving a complaint by any person regarding the conduct of a law enforcement officer employed by the agency. The writing prepared under this subsection shall include a conspicuous notification of the prohibition and penalty under s. 946.66.

History: 1987 a. 131; 1997 a. 176; 1999 a. 150 s. 366; Stats. 1999 s. 66.0511.

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66.0513 Police, pay when acting outside county or municipality. (1) Any chief of police, sheriff, deputy sheriff, county traffic officer or other peace officer of any city, county, village or town, who is required by command of the governor, sheriff or other superior authority to maintain the peace, or who responds to the request of the authorities of another municipality, to perform police or peace duties outside territorial limits of the city, county, village or town where the officer is employed, is entitled to the same wage, salary, pension, worker's compensation, and all other service rights for this service as for service rendered within the limits of the city, county, village or town where regularly employed.

(2) All wage and disability payments, pension and worker's compensation claims, damage to equipment and clothing, and medical expense arising under sub. (1), shall be paid by the city, county, village or town regularly employing the officer. Upon making the payment the city, county, village or town shall be reimbursed by the state, county or other political subdivision whose officer or agent commanded the services out of which the payments arose.

History: 1975 c. 147 s. 54; 1999 a. 150 s. 367; Stats. 1999 s. 66.0513.

The use of the phrase "required by command" in sub. (1) plainly does not mean that officers who volunteer to go to another city, county, village, or town are excluded from worker's compensation and other benefits. A governmental body obligated to reimburse another for worker's compensation payments under this section is obligated under worker's compensation law for purposes of worker's compensation insurance coverage. Milwaukee County v. Juneau County, 2004 WI App 23, 269 Wis. 2d 730, 676 N.W.2d 513, 02−2880.

66.0515 Receipts for fees. Every officer or employee upon receiving fees shall, if requested to do so by the person paying the fees, deliver to that person a receipt for the fees, specifying for which account each portion of the fees respectively accrued.

History: 1991 a. 316; 1999 a. 150 s. 270; Stats. 1999 s. 66.0515.

66.0517 Weed commissioner. (1) DEFINITION. In this section, "noxious weeds" has the meaning given in s. 66.0407 (1) (b).

(2) APPOINTMENT. (a) *Town, village and city weed commissioner.* The chairperson of each town, the president of each village and the mayor of each city may appoint one or more commissioners of noxious weeds on or before May 15 in each year. A weed commissioner shall take the official oath and the oath shall be filed in the office of the town, village or city clerk. A weed commissioner shall hold office for one year and until a successor has qualified or the town chairperson, village president or mayor determines not to appoint a weed commissioner. If more than one commissioner is appointed, the town, village or city shall be divided into districts by the officer making the appointment and each commissioner shall be assigned to a different district. The town chairperson, village president or mayor may appoint a resident of any district to serve as weed commissioner in any other district of the same town, village or city.

(b) *County weed commissioner.* A county may by resolution adopted by its county board provide for the appointment of a county weed commissioner and determine the duties, term and compensation for the county weed commissioner. When a weed commissioner has been appointed under this paragraph and has qualified, the commissioner has the powers and duties of a weed commissioner described in this section. Each town chairperson, village president or mayor may appoint one or more deputy weed commissioners, who shall work in cooperation with the county weed commissioner in the district assigned by the appointing officer.

(3) POWERS, DUTIES AND COMPENSATION. (a) *Destruction of noxious weeds.* A weed commissioner shall investigate the existence of noxious weeds in his or her district. If a person in a district neglects to destroy noxious weeds as required under s. 66.0407 (3), the weed commissioner shall destroy, or have destroyed, the noxious weeds in the most economical manner. A weed commissioner may enter upon any lands that are not exempt under s. 66.0407 (5) and cut or otherwise destroy noxious weeds without being liable to an action for trespass or any other action for damages resulting from the entry and destruction, if reasonable care is exercised.

(b) *Compensation of weed commissioner.* 1. Except as provided in sub. (2) (b), a weed commissioner shall receive compensation for the destruction of noxious weeds as determined by the town board, village board, or city council upon presenting to the proper treasurer the account for noxious weed destruction, verified by oath and approved by the appointing officer. The account shall specify by separate items the amount chargeable to each piece of land, describing the land, and shall, after being paid by the treasurer, be filed with the town, village, or city clerk. The clerk shall enter the amount chargeable to each tract of land in the next tax roll in a column headed "For the Destruction of Weeds", as a tax on the lands upon which the weeds were destroyed. The tax shall be collected under ch. 74, except in case of lands which are exempt from taxation, railroad lands, or other lands for which taxes are not collected under ch. 74. A delinquent tax may be collected as is a delinquent real property tax under chs. 74 and 75 or as is a delinquent personal property tax under ch. 74. In case of railroad lands or other lands for which taxes are not collected under ch. 74, the amount chargeable against these lands shall be certified by the town, village, or city clerk to the secretary of administration who shall add the amount designated to the sum due from the company owning, occupying, or controlling the lands specified. The secretary of administration shall collect the amount chargeable as prescribed in subch. I of ch. 76 and return the amount collected to the town, city, or village from which the certification was received.

2. For the performance of duties other than the destruction of noxious weeds, a weed commissioner shall receive compensation to be determined by the town board, village board or city council.

History: 1999 a. 150; 2003 a. 33.

66.0518 Defined benefit pension plans. A local governmental unit, as defined in s. 66.0131 (1) (a), may not establish a defined benefit pension plan for its employees unless the plan requires the employees to pay half of all actuarially required contributions for funding benefits under the plan and prohibits the local governmental unit from paying on behalf of an employee any of the employee's share of the actuarially required contributions.

History: 2011 a. 10.

SUBCHAPTER VI

FINANCE; REVENUES

66.0601 Appropriations. (1) PROHIBITED APPROPRIATIONS. (a) *Bonus to state institution.* No appropriation or bonus, except a donation, may be made by a town, village, or city, nor municipal liability created nor tax levied, as a consideration or inducement to the state to locate any public educational, charitable, reformatory, or penal institution.

(b) *Payments for abortions restricted.* No city, village, town, long−term care district under s. 46.2895 or agency or subdivision of a city, village or town 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.

(c) *Payments for abortion−related activity restricted.* No city, village, town, long−term care district under s. 46.2895 or agency or subdivision of a city, village or town 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.

(2) CELEBRATION OF HOLIDAYS. A town, county, school board, or school district may appropriate money for the purpose of initi-

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ating or participating in appropriate celebrations of any legal holiday listed in s. 995.20.

History: 1999 a. 65 s. 14; 1999 a. 150 ss. 89, 90, 92, 94, 165 to 167; 2001 a. 30; 2005 a. 155; 2007 a. 20.

66.0602 Local levy limits. (1) DEFINITIONS. In this section:

(a) "Debt service" includes debt service on debt issued or reissued to fund or refund outstanding municipal or county obligations, interest on outstanding municipal or county obligations, and related issuance costs and redemption premiums.

(am) "Joint fire department" means a joint fire department organized under s. 61.65 (2) (a) 3. or 62.13 (2m), or a joint fire department organized by any combination of 2 or more cities, villages, or towns under s. 66.0301 (2).

(au) "Municipality" means a city, village, or town.

(b) "Penalized excess" means the levy, in an amount that is at least $500 over the limit under sub. (2) for the political subdivision, not including any amount that is excepted from the limit under subs. (3), (4), and (5).

(c) "Political subdivision" means a city, village, town, or county.

(d) "Valuation factor" means a percentage equal to the greater of either the percentage change in the political subdivision's January 1 equalized value due to new construction less improvements removed between the previous year and the current or:

1. Zero percent.

(2) LEVY LIMIT. Except as provided in subs. (3), (4), and (5), no political subdivision may increase its levy in any year by a percentage that exceeds the political subdivision's valuation factor. The base amount in any year, to which the limit under this section applies, shall be the actual levy for the immediately preceding year. In determining its levy in any year, a city, village, or town shall subtract any tax increment that is calculated under s. 59.57 (3) (a), 60.85 (1) (L), or 66.1105 (2) (i). The base amount in any year, to which the limit under this section applies, may not include any amount to which sub. (3) (e) 8. applies.

(2m) NEGATIVE ADJUSTMENT. If a political subdivision's levy for the payment of any general obligation debt service, including debt service on debt issued or reissued to fund or refund outstanding obligations of the political subdivision and interest on outstanding obligations of the political subdivision, on debt originally issued before July 1, 2005, is less in the current year than it was in the previous year, the political subdivision shall reduce its levy limit in the current year by an amount equal to the amount that its levy was reduced as described in this subsection. This subsection does not apply to any political subdivision that does not increase its levy increase limit as allowed under sub. (3) (f) 1.

(3) EXCEPTIONS. (a) If a political subdivision transfers to another governmental unit responsibility for providing any service that the political subdivision provided in the preceding year, the levy increase limit otherwise applicable under this section to the political subdivision in the current year is decreased to reflect the cost that the political subdivision would have incurred to provide that service, as determined by the department of revenue.

(b) If a political subdivision increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit that provided the service in the preceding year, the levy increase limit otherwise applicable under this section to the political subdivision in the current year is increased to reflect the cost of that service, as determined by the department of revenue.

(c) If a city or village annexes territory from a town, the city's or village's levy increase limit otherwise applicable under this section is increased in the current year by an amount equal to the town levy on the annexed territory in the preceding year and the levy increase limit otherwise applicable under this section in the current year for the town from which the territory is annexed is decreased by that same amount, as determined by the department of revenue.

(d) 1. If the amount of debt service for a political subdivision in the preceding year is less than the amount of debt service needed in the current year, as a result of the political subdivision adopting a resolution before July 1, 2005, authorizing the issuance of debt, the levy increase limit otherwise applicable under this section to the political subdivision in the current year is increased by the difference between these 2 amounts, as determined by the department of revenue.

2. The limit otherwise applicable under this section does not apply to amounts levied by a political subdivision for the payment of any general obligation debt service, including debt service on debt issued or reissued to fund or refund outstanding obligations of the political subdivision, interest on outstanding obligations of the political subdivision, or the payment of related issuance costs or redemption premiums, authorized on or after July 1, 2005, and secured by the full faith and credit of the political subdivision.

3. The limit otherwise applicable under this section does not apply to amounts levied by a county having a population of 500,000 or more for the payment of debt service on appropriation bonds issued under s. 59.85, including debt service on appropriation bonds issued to fund or refund outstanding appropriation bonds of the county, to pay related issuance costs or redemption premiums, or to make payments with respect to agreements or ancillary arrangements authorized under s. 59.86.

4. If the amount of a lease payment related to a lease revenue bond for a political subdivision in the preceding year is less than the amount of the lease payment needed in the current year, as a result of the issuance of a lease revenue bond before July 1, 2005, the levy increase limit otherwise applicable under this section to the political subdivision in the current year is increased by the difference between these 2 amounts.

5. The limit otherwise applicable under this section does not apply to amounts levied by a 1st class city for the payment of debt service on appropriation bonds issued under s. 62.62, including debt service on appropriation bonds issued to fund or refund outstanding appropriation bonds of the city, to pay related issuance costs or redemption premiums, or to make payments with respect to agreements or ancillary arrangements authorized under s. 62.621.

(dm) If the department of revenue does not certify a value increment for a tax incremental district for the current year as a result of the district's termination, the levy increase limit otherwise applicable under this section in the current year to the political subdivision in which the district is located is increased by an amount equal to the political subdivision's maximum allowable levy for the immediately preceding year, multiplied by a percentage equal to 50 percent of the amount determined by dividing the value increment of the terminated tax incremental district, calculated for the previous year, by the political subdivision's equalized value for the previous year, all as determined by the department of revenue.

(e) The limit otherwise applicable under this section does not apply to any of the following:

1. The amount that a county levies in that year for a county children with disabilities education board.

2. The amount that a 1st class city levies in that year for school purposes.

3. The amount that a county levies in that year under s. 82.08 (2) for bridge and culvert construction and repair.

4. The amount that a county levies in that year to make payments to public libraries under s. 43.12.

5. The amount that a political subdivision levies in that year to make up any revenue shortfall for the debt service on a revenue bond issued under s. 66.0621 by the political subdivision or by a joint fire department if the joint fire department uses the proceeds of the bond to pay for a fire station and assesses the political subdivision for its share of that debt, under an agreement entered into under s. 66.0301, which is incurred by the joint fire department but is the responsibility of the political subdivision.

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6. The amount that a county levies in that year for a countywide emergency medical system.

7. The amount that a village levies in that year for police protection services, but this subdivision applies only to a village's levy for the year immediately after the year in which the village changes from town status and incorporates as a village, and only if the town did not have a police force.

8. The amount that a political subdivision levies in that year to pay the unreimbursed expenses related to an emergency declared under s. 323.10, including any amounts levied in that year to replenish cash reserves that were used to pay any unreimbursed expenses related to that emergency. A levy under this subdivision that relates to a particular emergency initially shall be imposed in the year in which the emergency is declared or in the following year.

9. The political subdivision's share of any refund or rescission determined by the department of revenue and certified under s. 74.41 (5).

(f) 1. Subject to subd. 3., if a political subdivision's allowable levy under this section in 2010 was greater than its actual levy in 2010, the levy increase limit otherwise applicable under this section to the political subdivision in 2011 is increased by the difference between these 2 amounts, as determined by the department of revenue, up to a maximum increase of 0.5 percent of the actual levy in 2010.

2. Subject to subd. 3., if a political subdivision's allowable levy under this section in 2011 was greater than its actual levy in 2011, the levy increase limit otherwise applicable under this section to the political subdivision in 2012 is increased by the difference between these 2 amounts, as determined by the department of revenue, up to a maximum increase of 0.5 percent of the actual levy in 2011.

3. The adjustment described in subds. 1. and 2. may occur only if the political subdivision's governing body approves of the adjustment by one of the following methods:

a. With regard to a city, village, or county, if the governing body consists of at least 5 members, by a three−quarters majority vote of the governing body.

b. With regard to a city, village, or county, if the governing body consists of fewer than 5 members, by a two−thirds majority vote of the governing body.

c. With a regard to a town, by a majority vote of the annual town meeting, or a special town meeting, if the town board has adopted a resolution approving of the adjustment by a two−thirds majority vote of the town board.

4. If a political subdivision's allowable levy under this section in 2012, or any year thereafter, was greater than its actual levy in that year, the levy increase limit otherwise applicable under this section to the political subdivision in the next succeeding year is increased by the difference between the prior year's allowable levy and the prior year's actual levy, as determined by the department of revenue, up to a maximum increase of 0.5 percent of the actual levy in that prior year.

(g) If a county has provided a service in a part of the county in the preceding year and if a city, village, or town has provided that same service in another part of the county in the preceding year, and if the provision of that service is consolidated at the county level, the levy increase limit otherwise applicable under this section to the county in the current year is increased to reflect the total cost of providing that service, as determined by the department of revenue.

(h) 1. Subject to subd. 2., the limit otherwise applicable under this section does not apply to the amount that a city, village, or town levies in that year to pay for charges assessed by a joint fire department, but only to the extent that the amount levied to pay for such charges would cause the city, village, or town to exceed the limit that is otherwise applicable under this section.

2. The exception to the limit that is described under subd. 1. applies only if all of the following apply:

a. The total charges assessed by the joint fire department for the current year increase, relative to the total charges assessed by the joint fire department for the previous year, by a percentage that is less than or equal to the percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year of the levy, plus 2 percent.

b. The governing body of each city, village, and town that is served by the joint fire department adopts a resolution in favor of exceeding the limit as described in subd. 1.

(i) 1. If a political subdivision enters into an intergovernmental cooperation agreement under s. 66.0301 to jointly provide a service on a consolidated basis with another political subdivision, and if one of the political subdivisions increases its levy from the previous year by an amount the parties to the agreement agree is needed to provide a more equitable distribution of payments for services received, the levy increase limit otherwise applicable under this section to that political subdivision in the current year is increased by that agreed amount.

2. If a political subdivision increases its levy as described in subd. 1. the other political subdivision, which is a party to the intergovernmental cooperation agreement and has agreed to the adjustment under subd. 1., shall decrease its levy in the current year by the same amount that the first political subdivision is allowed to increase its levy under subd. 1.

(j) 1. Subject to subd. 2., if a municipality experiences a shortfall in its general fund due to a loss of revenue received by the municipality from the sale of water or another commodity to a manufacturing facility as a result of the manufacturer discontinuing operations at the facility, the limit otherwise applicable under this section may be increased by the amount that the municipality levies to make up for the revenue shortfall.

2. The maximum adjustment claimed under subd. 1. shall equal the revenue received by the municipality from the sale of water or another commodity, as described in subd. 1., in the year prior to the year in which the manufacturing facility closed. A municipality may claim the adjustment in more than one year, except that the sum of all such adjustments may not exceed the revenue loss to the municipality's general fund in the year that the manufacturer discontinues operations at the facility.

(k) 1. Subject to subds. 2. and 3., if the village of Shorewood reduces its levy from the amount it would have levied for 2011 if not for an error in the valuation of Tax Incremental District Number 1 in the village, to compensate for that error, the limit otherwise applicable under this section to the village in 2012 is increased by the amount of the reduction, as determined by the department of revenue. The amounts added to the village's limit for 2012 under this subdivision may not exceed the amount by which the village underutilized its limit for 2011, as determined by the department of revenue.

2. If the village of Shorewood applies funds from the village's general fund in 2011 to replace amounts not levied to compensate for an error in the valuation of Tax Incremental District Number 1 in the village, the limits otherwise applicable under this section to the village in 2012 and 2013 are increased by the amount applied from the general fund in 2011, as determined by the department of revenue. The village's limit increases under this subdivision for 2012 and 2013 do not increase the village's limit for any subsequent year.

3. The combined amount of increased levy in 2012 and 2013 by the village of Shorewood under subd. 2. may not exceed the amount of the funds applied from the general fund to replace amounts not levied in 2011 to compensate for an error in the valuation of Tax Incremental District Number 1 in the village.

(L) If the village of Warrens reduces its levy from the amount it would have levied for 2012 if not for an error in the valuation of Tax Incremental District Number 1 in the village, to compensate for that error, the limit otherwise applicable under this section to the village in 2013 is increased by the amount of the reduction,

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as determined by the department of revenue. The amounts added to the village's limit for 2013 under this paragraph may not exceed the amount by which the village underutilized its limit for 2012, as determined by the department of revenue.

(Lm) If the city of Fox Lake reduces its levy from the amount it would have levied for 2012 if not for an error in the valuation of Tax Incremental District Number 1 in the city, to compensate for that error, the limit otherwise applicable under this section to the city in 2013 is increased by the amount of the reduction, as determined by the department of revenue. The amounts added to the city's limit for 2013 under this paragraph may not exceed the amount by which the city underutilized its limit for 2012, as determined by the department of revenue.

NOTE: Par. (Lm) was created as par. (L) by 2011 Wis. Act 145 and renumbered to par. (Lm) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(4) REFERENDUM EXCEPTION. (a) A political subdivision may exceed the levy increase limit under sub. (2) if its governing body adopts a resolution to that effect and if the resolution is approved in a referendum. The resolution shall specify the proposed amount of increase in the levy beyond the amount that is allowed under sub. (2), and shall specify whether the proposed amount of increase is for the next fiscal year only or if it will apply on an ongoing basis. With regard to a referendum relating to the 2005 levy, or any levy in an odd−numbered year thereafter, the political subdivision may call a special referendum for the purpose of submitting the resolution to the electors of the political subdivision for approval or rejection. With regard to a referendum relating to the 2006 levy, or any levy in an even−numbered year thereafter, the referendum shall be held at the next succeeding spring primary or election or partisan primary or general election.

(b) The clerk of the political subdivision 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 paragraph.

(c) The referendum shall be held in accordance with chs. 5 to 12. The political subdivision 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 elections board under ss. 5.64 (2) and 7.08 (1) (a). The question shall be submitted as follows: "Under state law, the increase in the levy of the .... (name of political subdivision) for the tax to be imposed for the next fiscal year, ... (year), is limited to ....%, which results in a levy of $.... Shall the .... (name of political subdivision) be allowed to exceed this limit and increase the levy for the next fiscal year, ... (year), by a total of ....%, which results in a levy of $....?".

(d) Within 14 days after the referendum, the clerk of the political subdivision shall certify the results of the referendum to the department of revenue. The levy increase limit otherwise applicable to the political subdivision under this section is increased in the next fiscal year by the percentage approved by a majority of those voting on the question. If the resolution specifies that the increase is for one year only, the amount of the increase shall be subtracted from the base used to calculate the limit for the 2nd succeeding fiscal year.

(5) EXCEPTION, CERTAIN TOWNS. A town with a population of less than 2,000 may exceed the levy increase limit otherwise applicable under this section to the town if the town board adopts a resolution supporting an increase and places the question on the agenda of an annual town meeting or a special town meeting and if the annual or special town meeting adopts a resolution endorsing the town board's resolution. The limit otherwise applicable to the town under this section is increased in the next fiscal year by the percentage approved by a majority of those voting on the question. Within 14 days after the adoption of the resolution, the town clerk shall certify the results of the vote to the department of revenue.

(6) PENALTIES. Except as provided in sub. (6m), if the department of revenue determines that a political subdivision has a penalized excess in any year, the department of revenue shall do all of the following:

(a) Reduce the amount of county and municipal aid payments to the political subdivision under s. 79.035 in the following year by an amount equal to the amount of the penalized excess.

(b) Ensure that the amount of any reductions in county and municipal aid payments under par. (a) lapses to the general fund.

(c) Ensure that the amount of the penalized excess is not included in determining the limit described under sub. (2) for the political subdivision for the following year.

(d) Ensure that, if a political subdivision's penalized excess exceeds the amount of aid payment that may be reduced under par. (a), the excess amount is subtracted from the aid payments under par. (a) in the following years until the total amount of penalized excess is subtracted from the aid payments.

(6m) MISTAKES IN LEVIES. The department of revenue may issue a finding that a political subdivision is not liable for a penalty that would otherwise be imposed under sub. (6) if the department determines that the political subdivision's penalized excess is caused by one of the following clerical errors:

(a) The department, through mistake or inadvertence, has assessed to any county or taxation district, in the current year or in the previous year, a greater or less valuation for any year than should have been assessed, causing the political subdivision's levy to be erroneous in a way that directly causes a penalized excess.

(b) A taxation district clerk or a county clerk, through mistake or inadvertence in preparing or delivering the tax roll, causes a political subdivision's levy to be erroneous in a way that directly causes a penalized excess.

History: 2005 a. 25, 484; 2007 a. 20, 115, 129; 2009 a. 28; 2011 a. 32, 63, 75, 140, 145, 258; s. 13.92 (1) (bm) 2.

66.0603 Investments. (1g) DEFINITION. (a) In this section, "governing board" has the meaning given under s. 34.01 (1) but does not include a local cultural arts district board created under subch. V of ch. 229.

(1m) INVESTMENTS. (a) A county, city, village, town, school district, drainage district, technical college district or other governing board, other than a local professional football stadium district board created under subch. IV of ch. 229, may invest any of its funds not immediately needed in any of the following:

1. Time deposits in any credit union, bank, savings bank, trust company or savings and loan association which is authorized to transact business in this state if the time deposits mature in not more than 3 years.

2. Bonds or securities issued or guaranteed as to principal and interest by the federal government, or by a commission, board or other instrumentality of the federal government.

3. Bonds or securities of any county, city, drainage district, technical college district, village, town or school district of this state.

3m. Bonds issued by a local exposition district under subch. II of ch. 229.

3p. Bonds issued by a local professional baseball park district created under subch. III of ch. 229.

3q. Bonds issued by a local professional football stadium district created under subch. IV of ch. 229.

3s. Bonds issued by the University of Wisconsin Hospitals and Clinics Authority.

3t. Bonds issued by a local cultural arts district under subch. V of ch. 229.

3u. Bonds issued by the Wisconsin Aerospace Authority.

4. Any security which matures or which may be tendered for purchase at the option of the holder within not more than 7 years of the date on which it is acquired, if that security has a rating which is the highest or 2nd highest rating category assigned by Standard & Poor's corporation, Moody's investors service or

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other similar nationally recognized rating agency or if that security is senior to, or on a parity with, a security of the same issuer which has such a rating.

5. Securities of an open−end management investment company or investment trust, if the investment company or investment trust does not charge a sales load, if the investment company or investment trust is registered under the investment company act of 1940, 15 USC 80a−1 to 80a−64, and if the portfolio of the investment company or investment trust is limited to the following:

a. Bonds and securities issued by the federal government or a commission, board or other instrumentality of the federal government.

b. Bonds that are guaranteed as to principal and interest by the federal government or a commission, board or other instrumentality of the federal government.

c. Repurchase agreements that are fully collateralized by bonds or securities under subd. 5. a. or b.

(b) 1. A town, city, or village may invest surplus funds in any bonds or securities issued under the authority of the municipality, whether the bonds or securities create a general municipality liability or a liability of the property owners of the municipality for special improvements, and may sell or hypothecate the bonds or securities. Funds of an employer, as defined by s. 40.02 (28), in a deferred compensation plan may also be invested and reinvested in the same manner authorized for investments under s. 881.01.

2. Funds of any school district operating under ch. 119, held in trust for pension plans intended to qualify under section 401 (a) of the Internal Revenue Code, other than funds held in the public employee trust fund, may be invested and reinvested in the same manner as is authorized for investments under s. 881.01.

3. A school district may invest and reinvest funds that are held in trust, other than funds held in the public employee trust fund, solely to provide any of the following benefits, in the same manner as is authorized for investments under s. 881.01:

a. Post−employment health care benefits provided either separately or through a defined benefit pension plan.

b. Other post−employment benefits provided separately from a defined benefit pension plan.

4. A school board may not discuss or vote on establishing a trust fund to provide the benefits described in subd. 3. unless the notice of the school board meeting at which the discussion or vote may occur includes the issue as a separate agenda item.

5. A city, village, town, county, drainage district, technical college district, or other governing board as defined by s. 34.01 (1) may invest and reinvest funds that are held in trust, other than funds held in the public employee trust fund, solely to provide any of the following benefits, in the same manner as is authorized for investments under s. 881.01:

a. Post−employment health care benefits provided either separately or through a defined benefit pension plan.

b. Other post−employment benefits provided separately from a defined benefit pension plan.

6. Funds that are held in trust to provide the benefits described in subds. 3. and 5. shall be held in a trust fund that is separate from all other trust funds created by, or under the control of, the local governmental unit.

(c) A local government, as defined under s. 25.50 (1) (d), may invest surplus funds in the local government pooled−investment fund. Cemetery care funds, including gifts where the principal is to be kept intact, may also be invested under ch. 881.

(d) A county, city, village, town, school district, drainage district, technical college district or other governing board as defined by s. 34.01 (1) may engage in financial transactions in which a public depository, as defined in s. 34.01 (5), agrees to repay funds advanced to it by the local government plus interest, if the agreement is secured by bonds or securities issued or guaranteed as to principal and interest by the federal government.

(e) Subject to s. 67.11 (2) with respect to funds on deposit in a debt service fund for general obligation promissory notes issued under s. 67.12 (12), a county having a population of 500,000 or more, or a person to whom the county has delegated investment authority under sub. (5), may invest and reinvest in the same manner as is authorized for investments and reinvestments under s. 881.01, any of the following:

1. Moneys held in any stabilization fund established under s. 59.87 (3).

2. Moneys held in a fund or account, including any reserve fund, created in connection with the issuance of appropriation bonds under s. 59.85 or general obligation promissory notes under s. 67.12 (12) issued to provide funds for the payment of all or a part of the county's unfunded prior service liability.

3. Moneys appropriated or held by the county to pay debt service on appropriation bonds or general obligation promissory notes under s. 67.12 (12).

4. Moneys constituting proceeds of appropriation bonds or general obligation promissory notes described in subd. 2. that are available for investment until they are spent.

5. Moneys held in an employee retirement system of the county.

(f) Subject to s. 67.11 (2) with respect to funds on deposit in a debt service fund for general obligation promissory notes issued under s. 67.12 (12), a 1st class city, or a person to whom the city has delegated investment authority under sub. (5), may invest and reinvest in the same manner as is authorized for investments and reinvestments under s. 881.01, any of the following:

1. Moneys held in any stabilization fund established under s. 62.622 (3).

2. Moneys held in a fund or account, including any reserve fund, created in connection with the issuance of appropriation bonds under s. 62.62 or general obligation promissory notes under s. 67.12 (12) issued to provide funds for the payment of all or a part of the city's unfunded prior service liability.

3. Moneys appropriated or held by the city to pay debt service on appropriation bonds or general obligation promissory notes under s. 67.12 (12).

4. Moneys constituting proceeds of appropriation bonds or general obligation promissory notes described in subd. 2. that are available for investment until they are spent.

5. Moneys held in an employee retirement system of the city.

(2) DELEGATION OF INVESTMENT AUTHORITY. A county, city, village, town, school district, drainage district, technical college district or other governing board, as defined in s. 34.01 (1), may delegate the investment authority over any of its funds not immediately needed to a state or national bank, or trust company, which is authorized to transact business in this state if all of the following conditions are met:

(a) The institution is authorized to exercise trust powers under s. 221.0316 or ch. 223.

(b) The governing board renews annually the investment agreement under which it delegates its investment authority, and reviews annually the performance of the institution with which its funds are invested.

(3) ADDITIONAL DELEGATION OF INVESTMENT AUTHORITY. (a) In addition to the authority granted under sub. (2), a school district operating under ch. 119 may delegate the investment authority over any of its funds not immediately needed and held in trust for its qualified pension plans to an investment manager who meets the requirements and qualifications specified in the trust's investment policy and who is registered as an investment adviser under the Investment Advisers Act of 1940, 15 USC 80b−3.

(b) In addition to the authority granted under sub. (2), a school district may delegate the investment authority over the funds

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described under sub. (1m) (b) 3. to an investment manager who meets the requirements and qualifications specified in the trust's investment policy and who is registered as an investment adviser under 15 USC 80b−3.

(c) 1. In addition to the authority granted under sub. (2), a city, village, town, county, drainage district, technical college district, or other governing board as defined by s. 34.01 (1) may delegate the investment authority over the funds described under sub. (1m) (b) 5. to an investment manager who meets the requirements and qualifications specified in the trust's investment policy and who is registered as an investment adviser under 15 USC 80b−3.

2. If a unit of government described under subd. 1. has established a trust described in sub. (1m) (b) 5., it shall annually publish a written report that states the amount in the trust, the investment return earned by the trust since the last report was published, the total disbursements made from the trust since the last report was published, and the name of the investment manager if investment authority has been delegated under subd. 1.

(4) INVESTED FUND PROCEEDS IN POPULOUS CITIES, USE. In a 1st class city, all interest derived from invested funds held by the city treasurer in a custodial capacity on behalf of any political entity, except for pension funds, is general revenue of the city and shall revert to the city's general fund upon the approval by the political entity evidenced by a resolution adopted for that purpose.

(5) DELEGATION OF INVESTMENT AUTHORITY IN CONNECTION WITH PENSION FINANCING IN POPULOUS CITIES AND COUNTIES. The governing body of a county having a population of 500,000 or more, or a 1st class city, may delegate investment authority over any of the moneys described in sub. (1m) (e) or (f) to any of the following persons, which shall be responsible for the general administration and proper operation of the county's or city's employee retirement system, subject to the governing body's finding that such person has expertise in the field of investments:

(a) A public board that is organized for such purpose under county or city ordinances.

(b) A trustee, investment advisor, or investment banking or consulting firm.

History: 1999 a. 9 ss. 1607, 1608; 1999 a. 65 ss. 15 to 17; 1999 a. 150 ss. 93, 95, 168; 1999 a. 167 ss. 31, 32; 1999 a. 186 ss. 43, 44; 2001 a. 30; 2003 a. 264; 2005 a. 99, 335; 2007 a. 82, 115; 2009 a. 28.

Cross−reference: See also s. 157.50 (6) as to investment of municipal care funds.

66.0605 Local government audits and reports. Notwithstanding any other statute, the governing body of a county, city, village or town may require or authorize a financial audit of a municipal or county officer, department, board, commission, function or activity financed in whole or part from municipal or county funds, or if any portion of the funds are the funds of the county, city, village or town. The governing body may require submission of periodic financial reports by the officer, department, board, commission, function or activity.

History: 1977 c. 29; 1999 a. 150 s. 97; Stats. 1999 s. 66.0605.

66.0607 Withdrawal or disbursement from local treasury. (1) Except as otherwise provided in subs. (2) to (5) and in s. 66.0608, in a county, city, village, town, or school district, all disbursements from the treasury shall be made by the treasurer upon the written order of the county, city, village, town, or school clerk after proper vouchers have been filed in the office of the clerk. If the statutes provide for payment by the treasurer without an order of the clerk, the clerk shall draw and deliver to the treasurer an order for the payment before or at the time that the payment is required to be made by the treasurer. This section applies to all special and general provisions of the statutes relative to the disbursement of money from the county, city, village, town, or school district treasury except s. 67.10 (2).

(2) Notwithstanding other law, a county having a population of 500,000 or more may, by ordinance, adopt any other method of allowing vouchers, disbursing funds, reconciling outstanding county orders, reconciling depository accounts, examining county orders, and accounting consistent with accepted accounting and auditing practices, if the ordinance prior to its adoption is submitted to the department of revenue, which shall submit its recommendations on the proposed ordinance to the county board of supervisors.

(3) Except as provided in subs. (2), (3m) and (5), disbursements of county, city, village, town or school district funds from demand deposits shall be by draft or order check and withdrawals from savings or time deposits shall be by written transfer order. Written transfer orders may be executed only for the purpose of transferring deposits to an authorized deposit of the public depositor in the same or another authorized public depository. The transfer shall be made directly by the public depository from which the withdrawal is made. No draft or order check issued under this subsection may be released to the payee, nor is the draft or order check valid, unless signed by the clerk and treasurer. No transfer order is valid unless signed by the clerk and the treasurer. Unless otherwise directed by ordinance or resolution adopted by the governing body, a certified copy of which shall be filed with each public depository concerned, the chairperson of the county board, mayor, village president, town chairperson or school district president shall countersign all drafts or order checks and all transfer orders. The governing body may also, by ordinance or resolution, authorize additional signatures. In lieu of the personal signatures of the clerk and treasurer and any other required signature, the facsimile signature adopted by the person and approved by the governing body may be affixed to the draft, order check or transfer order. The use of a facsimile signature does not relieve an official from any liability to which the official is otherwise subject, including the unauthorized use of the facsimile signature. A public depository is fully warranted and protected in making payment on any draft or order check or transferring pursuant to a transfer order bearing a facsimile signature affixed as provided by this subsection notwithstanding that the facsimile signature may have been affixed without the authority of the designated persons.

(3m) A county, city, village, town or school district may process periodic payments through the use of money transfer techniques, including direct deposit, electronic funds transfer and automated clearinghouse methods. The county, municipal or school district treasurer shall keep a record of the date, payee and amount of each disbursement made by a money transfer technique.

(4) Except as provided in sub. (3m), if a board, commission or committee of a county, city, village, town or school district is vested by statute with exclusive control and management of a fund, including the audit and approval of payments from the fund, independently of the governing body, payments under this section shall be made by drafts or order checks issued by the county, city, village, town or school clerk upon the filing with the clerk of certified bills, vouchers or schedules signed by the proper officers of the board, commission or committee, giving the name of the claimant or payee, and the amount and nature of each payment.

(5) In a 1st class city, municipal disbursements of public moneys shall be by draft, order, check, order check or as provided under sub. (3m). Checks or drafts shall be signed by the treasurer and countersigned by the comptroller. Orders shall be signed by the mayor and clerk and countersigned by the comptroller, as provided in the charter of the city. Disbursements of school moneys shall be as provided by s. 119.50.

(6) Withdrawal or disbursement of moneys deposited in a public depository as defined in s. 34.01 (5) by a treasurer as defined in s. 34.01 (7), other than the elected, appointed or acting official treasurer of a county, city, village, town or school district, shall be by endorsement, written order, draft, share draft, check or other draft signed by the person or persons designated by written authorization of the governing board as defined in s. 34.01 (1). The authorization shall conform to any statute covering the disbursement of the funds. A public depository is fully warranted and protected in making payment in accordance with the latest authorization filed with it.

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(7) No order may be issued by a county, city, village, town, special purpose district, school district, cooperative education service agency or technical college district clerk in excess of funds available or appropriated for the purposes for which the order is drawn, unless authorized by a resolution adopted by the affirmative vote of two−thirds of the entire membership of the governing body.

History: 1971 c. 154; 1971 c. 211 s. 124; 1977 c. 142, 225; 1979 c. 318; 1981 c. 20; 1983 a. 145; 1983 a. 189 s. 329 (21); 1983 a. 192 s. 303 (2); 1983 a. 368, 538; 1985 a. 91, 225; 1989 a. 56 s. 258; 1993 a. 399; 1999 a. 150 s. 109; Stats. 1999 s. 66.0607; 2001 a. 16.

66.0608 Separate accounts for municipal fire, emergency medical technician, and first responder volunteer funds. (1) DEFINITIONS. In this section:

(a) "Emergency medical technician" has the meaning given in s. 256.01 (5).

(b) "Emergency medical technician volunteer funds" means funds of a municipality that are raised by employees of the municipality's emergency medical technician department, by volunteers, or by donation to the emergency medical technician department, for the benefit of the municipality's emergency medical technician department.

(c) "Fire volunteer funds" means funds of a municipality that are raised by employees of the municipality's fire department, by volunteers, or by donation to the fire department, for the benefit of the municipality's fire department.

(d) "First responder" has the meaning given in s. 256.01 (9).

(e) "First responder volunteer funds" means funds of a municipality that are raised by employees of the municipality's first responder department, by volunteers, or by donation to the first responder department, for the benefit of the municipality's first responder department.

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

(g) "Public depository" has the meaning given in s. 34.01 (5).

(h) "Volunteer funds" means emergency medical technician volunteer funds, fire volunteer funds, or first responder volunteer funds.

(2) GENERAL AUTHORITY. Subject to subs. (3) and (4), the governing body of a municipality may enact an ordinance that does all of the following:

(a) Authorizes a particular official or employee of the municipality's fire department, emergency medical technician department, or first responder department to deposit volunteer funds of the department for which the individual serves as an official or employee, in an account in the name of the fire department, emergency medical technician department, or first responder department, in a public depository.

(b) Gives the municipality's fire department, emergency medical technician department, or first responder department, through the official or employee described under par. (a), exclusive control over the expenditure of volunteer funds of the department for which the individual serves as an official or employee in an account described under par. (a).

(3) LIMITATIONS, REQUIREMENTS. An ordinance enacted under sub. (2) may include any of the following limitations or requirements:

(a) A limit on the type and amount of funds that may be deposited into the account described under sub. (2) (a).

(b) A limit on the amount of withdrawals from the account described under sub. (2) (a) that may be made, and a limit on the purposes for which such withdrawals may be made.

(c) Reporting and audit requirements that relate to the account described under sub. (2) (a).

(4) OWNERSHIP OF FUNDS. Notwithstanding an ordinance enacted under sub. (2), volunteer funds shall remain the property of the municipality until the funds are disbursed.

History: 2001 a. 16; 2007 a. 130.

66.0609 Financial procedure; alternative system of approving claims. (1) The governing body of a village or of a city of the 2nd, 3rd or 4th class may by ordinance enact an alternative system of approving financial claims against the municipal treasury other than claims subject to s. 893.80. The ordinance shall provide that payments may be made from the city or village treasury after the comptroller or clerk of the city or village audits and approves each claim as a proper charge against the treasury, and endorses his or her approval on the claim after having determined that all of the following conditions have been complied with:

(a) That funds are available for the claim pursuant to the budget approved by the governing body.

(b) That the item or service covered by the claim has been duly authorized by the proper official, department head or board or commission.

(c) That the item or service has been actually supplied or rendered in conformity with the authorization described in par. (b).

(d) That the claim is just and valid pursuant to law. The comptroller or clerk may require the submission of proof to support the claim as the officer considers necessary.

(2) The ordinance under sub. (1) shall require that the clerk or comptroller file with the governing body not less than monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

(3) The ordinance under sub. (1) shall require that the governing body of the city or village obtain an annual detailed audit of its financial transactions and accounts by a certified public accountant licensed or certified under ch. 442 and designated by the governing body.

(4) The system under sub. (1) is operative only if the comptroller or clerk is covered by a fidelity bond of not less than $5,000 in villages and 4th class cities, of not less than $10,000 in 3rd class cities, and of not less than $20,000 in 2nd class cities.

(5) If an alternative procedure is adopted by ordinance in conformity with this section, the claim procedure required by ss. 61.25 (6), 61.51, 62.09 (10), 62.11 and 62.12 and other relevant provisions, except s. 893.80, is not applicable in the city or village.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 s. 523; 1977 c. 285 s. 12; 1979 c. 323; 1985 a. 29; 1991 a. 316; 1999 a. 150 s. 113; Stats. 1999 s. 66.0609; 2001 a. 16.

66.0611 Political subdivisions prohibited from levying tax on incomes. No county, city, village, town, or other unit of government authorized to levy taxes may assess, levy or collect any tax on income, or measured by income, and any tax so assessed or levied is void.

History: 1999 a. 150 s. 562; Stats. 1999 s. 66.0611.

66.0613 Assessment on racing prohibited. Notwithstanding subch. V of ch. 77, no county, town, city or village may levy or collect from any licensee, as defined in s. 562.01 (7), any fee, tax or assessment on any wager in any race, as defined in s. 562.01 (10), or on any admission to any racetrack, as defined in s. 562.01 (12), except as provided in s. 562.08.

History: 1987 a. 354; 1991 a. 39; 1999 a. 150 s. 564; Stats. 1999 s. 66.0613.

66.0615 Room tax; forfeitures. (1) In this section:

(a) "Commission" means an entity created by one municipality or by 2 or more municipalities in a zone, to coordinate tourism promotion and development for the zone.

(am) "District" has the meaning given in s. 229.41 (4m).

(b) "Hotel" has the meaning given in s. 77.52 (2) (a) 1.

(c) "Motel" has the meaning given in s. 77.52 (2) (a) 1.

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

(dm) "Sponsoring municipality" means a city, village or town that creates a district either separately or in combination with another city, village, town or county.

(e) "Tourism" means travel for recreational, business or educational purposes.

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(f) "Tourism entity" means a nonprofit organization that came into existence before January 1, 1992, and provides staff, development or promotional services for the tourism industry in a municipality.

(fm) "Tourism promotion and development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under sub. (1m) (a) may be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.

2. Transient tourist informational services.

3. Tangible municipal development, including a convention center.

(g) "Transient" has the meaning given in s. 77.52 (2) (a) 1.

(h) "Zone" means an area made up of 2 or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.

(1m) (a) The governing body of a municipality may enact an ordinance, and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. A tax imposed under this paragraph is not subject to the selective sales tax imposed by s. 77.52 (2) (a) 1. and may not be imposed on sales to the federal government and persons listed under s. 77.54 (9a). A tax imposed under this paragraph by a municipality shall be paid to the municipality and may be forwarded to a commission if one is created under par. (c), as provided in par. (d). Except as provided in par. (am), a tax imposed under this paragraph by a municipality may not exceed 8%. Except as provided in par. (am), if a tax greater than 8% under this paragraph is in effect on May 13, 1994, the municipality imposing the tax shall reduce the tax to 8%, effective on June 1, 1994.

(am) A municipality that imposes a room tax under par. (a) is not subject to the limit on the maximum amount of tax that may be imposed under that paragraph if any of the following apply:

1. The municipality is located in a county with a population of at least 380,000 and a convention center is being constructed or renovated within that county.

2. The municipality intends to use at least 60% of the revenue collected from its room tax, of any room tax that is greater than 7%, to fund all or part of the construction or renovation of a convention center that is located in a county with a population of at least 380,000.

3. The municipality is located in a county with a population of less than 380,000 and that county is not adjacent to a county with a population of at least 380,000, and the municipality is constructing a convention center or making improvements to an existing convention center.

4. The municipality has any long−term debt outstanding with which it financed any part of the construction or renovation of a convention center.

(b) 1. If a single municipality imposes a room tax under par. (a), the municipality may create a commission under par. (c). The commission shall contract with another organization to perform the functions of a tourism entity if no tourism entity exists in that municipality.

2. If 2 or more municipalities in a zone impose a room tax under par. (a), the municipalities shall enter into a contract under s. 66.0301 to create a commission under par. (c). If no tourism entity exists in any of the municipalities in the zone that have formed a commission, the commission shall contract with another organization in the zone to perform the functions of the tourism entity. Each municipality in a single zone that imposes a room tax shall levy the same percentage of tax. If the municipalities are unable to agree on the percentage of tax for the zone, the commission shall set the percentage.

3. A commission shall monitor the collection of room taxes from each municipality in a zone that has a room tax.

4. A commission shall contract with one tourism entity from the municipalities in the zone to obtain staff, support services and assistance in developing and implementing programs to promote the zone to visitors.

(c) 1. If a commission is created by a single municipality, the commission shall consist of 4 to 6 members. One of the commission members shall represent the Wisconsin hotel and motel industry. Members shall be appointed under subd. 3.

2. a. If the commission is created by more than one municipality in a zone, the commission shall consist of 3 members from each municipality in which annual tax collections exceed $1,000,000, 2 members from each municipality in which annual tax collections exceed $300,000 but are not more than $1,000,000 and one member from each municipality in which annual tax collections are $300,000 or less. Except as provided in subd. 2. b., members shall be appointed under subd. 3.

b. Two additional members, who represent the Wisconsin hotel and motel industry, shall be appointed to the commission by the chairperson of the commission, shall serve for a one−year term at the pleasure of the chairperson and may be reappointed.

3. Members of the commission shall be appointed by the principal elected official in the municipality and shall be confirmed by a majority vote of the members of the municipality's governing body who are present when the vote is taken. Commissioners shall serve for a one−year term, at the pleasure of the appointing official, and may be reappointed.

4. The commission shall meet regularly, and, from among its members, it shall elect a chairperson, vice chairperson and secretary.

5. The commission shall report any delinquencies or inaccurate reporting to the municipality that is due the tax.

(d) 1. A municipality that first imposes a room tax under par. (a) after May 13, 1994, shall spend at least 70% of the amount collected on tourism promotion and development. Any amount of room tax collected that must be spent on tourism promotion and development shall either be spent directly by the municipality on tourism promotion and development or shall be forwarded to the commission for its municipality or zone if the municipality has created a commission.

2. If a municipality collects a room tax on May 13, 1994, it may retain not more than the same percentage of the room tax that it retains on May 13, 1994. If a municipality that collects a room tax on May 1, 1994, increases its room tax after May 1, 1994, the municipality may retain not more than the same percentage of the room tax that it retains on May 1, 1994, except that if the municipality is not exempt under par. (am) from the maximum tax that may be imposed under par. (a), the municipality shall spend at least 70% of the increased amount of room tax that it begins collecting after May 1, 1994, on tourism promotion and development. Any amount of room tax collected that must be spent on tourism promotion and development shall either be spent directly by the municipality on tourism promotion and development or shall be forwarded to the commission for its municipality or zone if the municipality has created a commission.

3. A commission shall use the room tax revenue that it receives from a municipality for tourism promotion and development in the zone or in the municipality.

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4. The commission shall report annually to each municipality from which it receives room tax revenue the purposes for which the revenues were spent.

5. The commission may not use any of the room tax revenue to construct or develop a lodging facility.

6. If a municipality issued debt or bond anticipation notes before January 1, 2005, to finance the construction of a municipally owned convention center or conference center, nothing in this section may prevent the municipality from meeting all of the terms of its obligation.

7. Notwithstanding the provisions of subds. 1. and 2., any amount of room tax revenue that a municipality described under s. 77.994 (3) is required to spend on tourism promotion and development shall be forwarded to, and spent by, the municipality's tourism entity, unless the municipality creates a commission and forwards the revenue to the commission.

(e) 1. Subject to subd. 2., a district may adopt a resolution imposing a room tax under par. (a) in an amount not to exceed 3% of total room charges. A majority of the authorized members of the district's board may vote that, if the balance in a special debt service reserve fund of the district is less than the requirement under s. 229.50 (5), the room tax imposed by the district under this subdivision is 3% of total room charges beginning on the next January 1, April 1, July 1 or October 1 after the payment and this tax is irrepealable if any bonds issued by the district and secured by the special debt service reserve fund are outstanding. A room tax imposed by a district under this subdivision applies within the district's jurisdiction, as specified in s. 229.43, and the proceeds of the tax may be used only for the district's debt service on its bond obligations. If a district stops imposing and collecting a room tax, the district's sponsoring municipality may impose and collect a room tax under par. (a) on the date on which the district stops imposing and collecting its room tax.

2. In addition to the room tax that a district may impose under subd. 1., if the district's only sponsoring municipality is a 1st class city, the district may adopt a resolution imposing an additional room tax. The additional percentage of room tax under this subdivision shall be equal to the percentage of room tax imposed by the sponsoring municipality on the date on which the sponsoring municipality agrees to stop imposing and collecting its room tax, as described under s. 229.44 (15). A district shall begin collecting the additional room tax imposed under this subdivision on the date on which the sponsoring municipality stops imposing and collecting its room tax. A room tax imposed by a district under this subdivision applies only within the borders of the sponsoring municipality and may be used for any lawful purpose of the district.

3. A district adopting a resolution to impose the taxes under subd. 1. or 2. shall deliver a certified copy of the resolution to the secretary of revenue at least 120 days before its effective date.

(f) 1. The department of revenue shall administer the tax that is imposed under par. (a) by a district and may take any action, conduct any proceeding and impose interest and penalties.

2. Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (3), (13), (14), (18), and (19), 77.522, 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax described under subd. 1.

3. From the appropriation under s. 20.835 (4) (gg), the department of revenue shall distribute 97.45% of the taxes collected under this paragraph for each district to that district and shall indicate to the district the taxes reported by each taxpayer in that district, no later than the end of the month following the end of the calendar quarter in which the amounts were collected. The taxes distributed shall be increased or decreased to reflect subsequent refunds, audit adjustments and all other adjustments. Interest paid on refunds of the tax under this paragraph shall be paid from the appropriation under s. 20.835 (4) (gg) at the rate under s. 77.60 (1) (a). Any district that receives a report along with a payment under this subdivision or subd. 2. is subject to the duties of confidentiality to which the department of revenue is subject under s. 77.61 (5).

4. Hotels and motels and the department of revenue may not collect taxes under this paragraph for any district after the calendar quarter during which all bonds issued by the district under subch. II of ch. 229 during the first 60 months after April 26, 1994, and any bonds issued to fund or refund those bonds, are retired or for more than 2 years if bonds have not been issued during that time, except that the department may collect from hotels and motels taxes that accrued before that calendar quarter, or before the end of that 2−year period, and interest and penalties that relate to those taxes. If taxes are collected and no bonds are issued, the district may use the revenue for any lawful purpose.

5. Persons who are subject to the tax under this subsection, if that tax is administered by the department of revenue, shall register with the department. Any person who is required to register, including any person authorized to act on behalf of a person who is required to register, who fails to do so is guilty of a misdemeanor.

(2) As a means of enforcing the collection of any room tax imposed by a municipality or a district under sub. (1m), the municipality or district may exchange audit and other information with the department of revenue and may do any of the following:

(a) If a municipality or district has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, inspect and audit the financial records of any person subject to sub. (1m) pertaining to the furnishing of accommodations to determine whether the correct amount of room tax is assessed and whether any room tax return is correct.

(b) Enact a schedule of forfeitures, not to exceed 5% of the tax under sub. (1m) or par. (c), to be imposed on any person subject to sub. (1m) who fails to comply with a request to inspect and audit the person's financial records under par. (a).

(c) Determine the tax under sub. (1m) according to its best judgment if a person required to make a return fails, neglects or refuses to do so for the amount, in the manner and form and within the time prescribed by the municipality or district.

(d) Require each person who is subject to par. (c) to pay an amount of taxes that the municipality or district determines to be due under par. (c) plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment determined may be granted until the person files a correct room tax return and permits the municipality or district to inspect and audit his or her financial records under par. (a).

(e) Enact a schedule of forfeitures, not to exceed 25% of the room tax due for the previous year under sub. (1m) or par. (c) or $5,000, whichever is less, to be imposed for failure to pay the tax under sub. (1m).

(3) The municipality shall provide by ordinance and the district shall provide by resolution for the confidentiality of information obtained under sub. (2) but shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The municipality or district may provide for the publishing of statistics classified so as not to disclose the identity of particular returns. The municipality or district shall provide that persons violating ordinances or resolutions enacted under this subsection may be required to forfeit not less than $100 nor more than $500.

History: 1983 a. 189, 514; 1993 a. 263, 467, 491; 1999 a. 9; 1999 a. 150 ss. 565 to 567; Stats. 1999 s. 66.0615; 2003 a. 203; 2005 a. 135; 2007 a. 20; 2009 a. 2; 2011 a. 18, 32.

A city was authorized to enact a room tax. The gross receipts method was a fair and reasonable way of calculating the tax. Blue Top Motel, Inc. v. City of Stevens Point, 107 Wis. 2d 392, 320 N.W.2d 172 (1982).

Under sub. (1) (am), this section favors expenditures to construct or improve convention facilities. However, sub. (1) (am), only addresses when a municipality may impose a room tax rate of greater than 8% and is irrelevant when the city has not exceeded that maximum. The only restrictions the rest of the statute places on the use of room tax monies are found in sub. (1m) (d), which directs a municipality to spend a certain percentage on "tourism promotion and development, which means the promotion and development of travel for recreational, business, or educational purposes. English Manor Bed and Breakfast v. City of Sheboygan, 2006 WI App 91, 292 Wis. 2d 762, 716 N.W.2d 531, 05−1358.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Sept. 1, 2012. Statutory changes effective on or prior to Sept. 1, 2012 are printed as currently in effect. Changes effective after Sept. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (9−13−12)

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66.0617 Impact fees. (1) DEFINITIONS. In this section:

(a) "Capital costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the municipality can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Capital costs" does not include other noncapital costs to construct, expand or improve public facilities, vehicles; or the costs of equipment to construct, expand or improve public facilities.

(b) "Developer" means a person that constructs or creates a land development.

(c) "Impact fees" means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a municipality under this section.

(d) "Land development" means the construction or modification of improvements to real property that creates additional residential dwelling units within a municipality or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a municipality.

(e) "Municipality" means a city, village, or town.

(f) "Public facilities" means all of the following:

1. Highways as defined in s. 340.01 (22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing, and distributing water, parks, playgrounds, and land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district.

2. Notwithstanding subd. 1., with regard to impact fees that were first imposed before June 14, 2006, "public facilities" includes other recreational facilities that were substantially completed by June 14, 2006. This subdivision does not apply on or after January 1, 2018.

(g) "Service area" means a geographic area delineated by a municipality within which there are public facilities.

(h) "Service standard" means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the municipality.

(2) GENERAL. (a) A municipality may enact an ordinance under this section that imposes impact fees on developers to pay for the capital costs that are necessary to accommodate land development.

(b) Subject to par. (c), this section does not prohibit or limit the authority of a municipality to finance public facilities by any other means authorized by law, except that the amount of an impact fee imposed by a municipality shall be reduced, under sub. (6) (d), to compensate for any other costs of public facilities imposed by the municipality on developers to provide or pay for capital costs.

(c) Beginning on May 1, 1995, a municipality may impose and collect impact fees only under this section.

(3) PUBLIC HEARING; NOTICE. Before enacting an ordinance that imposes impact fees, or amending an existing ordinance that imposes impact fees, a municipality shall hold a public hearing on the proposed ordinance or amendment. Notice of the public hearing shall be published as a class 1 notice under ch. 985, and shall specify where a copy of the proposed ordinance or amendment and the public facilities needs assessment may be obtained.

(4) PUBLIC FACILITIES NEEDS ASSESSMENT. (a) Before enacting an ordinance that imposes impact fees or amending an ordinance that imposes impact fees by revising the amount of the fee or altering the public facilities for which impact fees may be imposed, a municipality shall prepare a needs assessment for the public facilities for which it is anticipated that impact fees may be imposed. The public facilities needs assessment shall include, but not be limited to, the following:

1. An inventory of existing public facilities, including an identification of any existing deficiencies in the quantity or quality of those public facilities, for which it is anticipated that an impact fee may be imposed.

2. An identification of the new public facilities, or improvements or expansions of existing public facilities, that will be required because of land development for which it is anticipated that impact fees may be imposed. This identification shall be based on explicitly identified service areas and service standards.

3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of all proposed and existing impact fees on the availability of affordable housing within the municipality.

(b) A public facilities needs assessment or revised public facilities needs assessment that is prepared under this subsection shall be available for public inspection and copying in the office of the clerk of the municipality at least 20 days before the hearing under sub. (3).

(5) DIFFERENTIAL FEES, IMPACT FEE ZONES. (a) An ordinance enacted under this section may impose different impact fees on different types of land development.

(b) An ordinance enacted under this section may delineate geographically defined zones within the municipality and may impose impact fees on land development in a zone that differ from impact fees imposed on land development in other zones within the municipality. The public facilities needs assessment that is required under sub. (4) shall explicitly identify the differences, such as land development or the need for those public facilities, which justify the differences between zones in the amount of impact fees imposed.

(6) STANDARDS FOR IMPACT FEES. Impact fees imposed by an ordinance enacted under this section:

(a) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.

(b) May not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the municipality.

(c) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.

(d) Shall be reduced to compensate for other capital costs imposed by the municipality with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications under ch. 236 or any other items of value.

(e) Shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.

(f) May not include amounts necessary to address existing deficiencies in public facilities.

(g) Shall be payable by the developer or the property owner to the municipality in full upon the issuance of a building permit by the municipality.

(7) LOW−COST HOUSING. An ordinance enacted under this section may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low−cost housing, except that no amount of an impact fee for which an exemption or reduction is provided under this subsection may be shifted to any other development in the land development in which the low−cost housing is located or to any other land development in the municipality.

(8) REQUIREMENTS FOR IMPACT FEE REVENUES. Revenues from each impact fee that is imposed shall be placed in a separate segre-

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gated interest−bearing account and shall be accounted for separately from the other funds of the municipality. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fee was imposed, unless the fee is refunded under sub. (9).

(9) REFUND OF IMPACT FEES. (a) Subject to pars. (b), (c), and (d), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are collected by a municipality within 7 years of the effective date of the ordinance, but are not used within 10 years after the effective date of the ordinance to pay the capital costs for which they were imposed, shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the 10−year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

(b) The 10−year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the 10−year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

(c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

(d) With regard to an impact fee that is collected after April 10, 2006, and that is collected more than 7 years after the effective date of the ordinance, such impact fees shall be used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed, or they shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8).

(10) APPEAL. A municipality that enacts an impact fee ordinance under this section shall, by ordinance, specify a procedure under which a developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the governing body of the municipality.

History: 1993 a. 305; 1997 a. 27; 1999 a. 150 s. 524; Stats. 1999 s. 66.0617; 2005 a. 203, 477; 2007 a. 44, 96; 2009 a. 180.

An association of developers had standing to challenge the use of impact fees. As long as individual developers had a personal stake in the controversy, the association could contest the use of impact fees on their behalf. Further, individual developers subject to the impact fees do have the right to bring their own separate challenges. Metropolitan Builders Association of Greater Milwaukee v. Village of Germantown, 2005 WI App 103, 282 Wis. 2d 458, 698 N.W.2d 301, 04−1433.

Sub. (6) allows a municipality to impose impact fees for a general type of facility without committing itself to any particular proposal before charging the fees. The needs assessment must simply contain a good−faith and informed estimate of the sort of costs the municipality expects to incur for the kind of facility it plans to provide. Sub. (9) requires impact fees ordinances to specify only the type of facility for which fees are imposed. A municipality must be allowed flexibility to deal with the contingencies inherent in planning. Metropolitan Builders Association of Greater Milwaukee v. Village of Germantown, 2005 WI App 103, 282 Wis. 2d 458, 698 N.W.2d 301, 04−1433.

Subs. (2) and (6) (b) authorize municipalities to hold developers responsible only for the portion of capital costs whose necessity is attributable to their developments. A municipality cannot expect developers' money to subsidize the existing residents' proportionate share of the costs. If impact fees revenues exceed the developers' proportionate share of the capital costs of a project, the municipality must return those fees to the current owners of the properties for which developers paid the fees. Metropolitan Builders Association of Greater Milwaukee v. Village of Germantown, 2005 WI App 103, 282 Wis. 2d 458, 698 N.W.2d 301, 04−1433.

When the plaintiff home builders association alleged a town enacted an impact fee ordinance that disproportionately imposed the town's costs on development and the ordinance contained a mechanism for appealing these issues, but the association did not use it, the circuit court did not erroneously exercise its discretion when it concluded the association should have used the ordinance's appeal process before bringing its claims to court. St. Croix Valley Home Builders Association, Inc. v. Township of Oak Grove, 2010 WI App 96, 327 Wis. 2d 510, 787 N.W.2d 454, 09−2166.

Rough Proportionality and Wisconsin's New Impact Fee. Ishikawa. Wis. Law. March 1995.

66.0619 Public improvement bonds: issuance. (1) A municipality, in addition to any other authority to borrow money and issue its municipal obligations, may borrow money and issue its public improvement bonds to finance the cost of construction or acquisition, including site acquisition, of any revenue−producing public improvement of the municipality. In this section, unless the context or subject matter otherwise requires:

(a) "Debt service" means the amount of principal, interest and premium due and payable with respect to public improvement bonds.

(b) "Deficiency" means the amount by which debt service required to be paid in a calendar year exceeds the amount of revenues estimated to be derived from the ownership and operation of the public improvement for the calendar year, after first subtracting from the estimated revenues the estimated cost of paying the expenses of operating and maintaining the public improvement for the calendar year.

(c) "Municipality" means a county, sanitary district, public inland lake protection and rehabilitation district, town, city or village.

(d) "Public improvement" means any public improvement which a municipality may lawfully own and operate from which the municipality expects to derive revenues.

(2) The governing body of the municipality proposing to issue public improvement bonds shall adopt a resolution authorizing their issuance. The resolution shall set forth the amount of bonds authorized, or a sum not to exceed a stated amount, and the purpose for which the bonds are to be issued. The resolution shall prescribe the terms, form and contents of the bonds and other matters that the governing body considers necessary or advisable. The bonds may be in any denomination of not less than $1,000, shall bear interest payable annually or semiannually, shall be payable not later than 20 years from the date of the bonds, at times and places that the governing body determines, and may be subject to redemption prior to maturity on terms and conditions that the governing body determines. The bonds may be issued either payable to bearer with interest coupons attached to the bonds or may be registered under s. 67.09. The bonds may be sold at public competitive sale or by private negotiation. Sections 67.08 and 67.10 apply to public improvement bonds, except insofar as they are in conflict with this section, in which case this section controls.

(2m) (a) A resolution, adopted under sub. (2) by the governing body of a municipality, need not be submitted to the electors of the municipality for approval, unless within 30 days after the resolution is adopted there is filed with the clerk of the municipality a petition, conforming to the requirements of s. 8.40 and requesting a referendum on the resolution, signed by electors numbering at least 10% of the votes cast in the municipality for governor at the last general election. A resolution, adopted under sub. (2), may be submitted by the governing body of the municipality to the electors without waiting for the filing of a petition.

(b) If a referendum is to be held on a resolution, the municipal governing body shall file the resolution as provided in s. 8.37 and shall direct the municipal clerk to call a special election for the purpose of submitting the resolution to the electors for a referendum on approval or rejection. In lieu of a special election, the

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municipal governing body may specify that the election be held at the next succeeding spring primary or election or partisan primary or general election.

(c) The municipal clerk shall publish a class 2 notice, under ch. 985, containing a statement of the purpose of the referendum, giving the amount of the bonds proposed to be issued and the purpose for which they will be issued, and stating the time and places of holding the election and the hours during which the polls will be open.

(d) The referendum shall be held and conducted and the votes cast shall be canvassed as at regular municipal elections and the results certified to the municipal clerk. A majority of all votes cast in the municipality decides the question.

(3) The reasonable cost and value of any services rendered by the public improvement to the municipality shall be charged against the municipality and shall be paid by it in monthly installments.

(4) (a) Gross revenues derived from the ownership and operation of the public improvement shall be first pledged to debt service on issued public improvement bonds. When in excess of debt service, the revenues are subject to all of the following requirements set by resolution or ordinance of the governing body fixing:

1. The proportion of revenues of the public improvement necessary for the reasonable and proper operation and maintenance of the public improvement.

2. The proportion of revenues necessary for the payment of debt service on the public improvement bonds. The revenues shall be paid into a special fund in the treasury of the municipality known as the "Public Improvement Bond Account".

(b) At any time after one year's operation, the governing body may recompute the proportion of revenues assignable under par. (a) based upon experience of operation.

(c) All funds on deposit in a public improvement bond account, which are not immediately required for the purposes specified in this section, shall be invested in accordance with s. 66.0605.

(5) Annually, on or before August 1 the officer or department of the municipality responsible for the operation of the public improvement shall file with the governing body, or its designated representative, a detailed statement setting forth the amount of the debt service on the public improvement bonds issued for the public improvement for the succeeding calendar year and an estimate for that year of the total revenues to be derived from the ownership and operation of the public improvement and the total cost of operating and maintaining the public improvement.

(6) (a) If it is determined that there will be a deficiency for the ensuing calendar year, the municipality shall make up the deficiency, but the obligation to do so is limited to a sum which does not cause the municipality to exceed its municipal debt limits. The deficiency may be made up by the municipality from any available revenues, including a tax levy. The amount contributed by the municipality shall be deposited in the public improvement bond account and applied to the payment of debt service. Taxes levied under this paragraph are not subject to statutory limitations of rate or amount.

(b) The amount of any deficiency determined under par. (a) for the ensuing calendar year shall be related to the total debt service for that year. The ratio determines the outstanding indebtedness of the issue to be reflected as part of the municipality's indebtedness for the year.

(7) If revenue bonds have been issued by a municipality pursuant to law and an ordinance authorizing their issuance without limitation as to amount has been enacted by the governing body of the municipality, public improvement bonds may be issued under the ordinance with the same effect as though they were revenue bonds. The bonds are public improvement bonds and this section applies to the bonds, except that nothing contained in this subsection shall impair the contract between the municipality and the holders of outstanding revenue bonds. Liens created in favor of any outstanding revenue bonds issued under the ordinance apply to public improvement bonds issued under this subsection. The public improvement bonds are payable on a parity with the revenue bonds issued under the ordinance if the public improvement bonds are issued in compliance with the requirements of the ordinance for the issuance of parity bonds under the ordinance.

History: 1971 c. 188; 1975 c. 62, 197; 1983 a. 24, 189; 1983 a. 207 s. 93 (4); 1989 a. 192; 1999 a. 150 s. 162; Stats. 1999 s. 66.0619; 1999 a. 182 s. 203; 2011 a. 75.

66.0621 Revenue obligations. (1) In this section:

(a) "Municipality" means a city, village, town, county, commission created by contract under s. 66.0301, public inland lake protection and rehabilitation district established under s. 33.23, 33.235 or 33.24, metropolitan sewerage district created under ss. 200.01 to 200.15 and 200.21 to 200.65, town sanitary district under subch. IX of ch. 60, a local professional baseball park district created under subch. III of ch. 229, a local professional football stadium district created under subch. IV of ch. 229, a local cultural arts district created under subch. V of ch. 229 or a municipal water district or power district under ch. 198 and any other public or quasi−public corporation, officer, board or other public body empowered to borrow money and issue obligations to repay the money and obligations out of revenues. "Municipality" does not include the state or a local exposition district created under subch. II of ch. 229.

(b) "Public utility" means any revenue producing facility or enterprise owned by a municipality and operated for a public purpose as defined in s. 67.04 (1) (b) including garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, village halls, town halls, courthouses, jails, schools, cooperative educational service agencies, hospitals, homes for the aged or indigent, child care centers, regional projects, waste collection and disposal operations, sewerage systems, local professional baseball park facilities, local professional football stadium facilities, local cultural arts facilities, and any other necessary public works projects undertaken by a municipality.

(c) "Revenue" means all moneys received from any source by a public utility and all rentals and fees and, in the case of a local professional baseball park district created under subch. III of ch. 229 includes tax revenues deposited into a special fund under s. 229.685 and payments made into a special debt service reserve fund under s. 229.74 and, in the case of a local professional football stadium district created under subch. IV of ch. 229 includes tax revenues deposited into a special fund under s. 229.825 and payments made into a special debt service reserve fund under s. 229.830.

(2) This section does not limit the authority of a municipality to acquire, own, operate and finance in the manner provided in this section a source of water and necessary transmission facilities, including all real and personal property, beyond its corporate limits. A source of water 50 miles beyond a municipality's corporate limits shall be within the municipality's authority.

(3) A municipality may, by action of its governing body, provide for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, motor bus or other systems of public transportation from the general fund, or from the proceeds of municipal obligations, including revenue bonds. An obligation created under sub. (4) or (5) is not an indebtedness of the municipality, and shall not be included in arriving at the constitutional debt limitation.

(4) If payment of obligations is provided by revenue bonds, the following is the procedure for payment:

(a) 1. The governing body of the municipality, by ordinance or resolution, shall order the issuance and sale of bonds, executed as provided in s. 67.08 (1) and payable at times not exceeding 40 years from the date of issuance, and at places, that the governing body of the municipality determines. The bonds shall be payable only out of the special redemption fund. Each bond shall include a statement that it is payable only from the special redemption

fund, naming the ordinance or resolution creating it, and that it does not constitute an indebtedness of the municipality. The bonds may be issued either as registered bonds under s. 67.09 or as coupon bonds payable to bearer. Bonds shall be sold in the manner and upon the terms determined by the governing body of the municipality.

2. Interest, if any, on bonds shall be paid at least annually to bondholders. Payment of principal on the bonds shall commence not later than 3 years after the date of issue or 2 years after the estimated date that construction will be completed, whichever is later. After the commencement of the payment of principal on the bonds, at least annually, the municipality shall make principal payments and, if any, interest payments to bondholders or provide by ordinance or resolution that payments be made into a separate fund for payment to bondholders as specified in the ordinance or resolution authorizing the issuance of the bonds. The amount of the annual debt service payments made or provided for shall be reasonable in accordance with prudent municipal utility management practices.

3. All revenue bonds may contain a provision authorizing redemption of the bonds, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date. The governing body of a municipality may provide in a contract for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, that payment shall be made in bonds at not less than 95% of the par value of the bonds.

(b) All moneys received from bonds issued under this section shall be applied solely for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, and in the payment of the cost of subsequent necessary additions, improvements and extensions. Bonds issued under this section shall be secured by a pledge of the revenues of the public utility to the holders of the bonds and to the holders of coupons of the bonds and may be additionally secured by a mortgage lien upon the public utility to the holders of the bonds and to the holders of coupons of the bonds. If a mortgage lien is created by ordinance or resolution, the lien is perfected by publication of the ordinance or resolution or by recording of the ordinance or resolution in the records of the municipality. In addition, the municipality may record the lien by notifying the register of deeds of the county in which the public utility is located concerning its issuance of bonds. If the register of deeds receives notice from the municipality, the register of deeds shall record any mortgage lien created. The public utility remains subject to the pledge and, if created, the mortgage lien until the payment in full of the principal and interest of the bonds. Upon repayment of bonds for which a mortgage lien has been created, the register of deeds shall, upon notice from the municipality, record a satisfaction of the mortgage lien. Any holder of a bond or of coupons attached to a bond may protect and enforce this pledge and, if created, the mortgage lien and compel performance of all duties required of the municipality by this section. A municipality may provide for additions, extensions and improvements to a public utility that it owns by additional issues of bonds under this section. The additional issues of bonds are subordinate to all prior issues of bonds under this section, but a municipality may in the ordinance or resolution authorizing bonds permit the issue of additional bonds on a parity with prior issues. A municipality may issue new bonds under this section to provide funds for refunding any outstanding municipal obligations, including interest, issued for any of the purposes stated in sub. (3). Refunding bonds issued under this section are subject to all of the following provisions:

1. Refunding bonds may be issued to refinance more than one issue of outstanding municipal obligations notwithstanding that the outstanding municipal obligations may have been issued at different times and may be secured by the revenues of more than one public utility. Public utilities may be operated as a single public utility, subject to contract rights vested in holders of bonds or promissory notes being refinanced. A determination by the governing body of a municipality that any refinancing is advantageous or necessary to the municipality is conclusive.

4. The refunding bonds are not an indebtedness of a municipality, and shall not be included in arriving at the constitutional debt limitation.

5. The governing body of a municipality may include a provision in any ordinance or resolution authorizing the issuance of refunding bonds pledging all or part of the revenues of any public utility or utilities originally financed, extended or improved from the proceeds of any of the municipal obligations being refunded, and pledging all or part of the surplus income derived from the investment of a trust created in relation to the refunding.

6. This subsection constitutes full authority for the authorization and issuance of refunding bonds and for all other acts authorized by this subsection to be done or performed and the refunding bonds may be issued under this subsection without regard to the requirements, restrictions or procedural provisions contained in any other law.

(c) The governing body of a municipality shall, in the ordinance or resolution authorizing the issuance of bonds, establish a system of funds and accounts and provide for sufficient revenues to operate and maintain the public utility and to provide fully for annual debt service requirements of bonds issued under this section. The governing body of a municipality may establish a fund or account for depreciation of assets of the public utility.

(d) If a governing body of a municipality creates a depreciation fund under par. (c) it shall use the funds set aside to restore any deficiency in the special redemption fund specified in par. (e) for the payment of the principal and interest due on the bonds and for the creation and maintenance of any reserves established by the bond ordinance or resolution to secure these payments. If the special redemption fund is sufficient for these purposes, moneys in the depreciation fund may be expended for repairs, replacements, new constructions, extensions or additions of the public utility. Accumulations of the depreciation fund may be invested and the income from the investment shall be deposited in the depreciation fund.

(e) The governing body of a municipality shall by ordinance or resolution create a special fund in the treasury of the municipality to be identified as “the .... special redemption fund” into which shall be paid the amount which is set aside for the payment of the principal and interest due on the bonds and for the creation and maintenance of any reserves established by bond ordinance or resolution to secure these payments.

(f) At the close of the public utility’s fiscal year, if any surplus has accumulated in any of the funds specified in this subsection, it may be disposed of in the order set forth under s. 66.0811 (2).

(g) The reasonable cost and value of any service rendered to a municipality by a public utility shall be charged against the municipality and shall be paid by it in installments.

(h) The rates for all services rendered by a public utility to a municipality or to other consumers shall be reasonable and just, taking into account and consideration the value of the public utility, the cost of maintaining and operating the public utility, the proper and necessary allowance for depreciation of the public utility, and a sufficient and adequate return upon the capital invested.

(i) The governing body of a municipality may adopt all ordinances and resolutions necessary to carry into effect this subsection. An ordinance or resolution providing for the issuance of bonds may contain such provisions or covenants, without limiting the generality of the power to adopt an ordinance or resolution, as are considered necessary or desirable for the security of bondholders or the marketability of the bonds. The provisions or covenants may include but are not limited to provisions relating to the sufficiency of the rates or charges to be made for service, maintenance and operation, improvements or additions to and sale or alienation of the public utility, insurance against loss, employment of consulting engineers and accountants, records and accounts, operat-

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ing and construction budgets, establishment of reserve funds, issuance of additional bonds, and deposit of the proceeds of the sale of the bonds or revenues of the public utility in trust, including the appointment of depositories or trustees. An ordinance or resolution authorizing the issuance of bonds or other obligations payable from revenues of a public utility constitutes a contract with the holder of bonds or other obligations issued pursuant to the ordinance or resolution.

(j) The ordinance or resolution required under par. (c) may set apart bonds equal to the amount of any secured debt or charge subject to which a public utility may be purchased, acquired, leased, constructed, extended, added to or improved. The ordinance or resolution shall set aside for interest and debt service fund from the income and revenues of the public utility a sum sufficient to comply with the requirements of the instrument creating the lien, or, if the instrument does not make any provision for it, the ordinance or resolution shall fix the amount which shall be set aside into a secured debt fund from month to month for interest on the secured debt, and a fixed amount or proportion not exceeding a stated sum, which shall be not less than 1% of the principal, to be set aside into the fund to pay the principal of the debt. Any surplus after satisfying the debt may be transferred to the special redemption fund. Public utility bonds set aside for the debt may be issued to an amount sufficient with the amount then in the debt service fund to pay and retire the debt or any portion of it. The bonds may be issued at not less than 95% of the par value in exchange for, or satisfaction of, the secured debt, or may be sold in the manner provided in this paragraph, and the proceeds applied in payment of the secured debt at maturity or before maturity by agreement with the holder. The governing body of a municipality and the owners of a public utility acquired, purchased, leased, constructed, extended, added to or improved under this paragraph may contract that public utility bonds providing for the secured debt or for the whole purchase price shall be deposited with a trustee or depository and released from deposit to secure the payment of the debt.

(k) A municipality purchasing, acquiring, leasing, constructing, extending, adding to or improving, conducting, controlling, operating or managing a public utility subject to a mortgage or deed of trust by the vendor or the vendor's predecessor in title to secure the payment of outstanding and unpaid bonds made by the vendor or the vendor's predecessor in title, may readjust, renew, consolidate or extend the obligation evidenced by the outstanding bonds and continue the lien of the mortgage, securing the mortgage by issuing bonds to refund the outstanding mortgage or revenue bonds at or before their maturity. The refunding bonds are payable only out of a special redemption fund created and set aside by ordinance or resolution under par. (e). The refunding bonds shall be secured by a mortgage lien upon the public utility, and the municipality may adopt all ordinances or resolutions and take all proceedings, following the procedure under this subsection. The lien has the same priority on the public utility as the mortgage securing the outstanding bonds, unless otherwise expressly provided in the proceedings of the governing body of the municipality.

(L) 1. If the governing body of a municipality, by ordinance or resolution, declares its intentions to authorize the issuance or sale of revenue bonds under this section, the governing body may, prior to issuance of the bonds and in anticipation of their sale, authorize the issuance of bond anticipation notes by the adoption of a resolution or ordinance. The notes shall be named "bond anticipation notes". Bond anticipation notes may be issued for the purposes for which the municipality has authority to issue revenue bonds. The ordinance or resolution authorizing the bond anticipation notes shall state the purposes for which the bond anticipation notes are to be issued and shall set forth a covenant of the municipality to issue the revenue bonds in an amount sufficient to retire the outstanding bond anticipation notes. The ordinance or resolution may contain other covenants and provisions, including a description of the terms of the revenue bonds to be issued. The municipality may pledge revenues of the public utility to payment of the principal and interest on the bond anticipation notes. Prior to issuance of the bond anticipation notes, the governing body may adopt an ordinance or resolution authorizing the revenue bonds.

2. Bond anticipation notes may be issued for periods of up to 5 years and may, by ordinance or resolution of the governing body of a municipality, be refunded one or more times, if the refunding bond anticipation notes do not exceed 5 years in term and if they will be paid within 10 years after the date of issuance of the original bond anticipation notes. Bond anticipation notes shall be executed as provided in s. 67.08 (1) and may be registered under s. 67.09. These notes shall state the sources from which they are payable. Bond anticipation notes are not an indebtedness of the municipality issuing them, and no lien may be created or attached with respect to any property of the municipality as a consequence of the issuance of the notes.

3. Any funds derived from the issuance and sale of revenue bonds under this section and issued subsequent to the execution and sale of bond anticipation notes constitute a trust fund, and the fund shall be expended first for the payment of principal and interest of the bond anticipation notes, and then may be expended for other purposes set forth in the ordinance or resolution authorizing the revenue bonds. No bond anticipation notes may be issued unless a financial officer of the municipality certifies to the governing body of the municipality that contracts with respect to additions, improvements and extensions are to be let and that the proceeds of the notes are required for the payment of the contracts.

4. Following the issuance of the bond anticipation notes, revenues of the public utility may be paid into a fund to pay principal and interest on the bond anticipation notes, which moneys or any part of them may, by the ordinance or resolution authorizing the issuance of bond anticipation notes, be pledged for the payment of the principal of and interest on the notes. The ordinance or resolution shall pledge to the payment of the principal of the notes the proceeds of the sale of the revenue bonds in anticipation of the sale of which the notes were authorized to be issued and may provide for use of revenue of the public utility or other available funds for payment of principal on the notes. The notes are negotiable instruments.

6. A municipality authorized to issue or sell bond anticipation notes under this paragraph may, in addition to the revenue sources or bond proceeds, appropriate funds out of its annual tax levy for the payment of the notes. The payment of the notes out of funds from a tax levy is not an obligation of the municipality to make any other appropriation.

7. Bond anticipation notes are a legal form of investment for municipal funds under s. 66.0603 (1m).

(5) A municipality which may own, purchase, acquire, lease, construct, extend, add to, improve, conduct, control, operate or manage any public utility may, by action of its governing body, in lieu of issuing bonds or levying taxes and in addition to any other lawful methods of paying obligations, provide for or secure the payment of the cost of purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility by pledging, assigning or otherwise hypothecating, shares of stock evidencing a controlling interest in a public utility, or the net earnings or profits derived, or to be derived, from the operation of the public utility. The municipality may enter into the contracts and may mortgage the public utility and issue obligations to carry out this subsection. A municipality may issue additional obligations under this section, but those obligations are subordinate to all prior obligations, except that the municipality may in the ordinance or resolution authorizing obligations under this subsection permit the issue of additional obligations on a parity with those previously issued.

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(6) (a) Revenue bonds issued by a local professional baseball park district created under subch. III of ch. 229 are subject to the provisions in ss. 229.72 to 229.81.

(b) Revenue bonds issued by a local professional football stadium district created under subch. IV of ch. 229 are subject to the provisions in ss. 229.829 to 229.834.

(c) Revenue bonds issued by a local cultural arts district created under subch. V of ch. 229 are subject to the provisions in ss. 229.849 to 229.853.

History: 1973 c. 172; 1979 c. 268; 1981 c. 282; 1983 a. 24; 1983 a. 207 ss. 9 to 21, 93 (1), (3); 1987 a. 197; 1991 a. 316; 1993 a. 263; 1995 a. 56, 216, 225, 378; 1997 a. 35; 1999 a. 65; 1999 a. 150 ss. 175, 177; Stats. 1999 s. 66.0621; 1999 a. 167 ss. 33 to 36; 1999 a. 186 s. 45; 2001 a. 30, 105; 2005 a. 148; 2011 a. 239.

A village has power to own and operate a home for the aged, finance the same under ss. 66.066 and 66.067 [now s. 66.0621], and to lease the facility to a nonprofit corporation, but probably could not lease to a profit corporation for operation. 62 Atty. Gen. 226.

Wisconsin municipal debt finance: An outlook for the eighties. Schilling, Griggs and Ebert, 63 MLR 539 (1980).

66.0623 Refunding village, town, sanitary, and inland lake district bonds. A village, town, town sanitary district established under s. 60.71 (1), or public inland lake protection and rehabilitation district established under ch. 33 that has undertaken to construct a combined sewer and water system and issued revenue bonds payable from the combined revenues of the system and that is unable to provide sufficient funds to complete the construction of the system and to meet maturing principal of the revenue bonds, may, with the consent of all of the holders of noncallable bonds, refund all or any part of its outstanding indebtedness, including revenue bonds, by issuing term bonds maturing in not more than 20 years, payable solely from the revenues of the combined sewer and water system and redeemable at par on any interest payment date. The bonds may be issued as provided in s. 66.0621 (4) and shall pledge income from hydrant rentals and all sewer and water charges and may contain any covenants authorized by law, except if bonds are issued under this section to refund floating indebtedness, the bonds are subject to the prior lien and claim of all bonds issued to refund revenue bonds issued prior to the refunding.

History: 1999 a. 150 s. 231; Stats. 1999 s. 66.0623; 2001 a. 30.

66.0625 Joint issuance of mass transit bonding. (1) In this section:

(a) "Political subdivision" means a county, city, village or town.

(b) "Public transit body" means any transit or transportation commission or authority and public corporation established by law or by interstate compact to provide mass transportation services and facilities.

(2) In addition to the provisions of any other statutes specifically authorizing cooperation between political subdivisions or public transit bodies, unless those statutes specifically exclude action under this section, any political subdivision or public transit body may, for mass transit purposes, issue bonds or, with any other political subdivision or public transit body, jointly issue bonds.

History: 1991 a. 282; 1999 a. 150 s. 604; Stats. 1999 s. 66.0625.

66.0627 Special charges for current services and energy and water efficiency improvement loans. (1) In this section:

(a) "Energy efficiency improvement" means an improvement to a residential, commercial, or industrial premises that reduces the usage of energy, or increases the efficiency of energy usage, at the premises.

(b) "Political subdivision" means a city, village, town, or county.

(c) "Service" includes snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, including construction of storm water management facilities, tree care, removal and disposition of dead animals under s. 60.23 (20), loan repayment under s. 70.57 (4) (b), soil conservation work under s. 92.115, and snow removal under s. 86.105.

(d) "Water efficiency improvement" means an improvement to a residential, commercial, or industrial premises that reduces the usage of water, or increases the efficiency of water usage, at the premises.

(2) Except as provided in sub. (5), the governing body of a city, village or town may impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the property served. The authority under this section is in addition to any other method provided by law.

(3) (a) Except as provided in par. (b), the governing body of the city, village or town may determine the manner of providing notice of a special charge.

(b) Before a special charge for street tarring or the repair of sidewalks, curbs or gutters may be imposed, a public hearing shall be held by the governing body on whether the service in question will be funded in whole or in part by a special charge. Any interested person may testify at the hearing. Notice of the hearing shall be by class 1 notice under ch. 985, published at least 20 days before the hearing. A copy of the notice shall be mailed at least 10 days before the hearing to each interested person whose address is known or can be ascertained with reasonable diligence. The notice under this paragraph shall state the date, time and location of the hearing, the subject matter of the hearing and that any interested person may testify.

(4) A special charge is not payable in installments. If a special charge is not paid within the time determined by the governing body, the special charge is delinquent. A delinquent special charge becomes a lien on the property against which it is imposed as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under ch. 74.

(5) Except with respect to storm water management, including construction of storm water management facilities, no special charge may be imposed under this section to collect arrearages owed a municipal public utility.

(6) If a special charge imposed under this section is held invalid because this section is found unconstitutional, the governing body may reassess the special charge under any applicable law.

(7) Notwithstanding sub. (2), no political subdivision may enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner or occupant of property for a call for assistance that is made by the owner or occupant requesting law enforcement services that relate to any of the following:

(a) Domestic abuse, as defined in s. 813.12 (1) (am).

(b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025.

(c) Stalking, as described in s. 940.32.

(8) (a) A political subdivision may make a loan, or enter into an agreement regarding loan repayments to a 3rd party for owner−arranged or lessee−arranged financing, to an owner or lessee of a premises located in the political subdivision for making or installing an energy efficiency improvement, a water efficiency improvement, or a renewable resource application to the premises. If a political subdivision makes a loan or enters into an agreement under this paragraph, the political subdivision may collect the loan repayment as a special charge under this section. Notwithstanding sub. (4), a special charge imposed under this paragraph may be collected in installments and may be included in the current or next tax roll for collection and settlement under ch. 74 even if the special charge is not delinquent.

(b) A political subdivision that imposes a special charge under par. (a) may permit special charge installments to be collected by a 3rd party that has provided financing for the improvement or application and may require that the 3rd party inform the political subdivision if a special charge installment is delinquent.

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(c) An installment payment authorized under par. (a) that is delinquent becomes a lien on the property that benefits from the improvement or application as of the date of delinquency. A lien under this paragraph has the same priority as a special assessment lien.

(d) A political subdivision that, under par. (a), makes a loan to, or enters an agreement with, an owner for making or installing an improvement or application that costs $250,000 or more shall require the owner to obtain a written guarantee from the contractor or project engineer that the improvement or application will achieve a savings−to−investment ratio of greater than 1.0 and that the contract or engineer will annually pay the owner any shortfall in savings below this level. The political subdivision may determine the method by which a guarantee under this paragraph is enforced.

(e) If the making or installing of an improvement or application under par. (a) costs less than $250,000, the political subdivision may require a 3rd−party technical review of the projected savings of the improvement or application as a condition of making a loan or entering into an agreement under par. (a).

History: 1999 a. 150; 2007 a. 4, 184; 2009 a. 11, 272; 2011 a. 138.

A special assessment against a church was not barred by s. 70.11 (4). Grace Episcopal v. Madison, 129 Wis. 2d 331, 385 N.W.2d 200 (Ct. App. 1986).

A city may impose special charges for delinquent electric bills due a municipal utility. Laskaris v. City of Wisconsin Dells, 131 Wis. 2d 525, 389 N.W.2d 67 (Ct. App. 1986).

The cost of service to a property under this section does not include the cost of legal services incurred by the municipality in defending against challenges to the removal of materials from a ditch under s. 88.90. Robinson v. Town of Bristol, 2003 WI App 97, 264 Wis. 2d 318, 667 N.W.2d 14, 02−1247.

The examples given in sub. (1) are not meant to limit its application in any way, but merely to highlight possible uses. The special charge need only provide a service, not a benefit, to the property owner. Under s. 74.01 (4) a special charge is a charge against real property to compensate for all or part of the costs to a public body of providing services to the property. Rusk v. City of Milwaukee, 2007 WI App 7, 298 Wis. 2d 407, 727 N.W.2d 358, 05−2630.

State property is not subject to assessment of special charges under former s. 66.60 (16) [now s. 66.0627]. 69 Atty. Gen. 269.

66.0628 Fees imposed by a political subdivision. (1) In this section, "political subdivision" means a city, village, town, or county.

(2) Any fee that is imposed by a political subdivision shall bear a reasonable relationship to the service for which the fee is imposed.

(3) If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the rate customarily paid for similar services by the political subdivision.

History: 2003 a. 134; 2007 a. 44.

SUBCHAPTER VII

SPECIAL ASSESSMENTS

66.0701 Special assessments by local ordinance. (1) Except as provided in s. 66.0721, in addition to other methods provided by law, the governing body of a town, village or 2nd, 3rd or 4th class city may, by ordinance, provide that the cost of installing or constructing any public work or improvement shall be charged in whole or in part to the property benefited, and make an assessment against the property benefited in the manner that the governing body determines. The special assessment is a lien against the property from the date of the levy.

(2) Every ordinance under this section shall contain provisions for reasonable notice and hearing. Any person against whose land a special assessment is levied under the ordinance may appeal in the manner prescribed in s. 66.0703 (12) within 40 days of the date of the final determination of the governing body.

History: 1983 a. 532; 1989 a. 322; 1999 a. 150 s. 544; Stats. 1999 s. 66.0701.

An ordinance under this section may use police power as the basis for a special assessment. Mowers v. City of St. Francis, 108 Wis. 2d 630, 323 N.W.2d 157 (Ct. App. 1982).

66.0703 Special assessments, generally. (1) (a) Except as provided in s. 66.0721, as a complete alternative to all other methods provided by law, any city, town or village may, by resolution of its governing body, levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon the property by any municipal work or improvement; and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of the special assessments.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power may not exceed the value of the benefits accruing to the property. If an assessment represents an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city, town or village.

(c) If any property that is benefited is by law exempt from assessment, the assessment shall be computed and shall be paid by the city, town or village.

(2) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost, the resulting damages, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city, town or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost that may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for the proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(3) A parcel of land against which a special assessment has been levied for the sanitary sewer or water main laid in one of the streets that the parcel abuts is entitled to a deduction or exemption that the governing body determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street that the corner lot abuts. The governing body may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(4) Before the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise the powers for a stated municipal purpose. The resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid, or that the number of installments will be determined at the hearing required under sub. (7), and direct the proper municipal officer or employee to make a report on the proposal. The resolution may limit the proportion of the cost to be assessed.

(5) The report required by sub. (4) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) Except as provided in par. (d), an estimate, as to each parcel of property affected, of:

1. The assessment of benefits to be levied.

2. The damages to be awarded for property taken or damaged.

3. The net amount of the benefits over damages or the net amount of the damages over benefits.

(d) A statement that the property against which the assessments are proposed is benefited, if the work or improvement constitutes an exercise of the police power. If this paragraph applies, the estimates required under par. (c) shall be replaced by a schedule of the proposed assessments.

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(6) A copy of the report when completed shall be filed with the municipal clerk for public inspection. If property of the state may be subject to assessment under s. 66.0705, the municipal clerk shall file a copy of the report with the state agency which manages the property. If the assessment to the property of the state for a project, as defined under s. 66.0705 (2), is $50,000 or more, the state agency shall submit a request for approval of the assessment, with its recommendation, to the building commission. The building commission shall review the assessment and shall determine within 90 days of the date on which the commission receives the report if the assessment is just and legal and if the proposed improvement is compatible with state plans for the facility which is the subject of the proposed improvement. If the building commission so determines, it shall approve the assessment. No project in which the property of the state is assessed at $50,000 or more may be commenced and no contract on the project may be let without approval of the assessment by the building commission under this subsection. The building commission shall submit a copy of its determination under this subsection to the state agency that manages the property which is the subject of the determination.

(7) (a) Upon the completion and filing of the report required by sub. (4), the city, town or village clerk shall prepare a notice stating the nature of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the governing body, a small map, the place and time at which the report may be inspected, and the place and time at which all interested persons, or their agents or attorneys, may appear before the governing body, a committee of the governing body or the board of public works and be heard concerning the matters contained in the preliminary resolution and the report. The notice shall be published as a class 1 notice, under ch. 985, in the city, town or village and a copy of the notice shall be mailed, at least 10 days before the hearing or proceeding, to every interested person whose post−office address is known, or can be ascertained with reasonable diligence. The hearing shall commence not less than 10 nor more than 40 days after publication.

(b) The notice and hearing requirements under par. (a) do not apply if they are waived, in writing, by all the owners of property affected by the special assessment.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may rerefer the report prepared under subs. (4) and (5) to the designated officer or employee with directions to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) If an assessment of benefits is made against any property and an award of compensation or damages is made in favor of the same property, the governing body shall assess against or award in favor of the property only the difference between the assessment of benefits and the award of damages or compensation.

(c) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications and adopt a resolution directing that the work or improvement be carried out and paid for in accordance with the report as finally approved.

(d) The city, town or village clerk shall publish the final resolution as a class 1 notice, under ch. 985, in the assessment district and a copy of the resolution shall be mailed to every interested person whose post−office address is known, or can be ascertained with reasonable diligence.

(e) When the final resolution is published, all work or improvements described in the resolution and all awards, compensations and assessments arising from the resolution are then authorized and made, subject to the right of appeal under sub. (12).

(9) If more than a single type of project is undertaken as part of a general improvement affecting any property, the governing body may finally combine the assessments for all purposes as a single assessment on each property affected, if each property owner may object to the assessment for any single purpose or for more than one purpose.

(10) If the actual cost of any project, upon completion or after the receipt of bids, is found to vary materially from the estimates, if any assessment is void or invalid, or if the governing body decides to reconsider and reopen any assessment, it may, after giving notice as provided in sub. (7) (a) and after a public hearing, amend, cancel or confirm the prior assessment. A notice of the resolution amending, canceling or confirming the prior assessment shall be given by the clerk as provided in sub. (8) (d). If the assessments are amended to provide for the refunding of special assessment B bonds under s. 66.0713 (6), all direct and indirect costs reasonably attributable to the refunding of the bonds may be included in the cost of the public improvements being financed.

(11) If the cost of the project is less than the special assessments levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately and if any assessments or installments have been paid the excess over cost shall be applied to reduce succeeding unpaid installments, if the property owner has elected to pay in installments, or refunded to the property owner.

(12) (a) A person having an interest in a parcel of land affected by a determination of the governing body, under sub. (8) (c), (10) or (11), may, within 90 days after the date of the notice or of the publication of the final resolution under sub. (8) (d), appeal the determination to the circuit court of the county in which the property is located. The person appealing shall serve a written notice of appeal upon the clerk of the city, town or village and execute a bond to the city, town or village in the sum of $150 with 2 sureties or a bonding company to be approved by the city, town or village clerk, conditioned for the faithful prosecution of the appeal and the payment of all costs that may be adjudged against that person. The clerk, if an appeal is taken, shall prepare a brief statement of the proceedings in the matter before the governing body, with its decision on the matter, and shall transmit the statement with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) The appeal shall be tried and determined in the same manner as cases originally commenced in circuit court, and costs awarded as provided in s. 893.80.

(c) If a contract has been made for making the improvement the appeal does not affect the contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for the improvement, including the assessment on any property represented in the appeal as if the appeal had not been taken.

(d) Upon appeal under this subsection, the court may, based on the improvement as actually constructed, render a judgment affirming, annulling or modifying and affirming, as modified, the action or decision of the governing body. If the court finds that any assessment or any award of damages is excessive or insufficient, the assessment or award need not be annulled, but the court may reduce or increase the assessment or award of damages and affirm the assessment or award as so modified.

(e) An appeal under this subsection is the sole remedy of any person aggrieved by a determination of the governing body, whether or not the improvement was made according to the plans and specifications, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of the improvement, the assessment of benefits or the award of damages or the levy of any special assessment. The limitation in par. (a) does not apply to appeals based on fraud or on latent defects in the construction of the improvement discovered after the period of limitation.

(f) It is a condition to the maintenance of an appeal that any assessment appealed from shall be paid when the assessment or any installments become due. If there is a default in making a payment, the appeal shall be dismissed.

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(13) Every special assessment levied under this section is a lien on the property against which it is levied on behalf of the municipality levying the assessment or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or any interest in the special assessment, from the date of the determination of the assessment by the governing body. The governing body shall provide for the collection of the assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or installments that are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes apply to the special assessment, except as otherwise provided by statute.

(14) If a special assessment levied under this section is held invalid because this section is found to be unconstitutional, the governing body may reassess the special assessment under any applicable law.

History: 1971 c. 313; 1973 c. 19; 1977 c. 29; 1977 c. 285 s. 12; 1977 c. 418; 1979 c. 323 s. 33; 1983 a. 207; 1987 a. 27, 403; 1989 a. 322; 1991 a. 39, 316; 1995 a. 378, 419; 1997 a. 213; 1999 a. 150 ss. 525 to 535; Stats. 1999 s. 66.0703.

Under sub. (15) [now sub. (13)] the assessment lien is effective from the date of the determination of the assessment, not from the date of the publication of the resolution. Dittner v. Town of Spencer, 55 Wis. 2d 707, 201 N.W.2d 450 (1972).

A presumption arises that an assessment was made on the basis of benefits actually accrued. In levying a special assessment for benefits to residential property from a public improvement, the benefit to the property as commercial property may be considered only if the assessing authority can prove there is a reasonable probability of rezoning the property in the near future. Molbreak v. Village of Shorewood Hills, 66 Wis. 2d 687, 225 N.W.2d 894 (1975).

The plaintiff's failure to comply strictly with the express terms of sub. (12) (a) and (f) deprived the court of subject matter jurisdiction. Bialk v. City of Oak Creek, 98 Wis. 2d 469, 297 N.W.2d 43 (Ct. App. 1980).

"Special benefits" under sub. (1) (a) is defined as an uncommon advantage accruing to the property owner in addition to the benefit enjoyed by other property owners. Goodger v. City of Delavan, 134 Wis. 2d 348, 396 N.W.2d 778 (Ct. App. 1986).

Confirmation under sub. (10) permits interest to be collected from the date of the original assessment. Gelhaus & Brost v. City of Medford, 143 Wis. 2d 193, 420 N.W.2d 775 (Ct. App. 1988).

Sub. (12) (d) does not permit a trial court to correct an assessment that was annulled due to lack of evidence. Because sub. (12) (d) evinces an intent that the municipality will reassess, a trial court may modify an assessment only if there is an adequate record of evidence to make the determination. VTAE District 4 v. Town of Burke, 151 Wis. 2d 392, 444 N.W.2d 733 (Ct. App. 1989).

Property specially assessed under the police power must be benefitted to some extent, and the method of assessment must be reasonable, not arbitrarily or capriciously burdening any group of property owners. CTI Group v. Village of Germantown, 163 Wis. 2d 426, 471 N.W.2d 610 (Ct. App. 1991).

Imposition of interest on an assessment from the date of enactment of an ordinance is unreasonable. Village of Egg Harbor v. Sarkis, 166 Wis. 2d 5, 479 N.W.2d 536 (Ct. App. 1991).

A police power special assessment must benefit the property and be made on a reasonable basis. The degree, effect, and consequences of the benefit must be examined to measure reasonableness. Mere uniformity of treatment does not establish reasonableness; rather uniqueness of a property may be the cause for the assessment being unreasonable. Lac La Belle Golf Club v. Lac La Belle, 187 Wis. 2d 274, 522 N.W.2d 277 (Ct. App. 1994).

Sub. (12) (a), when read with s. 895.346, allows a cash deposit in lieu of a bond. Aiello v. Village of Pleasant Prairie, 206 Wis. 2d 68, 556 N.W.2d 67 (1996), 95−1352.

An assessment that cannot be legally made cannot be validated by reassessment under sub. (10). An assessment that is invalid by reason of a defect or omission, even if material, may be cured by reassessment. Reassessment is not limited to situations when construction has not yet commenced, and may be made after the project is completed. Dittberner v. Windsor Sanitary District, 209 Wis. 2d 478, 564 N.W.2d 341 (Ct. App. 1997), 98−0877.

Appeals brought under sub. (12) (a) are exempt from the notice provisions of s. 893.80 (1). Gamroth v. Village of Jackson, 215 Wis. 2d 251, 571 N.W.2d 917 (Ct. App. 1997), 96−3396.

An appellant's filing under sub. (12) (a) of a notice of appeal and bond with the municipal clerk within the 90−day limit, but not in the circuit court, was a reasonable interpretation of the statute and did not result in the appeal being untimely. Outagamie County v. Town of Greenville, 2000 WI App 65, 233 Wis. 2d 566, 608 N.W.2d 414, 99−1575.

A summons and complaint meets the requirement of "written notice of appeal" under sub. (12) (a). Mayek v. Cloverleaf Lakes Sanitary District #1, 2000 WI App 182, 238 Wis. 2d 261, 617 N.W.2d 235, 99−2895.

The filing of an appeal prior to publication of the final resolution required by sub. (8) (d) was not premature under sub. (12) (a). Section 808.04 (8), which provides that a notice of appeal filed prior to the entry of the order appealed from shall be treated as filed after the entry, is applicable to appeals under this section as the result of the application of s. 801.02 (2), which makes chs. 801 to 847 applicable in all special proceedings. Mayek v. Cloverleaf Lakes Sanitary District #1, 2000 WI App 182, 238 Wis. 2d 261, 617 N.W.2d 235, 99−2895.

Section 60.77 authorizes town sanitary districts to levy special assessments and makes the procedures under this section applicable to those districts. As such, service of a notice of appeal on the district clerk was proper under this section. Mayek v. Cloverleaf Lakes Sanitary District #1, 2000 WI App 182, 238 Wis. 2d 261, 617 N.W.2d 235, 99−2895.

Legal expenses associated with an appeal of a special assessment may not be added to the assessment under sub. (5). Such legal expenses are not reasonably attributed to the work or improvement as they do not aid in its creation or development. Bender v. Town of Kronenwetter, 2002 WI App 284, 258 Wis. 2d 321, 654 N.W.2d 57, 02−0403.

Because special assessments can only be levied for local improvements, before the propriety of the assessment can be addressed the circuit court must initially examine whether the improvement is local. The purpose for making the improvements is relevant to resolving the nature of the improvement, but not determinative because the court must also consider the benefits the property receives. The purpose for initiating improvements must be for reasons of accommodation and convenience, and the object of the purpose must be primarily for the people in a particular locality. Genrich v. City of Rice Lake, 2003 WI App 255, 268 Wis. 2d 233, 673 N.W.2d 361, 03−0597.

Uniformity requires the assessment to be fairly and equitably apportioned among property owners in comparable positions. The municipality must use a method of assessment that produces a uniform and equal value for all affected properties. It is unreasonable to use the same method to assess a group of property owners when it results in an entirely disproportionate result that could easily be remedied by using a different method or to assess one group of property owners by a different method from that used to assess others if the results are entirely disproportionate. There is no per se reasonable method. Genrich v. City of Rice Lake, 2003 WI App 255, 268 Wis. 2d 233, 673 N.W.2d 361, 03−0597

An availability charge assessed against each condominium unit served by a sewer extension through a single connection from the condominium lot to the sewer was not levied uniformly and imposed an inequitable cost burden as compared with the benefit accruing to the petitioners and to all benefited properties. The availability charge lacked a reasonable basis because: 1) there was no nexus between the availability charge and the district's recovery of the capital cost to it to provide sanitary sewer service to individual lots; 2) other lots with multiple habitable units and were provided the same sewer service through one stub were assessed only one availability charge; and 3) there was no showing that the condominium owners received a greater benefit than was provided to other lots that were affected by the sewer extension. Steinbach v. Green Lake Sanitary District, 2006 WI 63, 291 Wis. 2d 11, 715 N.W.2d 195, 03−2245.

This section does not require the special assessment process be completed before any work is done. Park Avenue Plaza v. City of Mequon, 2008 WI App 39, 308 Wis. 2d 439, 747 N.W.2d 703, 06−2339.

Absent an intent to mislead, procedural deficiencies, assuming they exist, do not constitute fraud, which is expressly excluded from the 90−day period of appeal under sub. (12) (e). Rather, procedural deficiencies are precisely the type of allegations that shall be raised in an appeal under sub. (12). Emjay Investment Company v. Village of Germantown, 2011 WI 31, 333 Wis. 2d 252, 797 N.W.2d 844, 09−1714.

Special assessments can only be levied for local improvements. If the improvement's primary purpose and effect are to benefit the public, it is not a local improvement. While general improvements grant substantially equal benefits and advantages to the property of the whole community or otherwise benefit the public at large, local improvements confer "special benefits" on property in a particular area. A special benefit has the effect of furnishing an "uncommon advantage" that either increases the services provided to the property or enhances its value. An uncommon advantage is a benefit that differs in kind rather than in degree from those benefits enjoyed by the general public. Hildebrand v. Town of Menasha, 2011 WI App 83, 334 Wis. 2d 259, 800 N.W.2d 502, 10−0897.

State property is not subject to assessment of special charges under sub. (16). 69 Atty. Gen. 269.

Landowners who were not treated in a discriminatory manner and did not avail themselves of the statutory right to appeal the merits of an assessment against land based on a report under sub. (2) were not deprived of due process or equal protection and could not maintain an action under the civil rights act for damages. Kasper v. Larson, 372 F. Supp. 881.

Wisconsin special assessments. Klitzke and Edgar. 62 MLR 171 (1978).

66.0705 Property of public and private entities subject to special assessments. (1) (a) The property of this state, except that held for highway right−of−way purposes or acquired and held for purposes under s. 85.09, and the property of every county, city, village, town, school district, sewerage district or commission, sanitary or water district or commission, or any public board or commission within this state, and of every corporation, company or individual operating any railroad, telegraph, telecommunications, electric light or power system, or doing any of the business mentioned in ch. 76, and of every other corporation or company is in all respects subject to all special assessments for local improvements.

(b) Certificates and improvement bonds for special assessments may be issued and the lien of the special assessments enforced against property described in par. (a), except property of the state, in the same manner and to the same extent as the property of individuals. Special assessments on property described in par. (a) may not extend to the right, easement or franchise to operate

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or maintain railroads, telegraph, telecommunications or electric light or power systems in streets, alleys, parks or highways. The amount represented by any certificate or improvement bond issued under this paragraph is a debt due personally from the corporation, company or individual, payable in the case of a certificate when the taxes for the year of its issue are payable, and in the case of a bond according to the terms of the bond.

(2) In this subsection, "assessment" means a special assessment on property of this state and "project" means any continuous improvement within overall project limits regardless of whether small exterior segments are left unimproved. If the assessment of a project is less than $50,000, or if the assessment of a project is $50,000 or more and the building commission approves the assessment under s. 66.0703 (6), the state agency which manages the property shall pay the assessment from the revenue source which supports the general operating costs of the agency or program against which the assessment is made.

History: 1977 c. 29; 1977 c. 418 ss. 431, 924 (48); 1983 a. 27; 1985 a. 187; 1985 a. 297 s. 76; 1987 a. 27; 1999 a. 150 s. 548; Stats. 1999 s. 66.0705.

66.0707 Assessment or special charge against property in adjacent city, village or town. (1) A city, village or town may levy special assessments for municipal work or improvement under s. 66.0703 on property in an adjacent city, village or town, if the property abuts and benefits from the work or improvement and if the governing body of the municipality where the property is located by resolution approves the levy by resolution. The owner of the property is entitled to the use of the work or improvement on which the assessment is based on the same conditions as the owner of property within the city, village or town.

(2) A city, village or town may impose a special charge under s. 66.0627 against real property in an adjacent city, village or town that is served by current services rendered by the municipality imposing the special charge if the municipality in which the property is located approves the imposition by resolution. The owner of the property is entitled to the use and enjoyment of the service for which the special charge is imposed on the same conditions as the owner of property within the city, village or town.

(3) A special assessment or special charge under this section is a lien against the benefited property and shall be collected by the treasurer in the same manner as the taxes of the municipality and paid over by the treasurer to the treasurer of the municipality levying the assessment.

History: 1991 a. 316; 1999 a. 150 ss. 192, 550, 551; Stats. 1999 s. 66.0707.

66.0709 Preliminary payment of improvements funded by special assessments. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 66.0713 (1) (c).

(b) "Public improvement" has the meaning given in s. 66.0713 (1) (d).

(2) If it is determined that the cost of a public improvement is to be paid, in whole or in part, by special assessments against the property to be benefited by the improvement, the resolution authorizing the public improvement shall provide that the whole, or any stated proportion, or no part of the estimated aggregate cost of the public improvement, which is to be levied as special assessments, shall be paid into the treasury of the local governmental unit in cash. The public improvement may not be commenced nor any contract for the improvement let until the payment required by the resolution is paid into the treasury of the local governmental unit by the owner or persons having an interest in the property to be benefited. The payment shall be credited against the amount of the special assessments levied or to be levied against benefited property designated by the payer. If a preliminary payment is required by the resolution, the refusal of one or more owners or persons having an interest in the property to be benefited to pay any preliminary payments does not prevent the making of the improvement if the entire specified sum is obtained from the remaining owners or interested parties.

History: 1999 a. 150 ss. 193, 194, 506.

66.0711 Discount on cash payments for public improvements. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 66.0713 (1) (c).

(b) "Public improvement" has the meaning given in s. 66.0713 (1) (d).

(2) Every bid received for any public improvement which is not to be paid wholly in cash shall contain a provision that all payments made in cash by the local governmental unit as provided by contract or made on special assessments are subject to a specified rate of discount. The treasurer of the local governmental unit shall issue a receipt for every payment made on any special assessment, stating the date and amount of the cash payment, the discount and the total credit including the discount on a specified special assessment. The treasurer shall on the same day deliver a duplicate of the receipt to the clerk, who shall credit the specified assessments accordingly. All moneys so received shall be paid to the contractor as provided by the contract.

History: 1999 a. 150 ss. 202, 507, 508.

66.0713 Contractor's certificates; general obligation−local improvement bonds; special assessment B bonds. (1) DEFINITIONS. In this section, unless a different meaning clearly appears from the context:

(a) "Contractor" means the person, firm or corporation performing the work or furnishing the materials, or both, for a public improvement.

(am) "Debt service fund" means the fund, however derived, set aside for the payment of principal and interest on contractor's certificates or bonds issued under this section.

(b) "Governing body" means the body or board vested by statute with the power to levy special assessments for public improvements.

(c) "Local governmental unit" means county, city, village, town, farm drainage board, sanitary districts, utility districts, public inland lake protection and rehabilitation districts, and all other public boards, commissions or districts, except 1st class cities, authorized by law to levy special assessments for public improvements against the property benefited by the special improvements.

(d) "Public improvement" means the result of the performance of work or the furnishing of materials or both, for which special assessments are authorized to be levied against the property benefited by the work or materials.

(2) PAYMENT BY CONTRACTOR'S CERTIFICATE. (a) If a public improvement has been made and has been accepted by the governing body of the local governmental unit, it may issue to the contractor for the public improvement a contractor's certificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable to the parcel, describing each parcel. The certificate shall be substantially in the following form:

$.... No. ....

(name of local governmental unit)

CONTRACTOR'S CERTIFICATE

FOR CONSTRUCTION OF ....

(name of local governmental unit)

ISSUED PURSUANT TO

SECTION 66.0713 (2), WIS. STATS.

We, the undersigned officers of the (name of local governmental unit), certify that (name and address of contractor) has performed the work of constructing .... in .... benefiting the following premises: (insert legal description) in the (name of local governmental unit) .... County, Wisconsin, pursuant to a contract entered into by (name of local governmental unit) with .... (name of con-

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tractor), dated ...., and that .... entitled to the sum of .... dollars, the unpaid balance due for the work chargeable to the property described above.

If the unpaid balance due is not paid to the treasurer of (name of local governmental unit) before the first day of the following December, that amount shall be extended upon the tax roll of the (name of local governmental unit) against the property above described as listed in the tax roll, and collected as provided by law.

This certificate is transferable by endorsement but an assignment or transfer by endorsement is invalid unless recorded in the office of the clerk of the (name of local governmental unit) and the fact of the recording is endorsed on this certificate. THE HOLDER OF THIS CERTIFICATE HAS NO CLAIM UPON THE (Name of local governmental unit), EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS LEVIED FOR THE WORK AGAINST THE ABOVE DESCRIBED LAND.

This certificate shall bear interest from its date to the following January 1.

Given under our hands at (name of local governmental unit), this .... day of ...., ... (year)

....

(Mayor, President, Chairperson)

Countersigned:

....

Clerk, (name of local governmental unit)

ASSIGNMENT RECORD

Assigned by .... (Original Contractor) to .... (Name of Assignee) of .... (Address of Assignee) .... (Date and signature of clerk)

(b) A contractor's certificate is not a liability of a local governmental unit and shall so state in boldface type printed on the face of the certificate. Upon issuance of a certificate, the clerk of the local governmental unit shall immediately deliver to the treasurer of the local governmental unit a schedule of each certificate showing the date, amount, number, date of maturity, person to whom issued and parcel of land against which the assessment is made. The treasurer shall notify, by mail, the owner of the parcel, as the owner appears on the last assessment roll, that payment is due on the certificate at the office of the treasurer, and if the owner pays the amount due, the clerk shall pay that amount to the registered holder of the certificate, and shall endorse the payment on the face of the certificate and on the clerk's record of the certificate. The clerk shall keep a record of the names of the persons, firms or corporations to whom contractor's certificates are issued and of the assignees of certificates when the assignment is known to the clerk. Assignments of contractor's certificates are invalid unless recorded in the office of the clerk of the local governmental unit and the fact of recording is endorsed on the certificate. Upon final payment of the certificate, the certificate shall be delivered to the treasurer of the local governmental unit and by the treasurer delivered to the clerk. On the first of each month, to and including December 1, the treasurer shall certify to the clerk a detailed statement of all payments made on certificates.

(c) If a contractor's certificate is not paid before December 1 in the year in which issued, the comptroller or clerk of the local governmental unit shall include in the statement of special assessments to be placed in the next tax roll an amount sufficient to pay the certificate, with interest from the date of the certificate to the following January 1, and the proceedings for the collection of that amount shall be the same as the proceedings for the collection of general property taxes, except as otherwise provided in this section. The delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the treasurer of the local governmental unit or by the county treasurer and remitted to the treasurer of the local governmental unit on account of the special assessments shall be delivered to the owner of the contractor's certificate on demand.

(3) GENERAL OBLIGATION−LOCAL IMPROVEMENT BONDS. For the purpose of anticipating the collection of special assessments payable in installments as provided in s. 66.0715 (3) and after the installments have been determined, the governing body may issue general obligation−local improvement bonds under s. 67.16.

(4) SPECIAL ASSESSMENT B BONDS. (a) For the purpose of anticipating the collection of special assessments payable in installments, as provided in s. 66.0715 (3) and after the installments have been determined, the governing body may issue special assessment B bonds payable out of the proceeds of the special assessments as provided in this section. The bonds are not a general liability of the local governmental unit.

(b) The issue of special assessment B bonds shall be in an amount not exceeding the aggregate unpaid special assessments levied for the public improvement that the issue is to finance. A separate bond shall be issued for each separate assessment and the bond shall be secured by and be payable out of only the assessment against which it is issued. The bonds shall mature in the same number of installments as the underlying special assessments. The bonds shall carry coupons equal in number to the number of special assessments. The coupons shall be detachable and entitle the owner of the bond to the payment of principal and interest collected on the underlying special assessments. The bond shall be executed as provided in s. 67.08 (1) and may be registered under s. 67.09. Each bond shall include a statement that it is payable only out of the special assessment on the particular property against which it is issued and the purpose for which the assessment was levied and other provisions that the governing body inserts.

(ba) Payments of principal and interest shall conform as nearly as possible to the payments to be made on the installments of the assessment, and the principal and interest to be paid on the bonds shall not exceed the principal and interest to be received on the assessment. All collections of installments of the special assessments levied to pay for the public improvement, either before or after delinquency, shall be placed by the treasurer of the local governmental unit in a special debt service fund designated and identified for the bond issue and shall be used only for the payment of the bonds and interest of the issue. Any surplus in the debt service fund after all bonds and interest are fully paid shall be paid into the general fund.

(c) Special assessment B bonds shall be registered in the name of the owner on the records of the clerk of the local governmental unit that issued the bonds. Upon transfer of the ownership of the bonds the transfer shall be noted upon the bond and on the record of the clerk of the local governmental unit. Any transfer not so recorded is void and the clerk of the local governmental unit may make payments of principal and interest to the owner of the bond as registered on the books of the local governmental unit.

(d) Principal and interest collected on the underlying special assessments and interest collected on the delinquent special assessments and on delinquent tax certificates issued for the delinquent assessments shall be paid by the treasurer of the local governmental unit out of the debt service fund created for the issue of the bonds to the registered holder of the bonds upon the presentation and surrender of the coupons due attached to the bonds. If any installment of the special assessment entered in the tax roll is not paid to the treasurer of the local governmental unit with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax certificate resulting from the delinquent special assessment is redeemed by any person other than the county, the county treasurer shall pay to the local governmental unit the full amount received for the tax certificate, including interest, and the treasurer of the local governmental unit shall then pay the amount of the remittance into a special debt service fund created for the payment of the special assessment B bonds.

(5) AREA−GROUPED SPECIAL ASSESSMENT B BONDS. (a) If the governing body determines to issue special assessment B bonds

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under sub. (4), it may group the special assessments levied against benefited lands and issue of the bonds against the special assessments grouped as a whole. All of the bonds shall be equally secured by the assessments without priority one over the other.

(b) All of the following apply to area−grouped special assessment B bonds issued under this section:

1. For the purpose of anticipating the collection of special assessments payable in installments under this section and after the installments have been determined, the governing body may issue area−grouped special assessment B bonds payable out of the proceeds of the special assessments as provided under sub. (4). The bonds are not a general liability of the local governmental unit.

2. The issue of the bonds shall be in an amount not exceeding the aggregate unpaid special assessments levied for the public improvement or projects which the issue is to finance. The bonds shall mature over substantially the same period of time in which the special assessment installments are to be paid. The bonds shall be bearer bonds or may be registered bonds under s. 67.09. The bonds shall be executed as provided in s. 67.08 (1) and shall include a statement that they are payable only from the special debt service fund provided for in subd. 4. and a fund created under sub. (7) for the collection and payment of the special assessment and any other provisions that the governing body deems proper to insert.

4. All collections of principal and interest on the underlying special assessments and installments, either before or after delinquency and after issuance of a tax certificate under s. 74.57, shall be placed by the treasurer of the local governmental unit in a special debt service fund created, designated and identified for the issue of the bonds and used only for payment of the bonds and interest on the bonds to the holders of the bonds or coupons in accordance with the terms of the issue. Any surplus in the debt service fund, after all bonds and interest on the bonds are fully paid, shall be paid into the general fund.

5. If the tax certificate is redeemed by any person other than the county, the county treasurer shall pay to the local governmental unit the full amount received for the certificate, including interest, and the treasurer of the local governmental unit shall pay the amount of the remittance into the special debt service fund created for the payment of the bonds.

7. A holder of the bonds or of any coupons attached to the bonds has a lien against the special debt service fund created under subd. 4. for payment of the bonds and interest on the bonds and against any reserve fund created under sub. (7) and may either at law or in equity protect and enforce the lien and compel performance of all duties required by this section of the local governmental unit issuing the bonds.

(6) REFUNDING B BONDS. A local governmental unit may issue refunding B bonds to refund any outstanding special assessment B bonds issued under sub. (4) or (5). The refunding B bonds shall be secured by and payable only from the special assessments levied to pay for the public improvements financed by the bonds to be refunded, and are not a general liability of the local governmental unit. If bonds issued under sub. (4) are to be refunded, the provisions of sub. (4) (b) to (e) apply to the refunding B bonds; if bonds issued under sub. (5) are to be refunded, the provisions of sub. (5) (b) apply to the refunding B bonds. If the governing body determines that it is necessary to amend the prior assessments in connection with the issuance of refunding B bonds under this section, it may reconsider and reopen the assessments under s. 66.0703 (10). The notice and hearing under s. 66.0703 (10) may be waived under s. 66.0703 (7) (b) by the owners of the property affected. If the assessments are amended, the refunding B bonds shall be secured by and payable from the special assessments as amended. If the assessments are amended, all direct and indirect costs reasonably attributable to the refunding of the bonds may be included in the cost of the public improvements being financed. If the governing body determines to issue refunding B bonds, it may create a reserve fund for the issue under sub. (7).

(7) RESERVE FUND FOR SPECIAL ASSESSMENT B BONDS AND REFUNDING B BONDS. If the governing body determines to issue special assessment B bonds under sub. (4) or refunding B bonds under sub. (6), it may establish in its treasury a fund to be designated as a reserve fund for the particular bond issue, to be maintained until the obligation is paid or otherwise extinguished. Any surplus in the reserve fund after all the bonds have been paid or canceled shall be carried into the general fund of the local governmental unit's treasury. The source of the fund shall be established either from proceeds of the bonds, the general fund of the local governmental unit's treasury or by the levy of an irrepealable and irrevocable general tax. The bonds are not a general liability of the local governmental unit.

(8) PAYMENT OF B BONDS FROM TAX LEVY. Any local governmental unit authorized to issue special assessment B bonds, in addition to the special assessments or bond proceeds or other sources, may appropriate funds out of its annual tax levy for the payment of the bonds. The payment of the bonds out of funds from a tax levy may not be construed as constituting an obligation of the local governmental unit to make any other such appropriation.

(9) PAYMENT BY LOCAL GOVERNMENTAL UNIT. If a public improvement has been paid for by the local governmental unit, contractor's certificates under sub. (2), general obligation−local improvement bonds under s. 67.16, or special assessment B bonds under sub. (4) may be issued to the local governmental unit as the owner of the certificates or bonds. All of the provisions of subs. (2) and (4) and s. 67.16 applicable to the contractor or to the owner of the contractor's certificates, the general obligation−local improvement bonds or the special assessment B bonds shall be deemed to include the local governmental unit which has paid for the improvement and to which the contractor's certificates, general obligation−local improvement bonds or special assessment B bonds have been issued, except as otherwise provided in this section.

(10) LEGALITY OF PROCEEDINGS; CONCLUSIVE EVIDENCE. After the expiration of 90 days from the date of a contractor's certificate or special assessment B bond, the certificate or bond is conclusive evidence of the legality of all proceedings up to and including the issue of the certificate or bond and prima facie evidence of the proper construction of the improvement.

History: 1973 c. 172; 1977 c. 29 s. 1646 (3); 1977 c. 391; 1979 c. 110 s. 60 (13); 1981 c. 390 s. 252; 1983 a. 24; 1983 a. 189 ss. 66, 329 (14); 1983 a. 192; 1983 a. 207 ss. 32, 33, 93 (8); 1987 a. 197, 378, 403; 1991 a. 237, 316; 1993 a. 184; 1997 a. 250; 1999 a. 150 ss. 203, 502, 503, 509 to 513, 516, 517, 519, 522, 523; Stats. 1999 s. 66.0713; 2005 a. 253.

66.0715 Deferral of special assessments; payment of special assessments in installments. (1) DEFINITIONS. In this section:

(a) "Governing body" has the meaning given in s. 66.0713 (1) (b).

(b) "Local governmental unit" has the meaning given in s. 66.0713 (1) (c).

(c) "Public improvement" has the meaning given in s. 66.0713 (1) (d).

(2) DEFERRAL. (a) Notwithstanding any other statute, the due date of any special assessment levied against property abutting on or benefited by a public improvement may be deferred on the terms and in the manner prescribed by the governing body while no use of the improvement is made in connection with the property. A deferred special assessment may be paid in installments within the time prescribed by the governing body. A deferred special assessment is a lien against the property from the date of the levy.

(b) If a tax certificate is issued under s. 74.57 for property which is subject to a special assessment that is deferred under this subsection, the governing body may provide that the amounts of any deferred special assessments are due on the date that the tax certificate is issued and are payable as are other delinquent special assessments from any moneys received under s. 75.05 or 75.36.

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(c) The lien of any unpaid amounts of special assessments deferred under this subsection with respect to which a governing body has not taken action under par. (b) is not merged in the title to property taken by the county under ch. 75.

(3) ANNUAL INSTALLMENTS. (a) The governing body of a local governmental unit may provide that special assessments levied to defray the cost of a public improvement or a project constituting part of a general public improvement, except sprinkling or oiling streets, may be paid in annual installments.

(b) The first installment shall include a proportionate part of the principal of the special assessment, determined by the number of installments, together with interest on the whole assessment from a date, not before the date of the notice under par. (e), and to that date, not later than December 31, in the year in which the installment is to be collected as determined by the governing body. Each subsequent installment shall include the same proportion of the principal and one year's interest on the unpaid portion of the assessment.

(c) The first installment shall be entered in the first tax roll prepared after the installments have been determined as a special tax on the property upon which the special assessment was levied and shall be treated as any other tax of a local governmental unit, except as otherwise provided in this section. Each subsequent installment shall be entered in each of the subsequent annual tax rolls until all installments are levied.

(d) If any installment entered in the tax roll is not paid to the treasurer of the local governmental unit with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate, except as otherwise provided in this section.

(e) If the governing body determines to permit special assessments for a local improvement to be paid in installments it shall publish a class 1 notice, under ch. 985. The notice shall be substantially in the following form:

INSTALLMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment for the improvement has been determined as to each parcel of real estate affected and a statement of the assessment is on file with the.... clerk; it is proposed to collect the special assessment in.... installments, as provided for by section 66.0715 of the Wisconsin Statutes, with interest at.... percent per year; that all assessments will be collected in installments as provided above except assessments on property where the owner files with the.... clerk within 30 days from date of this notice a written notice that the owner elects to pay the special assessment on the owner's property, describing the property, to the.... treasurer on or before the following November 1, unless the election is revoked. If, after making the election, the property owner fails to make the payment to the.... treasurer, the.... clerk shall place the entire assessment on the following tax roll.

Dated....

.... [Clerk of (name of local governmental unit)]

(f) After the time for making an initial election to pay the special assessment in full under par. (e) expires, the assessment may be paid in full before due upon payment of that portion of the interest to become due as the governing body determines.

(fm) 1. Between the time that a property owner elects to pay the special assessment in full under par. (e) and 30 days before the time that payment is due, the property owner may revoke his or her initial election and, subject to subds. 2. and 3., shall pay the special assessment in installments if the governing body that levied the special assessment adopts a resolution consenting to the revocation.

2. If the first installment has been paid by property owners under par. (c) before the date on which payment in full would have been due for a property owner who initially elected to pay the special assessment in one lump sum, the next property tax bill sent to a person who revoked his or her initial election to make a lump sum payment shall include all of the following amounts:

a. An amount equal to what the first installment would have been under par. (b) if the property owner's initial election had been to pay the special assessment in installments.

b. Interest on that amount at the rate used by the local governmental unit for installment payments under par. (b), covering the period between the date that the initial election was made under par. (e) and the date on which the installment is paid.

c. The amount of the 2nd installment, as calculated under par. (b).

3. If the first installment has not been paid by property owners under par. (c) before the date on which payment in full would have been due for a property owner who initially elected to pay the special assessment in one lump sum, the next property tax bill sent to a person who revoked his or her initial election to make a lump sum payment shall be an amount calculated under par. (b) plus interest on that amount at the rate used by the local governmental unit for installment payments under par. (b), covering the period between the date that the initial election was made under par. (e) and the date on which the installment is paid.

(g) A schedule of the assessments and assessment installments shall be recorded in the office of the clerk of the local governmental unit as soon as practicable.

(h) All special assessments and installments of special assessments which are returned to the county as delinquent by any municipal treasurer under this section shall be accepted by the county in accordance with this section and shall be set forth in a separate column of the delinquent return.

History: 1999 a. 150 ss. 204, 205, 514, 537.

66.0717 Lien of special assessment. A special assessment levied under any authority is a lien on the property against which it is levied on behalf of the municipality levying the assessment or the owner of any certificate, bond or other document issued by the municipality, evidencing ownership of any interest in the special assessment, from the date of the levy, to the same extent as a lien for a tax levied upon real property.

History: 1987 a. 378; 1999 a. 150 s. 536; Stats. 1999 s. 66.0717.

66.0719 Disposition of special assessment proceeds where improvement paid for out of general fund or municipal obligations. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 66.0713 (1) (c).

(b) "Public improvement" has the meaning given in s. 66.0713 (1) (d).

(2) If a special assessment is levied for any public improvement, any amount collected on that special assessment or received from the county shall be deposited in the general fund of the local governmental unit if the payment for the improvement was made out of its general fund, deposited in the funds and accounts of a public utility established under s. 66.0621 (4) (c) if the improvement was paid out of the proceeds of revenue obligations of the local governmental unit, or deposited in the debt service fund required for the payment of bonds or notes issued under ch. 67 if the improvement was paid out of the proceeds of the bonds or notes. That special assessment, when delinquent, shall be returned in trust for collection and the local governmental unit has the same rights as provided in s. 67.16 (2) (c).

History: 1999 a. 150 ss. 206, 520, 521; 2003 a. 321.

66.0721 Special assessments on certain farmland or camps for construction of sewerage or water system. (1) In this section:

(a) "Agricultural use" has the meaning given in s. 91.01 (2) and includes any additional agricultural uses of land, as determined by the town sanitary district or town.

(ae) "Camp" means all real property and the personal property situated therein, of any camp conducted by a nonprofit corpora-

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tion, a charitable trust, or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code and is exempt from federal tax under section 501 (a) of the Internal Revenue Code and that is organized under the laws of this state, so long as the property is used primarily for camping for children and not for pecuniary profit of any individual.

(b) "Eligible farmland" means land that is eligible for farmland preservation tax credits under ss. 71.58 to 71.61 or 71.613.

(2) Except as provided in sub. (3), no town sanitary district or town may levy any special assessment on eligible farmland or a camp for the construction of a sewerage or water system.

(3) (a) If any eligible farmland or camp contains a structure that is connected to a sanitary sewer or public water system at the time, or after the time, that a town sanitary district or town first levies a special assessment for the construction of a sewerage or water system in the service area in which the eligible farmland or camp is located, the town sanitary district or town may levy a special assessment for the construction of a sewerage or water system on the eligible farmland or camp that includes that structure. If that connection is made after the first assessment, the town sanitary district or town may also charge interest, from the date that the connection is made, on the special assessment at an annual rate that does not exceed the average interest rate paid by the district or town on its obligations between the time the district or town first levies a special assessment for the construction of a sewerage or water system in the service area in which the eligible farmland or camp is located and the time it levies the special assessment on that eligible farmland or camp. That assessment may not exceed the equivalent of an assessment for that purpose on a square acre or, if the governing body of a town sanitary district or town so specifies by ordinance, the maximum size of any lot that is in that service area and that is not devoted exclusively to agricultural use or exclusively to use as a camp.

(b) If after an initial special assessment for the construction of a sewerage or water system is levied in a service area any eligible farmland or camp subject to par. (a) or exempted from a special assessment under sub. (2) is divided into 2 or more parcels at least one of which is not devoted exclusively to agricultural use or exclusively to use as a camp, the town sanitary district or town may levy on each parcel on which it has either levied a special assessment under par. (a) or has not levied a special assessment for the construction of a sewerage or water system a special assessment for that purpose that does not exceed the amount of the special assessment for that purpose that would have been levied on the parcel if the parcel had not been exempt under sub. (2) or that has already been levied under par. (a). The special assessment shall be apportioned among the parcels resulting from the division in proportion to their area. The town sanitary district or town may also charge interest, from the date the eligible farmland or camp is divided into 2 or more parcels at least one of which is not devoted exclusively to agricultural use or exclusively to use as a camp, on the special assessment at an annual rate that does not exceed the average interest rate paid by the district or town on its obligations between the time the district or town first levies a special assessment for the construction of a sewerage or water system in the service area in which the eligible farmland or camp is located and the time it levies the special assessment on that eligible farmland or camp under this paragraph. This paragraph does not apply to any eligible farmland or camp unless the town sanitary district or town records a lien on that eligible farmland or camp in the office of the register of deeds within 90 days after it first levies a special assessment for the construction of a sewerage or water system for the service area in which the eligible farmland or camp is located, describing either the applicability of par. (a) or the exemption under sub. (2) and the potential for a special assessment under this paragraph.

(c) If, after a town sanitary district or town first levies a special assessment for the construction of a sewerage or water system in a service area, the eligible farmland or camp in that service area exempted from the special assessment under sub. (2) is not devoted exclusively to agricultural use or exclusively to use as a camp for a period of one year or more, the town sanitary district or town may levy on that eligible farmland or camp the special assessment for the construction of a sewerage or water system that it would have levied if the eligible farmland or camp had not been exempt under sub. (2). The town sanitary district or town may also charge interest, from the date the eligible farmland or camp has not been devoted exclusively to agricultural use or exclusively to use as a camp for a period of at least one year, on the special assessment at an annual rate that does not exceed the average interest rate paid by the district or town on its obligations between the time the district or town first levies a special assessment for the construction of a sewerage or water system in the service area in which the eligible farmland or camp is located and the time it levies the special assessment on that eligible farmland or camp. This paragraph does not apply to any land unless the town or special purpose district records a lien on that eligible farmland or camp in the office of the register of deeds within 90 days after it first levies a special assessment for the construction of a sewerage or water system in the service area in which the eligible farmland or camp is located, describing the exemption under sub. (2) and the potential for a special assessment under this paragraph.

History: 1999 a. 150 ss. 208, 530; Stats. 1999 s. 66.0721; 2007 a. 226; 2009 a. 28.

A "parcel" under sub. (1) (b). is a contiguous portion of land greater than 35 acres regardless of the number of parcels into which it might be divided for tax purposes. Bender v. Town of Kronenwetter, 2002 WI App 284, 258 Wis. 2d 321, 654 N.W.2d 57, 02−0403.

66.0723 Utilities, special assessments. (1) If a city, village or town constructs, extends or acquires by gift, purchase or otherwise a distribution system or a production or generating plant for the furnishing of light, heat or power to any municipality or its inhabitants, the city, village or town may assess all or some of the cost to the property benefited, whether abutting or not, in the same manner as is provided for the assessment of benefits under s. 66.0703.

(2) Special assessments under this section may be made payable and certificates or bonds issued under s. 66.0713. In a city, village or town where no official paper is published, notice may be given by posting the notice in 3 public places in the city, village or town.

History: 1993 a. 246; 1999 a. 150 s. 233; Stats. 1999 s. 66.0723.

66.0725 Assessment of condemnation benefits. (1) As a complete alternative to any other method provided by law, for the purpose of payment of the expenses, including the excess of damages and all other expenses and costs, incurred for the taking of private property for the purpose set forth in ss. 32.02 (1), 61.34 (3) and 62.22, the governing body of a town, city or village may, by resolution, levy and assess the whole or any part of the expenses, as a special assessment upon the property that the governing body determines is specially benefited by the taking. The governing body shall include in the levy the whole or any part of the excess of benefits over total damages, if any, and make a list of every lot or parcel of land assessed, the name of the owner, if known, and the amount levied on the property.

(2) The resolution under sub. (1) shall be published as a class 2 notice, under ch. 985, with a notice that at the time and place stated the governing body will meet and hear objections to the assessment. If the resolution levies an assessment against property outside the corporate limits, notice shall be given by mailing a copy of the resolution and the notice by registered mail to the last−known address of the owner of the property. A copy of the resolution shall be filed with the clerk of the town in which the property is located.

(3) At the time fixed the governing body shall meet and hear objections, and for that purpose may adjourn to a date set by the governing body, until the hearing is completed, and shall by resolution confirm or modify the assessment in whole or in part. At any time before the first day of the next November any party liable may pay the assessment to the town, city or village treasurer. On

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November 1, if the assessment remains unpaid, the treasurer shall make a certified statement showing what assessments under this section remain unpaid, and file the statement with the clerk, who shall place the unpaid assessments on the tax roll for collection.

(4) The town clerk shall enter on the tax roll the benefits not offset by damages or an excess of benefits over damages which are levied as a special assessment under this section by a city or village on land in the town and shall collect the assessment in the same manner as other taxes. The assessments collected shall be paid over to the city or village treasurer to be applied in payment of any damages or excess of damages over benefits awarded by the assessment. If the amount of special assessments is insufficient to pay all damages or excess of damages over benefits awarded, the difference shall be paid by the city or village. Damages or excess of damages over benefits may be paid out of the fund before the collection of the special assessments and reimbursed when collected.

(5) Any person against whose land an assessment of benefits is made under this section may appeal as prescribed in s. 32.06 (10) within 30 days of the adoption of the resolution required under sub. (3).

History: 1999 a. 150 s. 546; Stats. 1999 s. 66.0725.

66.0727 Special assessments against railroad for street improvement. (1) (a) If a city, village or town improves a street, alley or public highway within its corporate limits, including by grading, curbing or paving, if the entire or partial cost of the improvement is assessed against abutting property, and if the street, alley or public highway is crossed by the track of a railroad engaged as a common carrier, the common council or board of public works of the city, or the village or town board, shall, at any time after the completion and acceptance of the improvement by the municipality, file with the local agent of the railroad corporation operating the railroad a statement showing the amount chargeable to the railroad corporation for the improvement.

(b) The amount chargeable to the railroad corporation is the amount equal to the cost of constructing the improvement along the street, alley or public highway immediately in front of and abutting its right−of−way on each side of the street, alley or public highway at the point where the track crosses the street, alley or public highway, based upon the price per square yard, lineal foot or other unit of value used in determining the total cost of the improvement.

(2) The amount charged against a railroad corporation for improving the street, alley or public highway, fronting or abutting its right−of−way, may not exceed the average amount per front foot assessed against the remainder of the property fronting or abutting on the improved street, alley or public highway. The amount calculated under sub. (1) and contained in the statement is due and payable by the railroad corporation to the municipality filing the statement within 30 days of the date when the statement is presented to the local representative of the railroad corporation.

(3) If a railroad corporation fails or refuses to pay a city, village or town the amount set forth in any statement or claim for street, alley or public highway improvements under this section within the time specified in the statement, the city, village or town has a claim for that amount against the railroad corporation and may maintain an action in any circuit court within this state to recover the amount in the statement.

(4) This section does not preclude a city, village or town from using any other lawful method to compel a railroad corporation to pay its proportionate share of a street, alley or public highway improvement.

History: 1977 c. 72; 1993 a. 246, 490; 1995 a. 225; 1999 a. 150 ss. 209, 552, 554; Stats. 1999 s. 66.0727.

66.0729 Improvement of streets by abutting railroad company. (1) If the track of a railroad is laid upon or along a street, alley or public highway within any city, village or town, the corporation operating the railroad shall maintain and improve the portion of the street, alley or public highway that is occupied by its tracks. The railroad corporation shall grade, pave or otherwise improve the portion of the street, alley or public highway in the manner and with the materials that the common council of the city or the village or town board determines. The railroad corporation is not required to pave or improve that portion of the street, alley or public highway occupied by it with different material or in a different manner from that in which the remainder of the street is paved or improved. The railroad corporation is liable to pay for paving, grading or otherwise improving a street, alley or public highway only to the extent that the actual cost of the improvement exceeds the estimated cost of the improvement were the street, alley or public highway not occupied by the tracks of the railroad.

(2) If a city, village or town orders a street, alley or public highway to be paved, graded, curbed or improved, as provided in sub. (1), the clerk of the city, village or town shall serve the local agent of the railroad corporation a notice setting forth the action taken by the city, village or town relative to the improvement of the street, alley or public highway.

(3) If the railroad corporation elects to construct the street, alley or public highway improvement, it shall within 10 days of the receipt of the notice from the clerk of the city, village or town, file with the clerk a notice of its intention to construct the street, alley or public highway improvement, and it shall be allowed until the following June 30 to complete the work, unless the work is ordered after May 20 of any year, and in that case the railroad corporation shall be allowed 40 days from the time the clerk of the municipality presents the notice to the railroad agent in which to complete the work.

(4) If a city, village or town orders a street, alley or public highway improved under sub. (1) and serves notice on the railroad corporation under sub. (2) and the railroad corporation elects not to construct the improvement or elects to construct the improvement but fails to construct the improvement within the time under sub. (3), the city, village or town shall let a contract for the construction of the improvement and improve the street, alley or public highway as determined under sub. (1). When the improvement is completed and accepted by the city, village or town, the clerk of the city, village or town shall present to the local agent of the railroad corporation a statement of the actual cost of the improvement and the railroad corporation shall, within 20 days of receipt of the statement, pay the treasurer of the city, village or town the amount shown by the statement.

(5) If a railroad corporation fails to pay the cost of constructing any pavement or other street improvement under sub. (1), the city, village or town responsible for the improvement may enforce collection of the amount by an action against the railroad corporation as provided in s. 66.0727 (3).

(6) This section does not preclude a city, village or town from using any other lawful method to compel a railroad corporation to pay its proportionate share of a street, alley or public highway improvement.

History: 1977 c. 72; 1993 a. 246; 1999 a. 150 ss. 210, 555, 556, 558, 560; Stats. 1999 s. 66.0729.

66.0731 Reassessment of invalid condemnation and public improvement assessments. (1) If in an action, other than an action under s. 66.0703 (12), involving a special assessment, special assessment certificate, bond or note or tax certificate based on the special assessment, the court determines that the assessment is invalid for any cause, it shall stay all proceedings, frame an issue and summarily try the issue and determine the amount that the plaintiff justly ought to pay or which should be justly assessed against the property in question. That amount shall be ordered to be paid into court for the benefit of the parties entitled to the amount within a fixed time. Upon compliance with the order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with the order the action shall be dismissed with costs.

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(2) If the common council, village board or town board determines that any special assessment is invalid for any reason, it may reopen and reconsider the assessment as provided in s. 66.0703 (10).

History: 1983 a. 532; 1987 a. 378; 1999 a. 150 s. 547; Stats. 1999 s. 66.0731.

66.0733 Repayment of assessments in certain cases. If a contract for improvements entered into by a governmental unit authorized to levy special assessments is declared void by a court of last resort, the governing body may provide that all persons who have paid all or any part of any assessment levied against the abutting property owners because of the improvement may be reimbursed the amount of the assessment, paid from the fund, that the governing body determines. This section applies to contracts for improvements that are void for any of the following reasons:

(1) There was insufficient authority to make the contract.

(2) The contract was made contrary to a prohibition against contracting in other than a specified way.

(3) The contract was prohibited by statute.

History: 1993 a. 246; 1999 a. 150 s. 501; Stats. 1999 s. 66.0733.

SUBCHAPTER VIII

PUBLIC UTILITIES

66.0801 Definitions; effect on other authority. (1) In this subchapter:

(a) "Municipal public utility" means a public utility owned or operated by a city, village or town.

(b) "Public utility" has the meaning given in s. 196.01 (5).

(2) Sections 66.0803 to 66.0825 do not deprive the office of the commissioner of railroads, department of transportation or public service commission of any power under ss. 195.05 and 197.01 to 197.10 and ch. 196.

History: 1999 a. 150.

66.0803 Acquisition of public utility or bus transportation system. (1) (a) A town, village or city may construct, acquire or lease any plant and equipment located in or outside the municipality, including interest in or lease of land, for furnishing water, light, heat or power, to the municipality or its inhabitants; may acquire a controlling portion of the stock of any corporation owning private waterworks or lighting plant and equipment; and may purchase the equity of redemption in a mortgaged or bonded waterworks or lighting system, including cases where the municipality in the franchise has reserved right to purchase. The character or duration of the franchise, permit or grant under which any public utility is operated does not affect the power to acquire the public utility under this subsection. Two or more public utilities owned by the same person or corporation, or 2 or more public utilities subject to the same lien or charge, may be acquired as a single enterprise. The board or council may agree with the owner or owners of any public utility or utilities on the value of the utility or utilities and may contract to purchase or acquire at that value, upon those terms and conditions mutually agreed upon between the board or council and the owner or owners.

(b) A resolution, specifying the method of payment and submitting the question to a referendum, shall be adopted by a majority of all the members of the board or council at a regular meeting, after publication at least one week previous in the official paper.

(c) The notice of the referendum shall include a general statement of the plant and equipment proposed to be constructed, acquired or leased and of the manner of payment.

(d) Referenda under this section may not be held oftener than once a year, except that a referendum held for the acquisition, lease or construction of any of the types of property enumerated in par. (a) does not bar the holding of one referendum in the same year for the acquisition and operation of a bus transportation system by the municipality.

(e) The provisions of pars. (b) to (d) do not apply to the acquisition of any plant, equipment or public utility for furnishing water service when the plant, equipment or utility is acquired by the municipality by dedication or without monetary or financial consideration. After a public utility is constructed, acquired or leased under this subsection, pars. (b) to (d) do not apply to any subsequent construction, acquisition or lease in connection with that public utility.

(2) (a) A city, village or town may by action of its governing body and with a referendum vote provide, acquire, own, operate or engage in a municipal bus transportation system where no existing bus, rail or other local transportation system exists in the municipality. A city, village or town in which there exists any local transportation system by similar action and referendum vote may acquire, own, operate or engage in the operation of a municipal bus transportation system upon acquiring the local transportation system by voluntary agreement with the owners of the system, or pursuant to law, or upon securing a certificate from the department of transportation under s. 194.23.

(b) A street motor bus transportation company operating pursuant to ch. 194 shall, by acceptance of authority under that chapter, be deemed to have consented to a purchase of its property actually used and useful for the convenience of the public by the municipality in which the major part of the property is situated or operated.

(c) A city, village or town providing or acquiring a motor bus transportation system under this section may finance the construction or purchase in any manner authorized for the construction or purchase of a public utility.

History: 1977 c. 29 s. 1654 (9) (f); 1981 c. 347 ss. 13, 80 (2); 1985 a. 187; 1993 a. 16, 246; 1999 a. 150 ss. 172 to 174; Stats. 1999 s. 66.0803.

This section is not a restriction upon the authority granted to the department of natural resources by s. 144.025 (2) (r) [now s. 281.19 (5)] to order the construction of a municipal water system, but constitutes merely an alternative by which a municipality may voluntarily construct or purchase a water utility. Village of Sussex v. DNR, 68 Wis. 2d 187, 228 N.W.2d 173 (1975).

Section 66.065 [now s. 66.0803], which requires a municipality to obtain voter approval through a referendum prior to the construction or acquisition of a waterworks, does not apply when a municipality is ordered to construct a public water supply system pursuant to s. 144.025 (2) (r) [now s. 281.19 (5)]. 60 Atty. Gen. 523.

66.0805 Management of municipal public utility by commission. (1) Except as provided in sub. (6), the governing body of a city shall, and the governing body of a village or town may, provide for the nonpartisan management of a municipal public utility by creating a commission under this section. The board of commissioners, under the general control and supervision of the governing body, shall be responsible for the entire management of and shall supervise the operation of the utility. The governing body shall exercise general control and supervision of the commission by enacting ordinances governing the commission's operation. The board shall consist of 3, 5 or 7 commissioners.

(2) The commissioners shall be elected by the governing body for a term, beginning on the first day of October, of as many years as there are commissioners, except that the terms of the commissioners first elected shall expire successively one each year on each succeeding first day of October.

(3) The commission shall choose a president and a secretary from its membership. The commission may appoint and establish the compensation of a manager. The commission may command the services of the city, village or town engineer and may employ and fix the compensation of subordinates as necessary. The commission may make rules for its proceedings and for the government of the department. The commission shall keep books of account, in the manner and form prescribed by the department of transportation or public service commission, which shall be open to the public.

(4) (a) The governing body of the city, village or town may provide that departmental expenditures be audited by the commission, and if approved by the president and secretary of the commission, be paid by the city, village or town clerk and treasurer as provided by s. 66.0607; that the utility receipts be paid to a bonded

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cashier appointed by the commission, to be turned over to the city, village or town treasurer at least once a month; and that the commission have designated general powers in the construction, extension, improvement and operation of the utility. Actual construction work shall be under the immediate supervision of the board of public works or corresponding authority.

(b) If water mains have been installed or extended in a municipality and the cost of installation or extension has been in some instances assessed against the abutting owners and in other instances paid by the municipality or a utility, the governing body of the municipality may provide that all persons who paid the assessment against any lot or parcel of land may be reimbursed the amount of the assessment regardless of when such assessment was made or paid. Reimbursement may be made from such funds or earnings of the municipal utility or from such funds of the municipality as the governing body determines.

(5) Two or more public utilities acquired as a single enterprise may be operated under this section as a single enterprise.

(6) In a 2nd, 3rd or 4th class city, a village or a town, the council or board may provide for the operation of a public utility or utilities by the board of public works or by another officer or officers, in lieu of the commission provided for in this section.

History: 1977 c. 29 s. 1654 (9) (g); 1981 c. 347 s. 80 (2); 1983 a. 207 ss. 23, 93 (1); 1983 a. 538; 1993 a. 16, 246; 1999 a. 150 ss. 179, 181, 183, 236; Stats. 1999 s. 66.0805.

When a city council creates a board under sub. (1), the council is prohibited by sub. (3) from fixing the wages of the utility's employees. Schroeder v. City of Clintonville, 90 Wis. 2d 457, 280 N.W.2d 166 (1979).

66.0807 Joint operation of public utility or public transportation system. (1) In this section, "privately owned public utility" includes a cooperative association organized under ch. 185 or 193 for the purpose of producing or furnishing utility service to its members only.

(2) A city, village or town served by a privately owned public utility, motor bus or other systems of public transportation rendering local service may contract with the owner of the utility or system for the leasing, public operation, joint operation, extension and improvement of the utility or system by the municipality; or, with funds loaned by the municipality, may contract for the stabilization by municipal guaranty of the return upon or for the purchase by installments out of earnings or otherwise of that portion of the public utility or system which is operated within the municipality and any territory immediately adjacent and tributary to the municipality; or may contract for the accomplishment of any object agreed upon between the parties relating to the use, operation, management, value, earnings, purchase, extension, improvement, sale, lease or control of the utility or system property. The provisions of s. 66.0817 relating to preliminary agreement and approval by the department of transportation or public service commission apply to the contracts authorized by this section. The department of transportation or public service commission shall, when a contract under this section is approved by it and consummated, cooperate with the parties in respect to making valuations, appraisals, estimates and other determinations specified in the contract to be made by it.

History: 1977 c. 29 s. 1654 (9) (g); 1981 c. 347 s. 80 (2); 1985 a. 187; 1993 a. 16, 246; 1999 a 150 ss. 171, 237; Stats. 1999 s. 66.0807; 2005 a. 441.

66.0809 Municipal public utility charges. (1) Except as provided in sub. (2), the governing body of a town, village or city operating a public utility may, by ordinance, fix the initial rates and shall provide for this collection monthly, bimonthly or quarterly in advance or otherwise. The rates shall be uniform for like service in all parts of the municipality and shall include the cost of fluorinating the water. The rates may include standby charges to property not connected but for which public utility facilities have been made available. The charges shall be collected by the treasurer or other officer or employee designated by the city, village or town.

(2) If, on June 21, 1996, it is the practice of a governing body of a town, village or city operating a public utility to collect utility service charges using a billing period other than one permitted under sub. (1), the governing body may continue to collect utility service charges using that billing period.

(3) Except as provided in subs. (4) and (5), on October 15 in each year notice shall be given to the owner or occupant of all lots or parcels of real estate to which utility service has been furnished prior to October 1 by a public utility operated by a town, city or village and payment for which is owing and in arrears at the time of giving the notice. The department in charge of the utility shall furnish the treasurer with a list of the lots or parcels of real estate for which utility service charges are in arrears, and the notice shall be given by the treasurer, unless the governing body of the city, village or town authorizes notice to be given directly by the department. The notice shall be in writing and shall state the amount of arrears, including any penalty assessed pursuant to the rules of the utility; that unless the amount is paid by November 1 a penalty of 10 percent of the amount of arrears will be added; and that unless the arrears, with any added penalty, are paid by November 15, the arrears and penalty will be levied as a tax against the lot or parcel of real estate to which utility service was furnished and for which payment is delinquent. The notice may be served by delivery to either the owner or occupant personally, or by letter addressed to the owner or occupant at the post−office address of the lot or parcel of real estate. On November 16 the officer or department issuing the notice shall certify and file with the clerk a list of all lots or parcels of real estate, giving the legal description, for which notice of arrears was given and for which arrears remain unpaid, stating the amount of arrears and penalty. Each delinquent amount, including the penalty, becomes a lien upon the lot or parcel of real estate to which the utility service was furnished and payment for which is delinquent, and the clerk shall insert the delinquent amount and penalty as a tax against the lot or parcel of real estate. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes apply to the tax if it is not paid within the time required by law for payment of taxes upon real estate. Under this subsection, if an arrearage is for utility service furnished and metered by the utility directly to a manufactured home or mobile home unit in a licensed manufactured and mobile home community, the notice shall be given to the owner of the manufactured home or mobile home unit and the delinquent amount becomes a lien on the manufactured home or mobile home unit rather than a lien on the parcel of real estate on which the manufactured home or mobile home unit is located. A lien on a manufactured home or mobile home unit may be enforced using the procedures under s. 779.48 (2). This subsection does not apply to arrearages collected using the procedure under s. 66.0627. In this subsection, "metered" means the use of any method to ascertain the amount of service used or the use of a flat rate billing method.

(4) A municipal utility may use the procedures under sub. (3) to collect arrearages for electric service only if one of the following applies:

(a) The municipality has enacted an ordinance that authorizes the use of the procedures under sub. (3) for the collection of arrearages for electric service provided by the municipal utility.

(b) In 1996, the municipality collected arrearages for electric service provided by the municipal utility using the procedures under s. 66.60 (16), 1993 stats.

(5) (a) This subsection applies only if all of the following conditions are met:

1. Water or electric utility service is provided to a rental dwelling unit.

1m. The water or electric utility service is provided by a town sanitary district created under subch. IX of ch. 60 that has sewerage connections serving more than 700 service addresses, by a public inland lake protection and rehabilitation district under subch. IV of ch. 33 that has sewerage connections serving more than 700 service addresses or by a municipal public utility.

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2. The owner of the rental dwelling unit notifies the utility in writing of the name and address of the owner.

3. The owner of the rental dwelling unit notifies the utility in writing of the name and address of the tenant who is responsible for payment of the utility charges.

4. If requested by the utility, the owner of the rental dwelling unit provides the utility with a copy of the rental or lease agreement in which the tenant assumes responsibility for the payment of the utility charges.

(b) If this subsection applies, a municipal public utility may use sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has provided the utility with written notice under par. (a) only if the municipality complies with at least one of the following:

1. In order to comply with this subdivision, a municipal public utility shall send bills for water or electric service to a customer who is a tenant in the tenant's own name. Each time that a municipal public utility notifies a customer who is a tenant that charges for water or electric service provided by the utility to the customer are past due for more than one billing cycle, the utility shall also serve a copy of the notice on the owner of the rental dwelling unit in the manner provided in s. 801.14 (2). If a customer who is a tenant vacates his or her rental dwelling unit, and the owner of the rental dwelling unit provides the municipal public utility, no later than 21 days after the date on which the tenant vacates the rental dwelling unit, with a written notice that contains a forwarding address for the tenant and the date that the tenant vacated the rental dwelling unit, the utility shall continue to send past−due notices to the customer at his or her forwarding address until the past−due charges are paid or until notice has been provided under sub. (3).

2. In order to comply with this subdivision, if a customer who is a tenant has charges for water or electric service provided by the utility that are past due, the municipal public utility shall serve notice of the past−due charges on the owner of the rental dwelling unit within 14 days of the date on which the tenant's charges became past due. The municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

(c) A municipal public utility may demonstrate compliance with the notice requirements of par. (b) 1. or 2. by providing evidence of having sent the notice by U.S. mail.

(d) If this subsection applies and a municipal public utility is permitted to collect arrearages under sub. (3), the municipal public utility shall provide all notices under sub. (3) to the owner of the property.

History: 1999 a. 150 ss. 184, 186; 2007 a. 11.

Municipalities owning electric companies may pass ordinances allowing unpaid charges for furnished electricity to be placed on tax bills of the receiving property. 73 Atty. Gen 128.

Under the facts of the case, a municipal utility's claim for unpaid utility charges was subject to the automatic stay in bankruptcy court. Reedsburg Utility Co v. Grede Foundries, Inc. 651 F.3d 786 (2011).

66.0811 Municipal public utility revenues. (1) A city, village or town owning a public utility is entitled to the same rate of return as permitted for privately owned utilities.

(2) The income of a municipal public utility shall first be used to make payments to meet operation, maintenance, depreciation, interest, and debt service fund requirements, local and school tax equivalents, additions and improvements, and other necessary disbursements or indebtedness. Beginning with taxes levied in 1995, payable in 1996, payments for local and school tax equivalents shall at least be equal to the payment made on the property for taxes levied in 1994, payable in 1995, unless a lower payment is authorized by the governing body of the municipality. Income in excess of these requirements may be used to purchase and hold interest bearing bonds, issued for the acquisition of the utility; bonds issued by the United States or any municipal corporation of this state; insurance upon the life of an officer or manager of the utility; or may be paid into the general fund.

(3) A city, town or village may use funds derived from its water plant to meet operation, maintenance, depreciation, interest and debt service funds; new construction or equipment or other indebtedness for sewerage construction work other than that which is chargeable against abutting property; or the funds may be placed into the general fund to be used for general city purposes or in a special fund to be used for special municipal purposes.

History: 1999 a. 150 ss. 187, 188, 239.

Cross−reference: See also ch. PSC 109, Wis. adm. code.

66.0813 Provision of utility service outside of municipality by municipal public utility. (1) A town, town sanitary district, village or city owning water, light or power plant or equipment may serve persons or places outside its corporate limits, including adjoining municipalities not owning or operating a similar utility, and may interconnect with another municipality, whether contiguous or not, and for these purposes may use equipment owned by the other municipality.

(2) Plant or equipment, except water plant or equipment or interconnection property in any municipality interconnected, situated in another municipality is taxable in the other municipality under s. 76.28.

(3) (a) Notwithstanding s. 196.58 (5), a city, village or town may by ordinance fix the limits of utility service in unincorporated areas. The ordinance shall delineate the area within which service will be provided and the municipal utility has no obligation to serve beyond the delineated area. The delineated area may be enlarged by a subsequent ordinance. No ordinance under this paragraph is effective to limit any obligation to serve that existed at the time that the ordinance was adopted.

(b) Notwithstanding s. 196.58 (5), a municipality that operates a utility that provides water service may enter into an agreement with a city or village to provide water service to all or a part of that city or village. The agreement shall delineate the area within which service will be provided and the municipal water utility shall have no obligation to serve beyond the area so delineated. The agreement is not effective to limit any obligation to serve which may have existed at the time the agreement was entered into.

(4) An agreement by a city, village or town to furnish utility service outside its corporate limits to unincorporated property used for public, educational, industrial or eleemosynary purposes fixes the nature and geographical limits of that utility service unless altered by a change in the agreement, notwithstanding s. 196.58 (5). A change in use or ownership of property included under that agreement does not alter terms and limitations of that agreement.

(5) An agreement under sub. (4) under which a city or village agrees to furnish sewerage service to a prison, which is located in an area that has been incorporated since that agreement was made, may be amended to provide that the city or village will also furnish water service to the prison. An agreement amended under this subsection fixes the nature and geographical limits of the water and sewer service unless altered by a change in the agreement, notwithstanding s. 196.58 (5). A change in use or ownership of property included under an agreement amended under this subsection does not alter the terms and limitations of that agreement.

(6) A town, village or city owning a public utility, or the board of any municipal public utility appointed under s. 66.0805, may enter into agreements with any other towns, villages or cities owning public utilities, or any other boards of municipal public utilities, for mutual aid in the event of an emergency or disaster in any of their respective service areas. The agreements may include provisions for the movement of employees and equipment in and between the service areas of the participating municipalities for the purpose of rendering aid and for the reimbursement of a municipality rendering aid by the municipality receiving the aid.

History: 1999 a. 150 ss. 189, 240.

Cross−reference: See also ch. PSC 185, Wis. adm. code.

66.0815 Public utility franchises and service contracts. (1) FRANCHISES. (a) A city, village or town may grant to any person the right to construct and operate a public utility in

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the city, village or town, subject to reasonable rules and regulations prescribed by ordinance.

(b) The board or council may submit the ordinance when passed and published to a referendum.

(c) An ordinance under sub. (1) may not take effect until 60 days after passage and publication unless sooner approved by a referendum. Within the 60−day period electors equal in number to 20% of those voting at the last regular municipal election may file a petition requesting a referendum. The petition shall be in writing and filed with the clerk and as provided in s. 8.37. The petition shall conform to the requirements of s. 8.40. Each signer shall state his or her residence and signatures shall be verified by the affidavit of an elector. The referendum shall be held at the next regular municipal election, or at a special election within 90 days of the filing of the petition. The ordinance may not take effect unless approved by a majority of the votes cast. This paragraph does not apply to extensions by a utility previously franchised by the village, city, or town.

(d) If a city or village at the time of its incorporation included within its corporate limits territory in which a public utility, before the incorporation, had been lawfully engaged in rendering public utility service, the public utility possesses a franchise to operate in the city or village to the same extent as if the franchise had been formally granted by ordinance adopted by the governing body of the city or village. This paragraph does not apply to any public utility organized under this chapter.

(2) SERVICE CONTRACTS. (a) A city, village or town may contract for furnishing light, heat, water or motor bus or other systems of public transportation to the municipality or its inhabitants for a period of not more than 30 years or for an indeterminate period if the prices are subject to adjustment at intervals of not greater than 5 years. The public service commission has jurisdiction over the rates and service to any city, village or town where light, heat or water is furnished to the city, village or town under any contract or arrangement, to the same extent that the public service commission has jurisdiction where that service is furnished directly to the public.

(b) When a city, village or town has contracted for water, lighting service or motor bus or other systems of public transportation to the municipality the cost may be raised by tax levy. In making payment to the owner of the utility a sum equal to the amount due the city, village or town from the owner for taxes or special assessments may be deducted.

(c) This subsection applies to every city, village and town regardless of any charter limitations on the tax levy for water or light.

(d) If a privately owned motor bus or public transportation system in a city, village or town fails to provide service for a period in excess of 30 days, and the owner or stockholders of the privately owned motor bus or public transportation system have announced an intention to abandon service, the governing body of the affected municipality may without referendum furnish or contract for the furnishing of other motor bus or public transportation service to the municipality and its inhabitants and to the users of the defaulting prior service for a period of not more than one year. This paragraph does not authorize a municipality to hire, directly or indirectly, any strikebreaker or other person for the purpose of replacing employees of the motor bus or public transportation system engaged in a strike.

History: 1977 c. 29; 1981 c. 347 s. 80 (2); 1981 c. 390 s. 252; 1991 a. 316; 1993 a. 16, 246; 1995 a. 378; 1999 a. 150 s. 169; Stats. 1999 s 66.0815; 1999 a. 182 s. 204d; 2001 a. 30.

66.0817 Sale or lease of municipal public utility plant. A town, village or city may sell or lease any complete public utility plant owned by it in the following manner:

(1) A preliminary agreement with the prospective purchaser or lessee shall be authorized by a resolution or ordinance containing a summary of the terms proposed, of the disposition to be made of the proceeds, and of the provisions to be made for the protection of holders of obligations against the plant or against the municipality on account of the plant. The resolution or ordinance shall be published at least one week before adoption, as a class 1 notice, under ch. 985. The resolution or ordinance may be adopted only at a regular meeting and by a majority of all the members of the governing body.

(2) The preliminary agreement shall fix the price of sale or lease, and provide that if the amount fixed by the department of transportation or public service commission is greater, the price shall be that fixed by the department or commission.

(3) The municipality shall submit the preliminary agreement when executed to the department of transportation or public service commission, which shall determine whether the interests of the municipality and its residents will be best served by the sale or lease, and if it so determines, shall fix the price and other terms.

(4) After the price and other terms are fixed under sub. (3), the proposal shall be submitted to the electors of the municipality. The notice of the referendum shall include a description of the plant and a summary of the preliminary agreement and of the price and terms as fixed by the department of transportation or public service commission. If a majority voting on the question votes for the sale or lease, the board or council may consummate the sale or lease, upon the terms and at a price not less than fixed by the department of transportation or public service commission, with the proposed purchaser or lessee or any other with whom better terms approved by the department of transportation or public service commission can be made.

(5) Unless the sale or lease is consummated within one year of the referendum, or the time is extended by the department of transportation or public service commission, the proceedings are void.

(6) If the municipality has revenue or mortgage bonds outstanding relating to the utility plant and which by their terms may not be redeemed concurrently with the sale or lease transaction, an escrow fund with a domestic bank as trustee may be established for the purpose of holding, administering and distributing that portion of the sales or lease proceeds necessary to cover the payment of the principal, any redemption premium and interest which will accrue on the principal through the earliest retirement date of the bonds. During the period of the escrow arrangement the funds may be invested in securities or other investments as described in s. 66.0603 (1m).

(7) For the purpose of this section, the department of transportation has jurisdiction over transportation systems and the public service commission has jurisdiction over public utilities as defined in s. 196.01.

History: 1971 c. 260; 1977 c. 29 ss. 712, 1654 (9) (g); 1981 c. 347 ss. 14, 80 (2); 1981 c. 390 s. 252; 1983 a. 207 s. 93 (1); 1993 a. 16; 1999 a. 150 s. 190; Stats. 1999 s. 66.0817; 1999 a. 186 s. 48.

66.0819 Combining water and sewer utilities. (1) A town, village, or city may construct, acquire, or lease, or extend and improve, a plant and equipment within or without its corporate limits for the furnishing of water to the municipality or to its inhabitants, and for the collection, treatment, and disposal of sewage, including the lateral, main and intercepting sewers, and all necessary equipment. The plant and equipment, whether the structures and equipment for the furnishing of water and for the disposal of sewage are combined or separate, may by ordinance be constituted a single public utility.

(2) The provisions of this chapter and chs. 196 and 197 relating to a water system, including those provisions relating to the regulation of a water system by the public service commission, apply to a consolidated water and sewage disposal system as a single public utility. In prescribing rates, accounting and engineering practices, extension rules, service standards or other regulations for a consolidated water and sewage disposal system, the public service commission shall treat the water system and the sewage disposal system separately, unless the commission finds that the public interest requires otherwise.

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(3) A town, village or city which owns or acquires a water system and a plant or system for the treatment or disposal of sewage may by ordinance consolidate the systems into a single public utility. After the effective date of the ordinance the consolidated utility is subject to this section as though originally acquired as a single public utility.

History: 1981 c. 390; 1995 a. 378; 1999 a. 150 s. 230; Stats. 1999 s. 66.0819.
Cross−reference: See also chs. PSC 184 and 185, Wis. adm. code.

66.0821 Sewerage and storm water systems. (1) DEFINITIONS. In this section:

(a) "Municipality" means a town, village, city or metropolitan sewerage district created under ss. 200.01 to 200.15 or under ss. 200.21 to 200.65.

(b) "Sewerage" is a comprehensive term, including all constructions for collection, transportation, pumping, treatment and final disposition of sewage or storm water and surface water.

(2) GENERAL AUTHORITY. (a) 1. In addition to all other methods provided by law, a municipality may construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, transportation, storage, treatment and disposal of sewage or storm water and surface water, including necessary lateral, main and interceptor sewers, and a town, village or city may arrange for the service to be furnished by a metropolitan sewerage district or joint sewerage system.

2. If the extension of a sewer line or water main that is described under subd. 1. is required because of a new subdivision, as defined in s. 236.02 (12), or commercial development, the municipality may recoup some or all of the costs that it has incurred for the extension by a method described under subd. 1. or by any other method of financing agreed to by the municipality and the developer. If a person, whose property is outside of the subdivision for which a developer is paying, or has paid, the costs of a sewerage project under this subdivision, connects an extension into the sewerage project after the amount is established that the developer is required to pay under this subdivision, that person shall pay to the developer an amount determined by the public service commission. The public service commission shall promulgate rules to determine the amount that such a person shall pay to a developer. The rules promulgated under this subdivision, shall be based on the benefits accruing to the property that connects an extension into the sewerage project.

(b) The governing body of a municipality, and the officials in charge of the management of the sewerage system as well as other officers of the municipality, are governed in the discharge of their powers and duties under this section by ss. 66.0809 to 66.0813 or 62.69 (2) (f), to the extent consistent with this section, or, in the case of a metropolitan sewerage district created under ss. 200.21 to 200.65, by ss. 200.55 and 200.59.

(3) FUNDING. (a) Except as provided in s. 66.0721, all or a portion of the cost of exercising the authority under sub. (2) may be funded, to the extent applicable, from the municipality's general fund, by taxation, special assessment or sewerage service charges, by municipal obligations or revenue bonds or from any combination of these sources.

(b) If funding under par. (a) in whole or in part is by the issue and sale of revenue bonds, the payments shall be made as provided in s. 66.0621 to the extent not inconsistent with this section. In this paragraph, "public utility" as used in s. 66.0621 includes the sewerage system, accessories, equipment and other property, including land. The mortgage or revenue bonds or mortgage certificates do not constitute an indebtedness of the municipality and may be secured only by the sewerage system and its revenue, and the franchise provided for in this section.

(c) Any municipality may pledge, assign or otherwise hypothecate the net earnings or profits derived or to be derived from a sewerage system to secure the payment of the costs of purchasing, constructing or otherwise acquiring a sewerage system or any part of a sewerage system, or for extending or improving the sewerage system, in the manner provided in s. 66.0621 (5).

(4) SERVICE CHARGES. (a) The governing body of the municipality may establish sewerage service charges in an amount to meet all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair, and depreciation of the sewerage system, and for the payment of all or part of the principal and interest of any indebtedness incurred for those purposes, including the replacement of funds advanced by or paid from the general fund of the municipality. Service charges made by a metropolitan sewerage district to any town, village, or city shall be levied by the town, village, or city against the individual sewer system users within the corporate limits of the municipality, and the municipality shall collect the charges and promptly remit them to the metropolitan sewerage district. Delinquent charges shall be collected in accordance with sub. (4) (d).

(b) For the purpose of making equitable charges for all services rendered by the sanitary sewerage system to the municipality or to citizens, corporations and other users, the property benefited by the system may be classified, taking into consideration the volume of water, including surface or drain waters, the character of the sewage or waste and the nature of the use made of the sewerage system, including the sewage disposal plant. The charges may include standby charges to property not connected but for which sewerage system facilities have been made available.

(c) For the purpose of making equitable charges for all services rendered by a storm water and surface water sewerage system to users, the property served may be classified, taking into consideration the volume or peaking of storm water or surface water discharge that is caused by the area of impervious surfaces, topography, impervious surfaces and other surface characteristics, extent and reliability of mitigation or treatment measures available to service the property, apart from measures provided by the storm water and surface water sewerage system, and any other considerations that are reasonably relevant to a use made of the storm water and surface water sewerage system. The charges may also include standby charges to property not yet developed with significant impervious surfaces for which capacity has been made available in the storm water and surface water sewerage system.

(d) Sewerage service charges shall be collected and taxed and shall be a lien upon the property served in the same manner as water rates are taxed and collected under s. 62.69 (2) (f) or 66.0809 to the extent applicable, except that charges of a metropolitan sewerage district created under ss. 200.21 to 200.65 shall be assessed and collected as provided in s. 200.55 (5).

(5) UNREASONABLE OR DISCRIMINATORY RATES, RULES AND PRACTICES. (a) If a user of a service complains to the public service commission that rates, rules and practices are unreasonable or unjustly discriminatory, or if a holder of a mortgage or revenue bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage system or any part of the system or pledge of the income of sewerage service charges, complains that rates are inadequate, the public service commission shall investigate the complaint. If there appears to be sufficient cause for the complaint, the commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village or city. After the hearing, if the public service commission determines that the rates, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable rates, rules and practices and may make any other order respecting the complaint that is just and reasonable, including, in the case of standby charges imposed under sub. (4) (c), an order that a municipality refund to the user any amount of the standby charges that have been collected if the user has filed a complaint with the public service commission not later than 60 days after receiving the original notice of charge or after receiving a notice of charge that relates to an increased standby charge. The proceedings under this paragraph are governed, to the extent

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applicable, by ss. 196.26 to 196.40. The commission shall bill any expense of the commission attributable to a proceeding under this paragraph to the town, village or city under s. 196.85 (1).

(b) Judicial review of a determination of the public service commission under par. (a) may be had by any person aggrieved in the manner prescribed in ch. 227.

(c) For purposes of this subsection, "user" of a service includes a licensed disposer, as defined in s. 281.49 (1) (b), who disposes of septage at a municipal sewage system under a disposal plan under s. 281.49 (5) and initiates under s. 281.49 (11) (d) a review under par. (a) of a disputed septage disposal fee by the public service commission.

(d) If the public service commission determines in a proceeding under par. (a) that a septage disposal fee is unreasonable, the commission shall determine and fix under par. (a) a reasonable fee that conforms with s. 281.49 (5) (c) 4.

(e) Notwithstanding par. (a), the public service commission shall bill under s. 196.85 (1) any expense of the commission attributable to a proceeding under par. (a) that is initiated under s. 281.49 (11) (d) as follows:

1. If the commission determines in the proceeding that one or more septage disposal fees are unreasonable and determines and fixes by order reasonable septage disposal fees that, when combined with any other applicable septage disposal fees, total an amount that is at least 15 percent lower than the total amount of septage disposal fees established by the municipal sewage system for the quantity and type of septage specified in s. 281.49 (11) (b), the municipal sewage system that is a party to the dispute shall pay the entire amount of the assessment.

2. If the commission determines in the proceeding that one or more of the septage disposal fees are unreasonable and determines and fixes by order reasonable fees that, when combined with any other applicable septage disposal fees, total an amount that is not at least 15 percent lower than the total amount of septage disposal fees established by the municipal sewage system for the quantity and type of septage specified in s. 281.49 (11) (b), the licensed disposer that is a party to the dispute shall pay the entire amount of the assessment.

3. If the commission determines in the proceeding that the septage disposal fees are reasonable, the licensed disposer that is a party to the dispute shall pay the entire amount of the assessment.

4. If the commission terminates the proceeding before making a final determination on the reasonableness of the septage disposal fees, the municipal sewage system and the licensed disposer that are parties to the dispute shall each pay 50 percent of the assessment, unless the municipal sewage system and the licensed disposer agree to a different allocation of the assessment.

(6) FORECLOSURE SALE. If there is a sale of mortgaged sewerage system premises on a judgment of foreclosure and sale, the price paid for the premises may not exceed the amount of the judgment and the costs of sale to and including the recording of the sheriff's deed. The purchaser on the foreclosure sale may operate and maintain the sewerage system and collect sewerage service charges, and for that purpose is deemed to have a franchise from the municipality. The term "purchaser" includes the purchaser's successors or assigns. The rates to be charged, in addition to the contributions, if any, which the municipality has obligated itself to make toward the capital or operating costs of the plant, shall be sufficient to meet the requirements of operation, maintenance, repairs, depreciation, interest and an amount sufficient to amortize the judgment debts and all additional capital costs which the purchaser contributes to the plan over a period not exceeding 20 years. In addition, the purchaser of the premises may earn a reasonable amount, as determined by the public service commission, on the actual amount of the purchaser's investment in the premises represented by the purchase price of the premises, plus any additions made to the investment by the purchaser or minus any payments made by the municipality on account of the investments. The municipality may by payment reduce the investment of the purchaser and after full payment of the purchase price plus the cost of subsequent improvements the premises shall revert to the municipality. While the premises are owned by the private purchaser, the premises shall be considered a public utility and are subject to ch. 196 to the extent applicable.

(7) RELATION TO OTHER AUTHORITY. The authority under this section is in addition to any power which municipalities otherwise have with respect to sewerage or sewage disposal. Nothing in this section shall be construed as restricting or interfering with any powers and duties of the department of health services as prescribed by law.

History: 1971 c. 276; 1975 c. 414 s. 28; 1977 c. 29; 1981 c. 282, 314; 1983 a. 207; 1989 a. 322; 1991 a. 316; 1995 a. 27 s. 9126 (19); 1997 a. 53, 213; 1999 a. 32; 1999 a. 150 ss. 215 to 229, 242 to 249; Stats. 1999 s. 66.0821; 1999 a. 186 ss. 46, 47; 2001 a. 30; 2003 a. 321; 2005 a. 347; 2007 a. 20 s. 9121 (6) (a).

Cross−reference: See also ch. PSC 187, Wis. adm. code.

NOTE: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

A charge "in lieu of tax" was not an allowable method of sewerage treatment cost recovery under sub. (4). Fred Rueping Leather Co. v. City of Fond du Lac, 99 Wis. 2d 1, 298 N.W.2d 227 (Ct. App. 1980).

The PSC is not authorized by sub. (9) to set rates retroactively or to order refunds. Kimberly−Clark Corp. v. Public Service Commission, 110 Wis. 2d 455, 329 N.W.2d 143 (1983).

Mobile home owners who rented lots from a mobile home park on which their homes were placed who asserted the rate scheme applied to the park was discriminatory under this section could not complain directly under that statute. They were not "users" of the service within the meaning of sub. (5) when the service fee was assessed to the owners of the park and did not identify a legally protectible interest that would confer the standing necessary to obtain relief. Zehner v. Village of Marshall, 2006 WI App 6, 288 Wis. 2d 660, 709 N.W.2d 64, 04−2789.

66.0823 Joint local water authorities. (1) FINDING AND DECLARATION OF NECESSITY. It is declared that the operation of water utility systems by local governmental units of this state and the improvement of the systems through joint action in the production, treatment, storage, transmission, distribution, purchase, sale and exchange of water is in the public interest and a matter of statewide concern; that there is a need in order to ensure the stability and continued viability of the local systems to provide for a means by which local governmental units which operate the systems may act jointly, including development of coordinated water production, treatment, storage, transmission and distribution; and that, the necessity in the public interest for the provisions of this section is declared as a matter of legislative determination.

(2) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Authority" means a joint local water authority.

(b) "Bonds" means any bonds, interim certificates, notes, debentures or other obligations of an authority issued under this section.

(c) "Commission" means the public service commission.

(d) "Contracting party" means a local governmental unit in this state, or a federally recognized Indian tribe or band located in this state, that contracts to establish or to join an authority under this section.

(e) "Local governmental unit" means any city, village, town, county, town sanitary district, water utility district, or a public inland lake protection and rehabilitation district that has town sanitary district powers under s. 33.22 (3).

(f) "Local water authority" means a public corporation created by contract between 2 or more contracting parties.

(g) "Project" means any plant, works, system, facilities and real and personal property of any nature, together with all parts and appurtenances, that are used or useful in the production, treatment, storage, transmission, distribution, purchase, sale, or exchange of water. "Project" includes any interest in, or right to the capacity of, the plant, works, system, facilities or property. "Project" also includes the acquisition of water and the acquisition, construction or operation of facilities for producing, treating, storing, transmitting, or distributing water.

(3) CREATION OF AN AUTHORITY. (a) *Creation by contract.* Any local governmental unit in this state may contract with one or more local governmental units in this state or federally recog-

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nized Indian tribes or bands located in the state to establish a separate governmental entity, to be known as a joint local water authority, to jointly produce, treat, store, transmit, distribute, purchase, sell or exchange water, in whole or in part for the benefit of the contracting parties. The parties to the contract may amend the contract as provided in the contract.

(am) *Hearing requirements.* At least 30 days before becoming a contracting party by entering into a contract under this subsection, a local governmental unit shall hold a public hearing on the proposed contract. Notice of the hearing shall be published as a class 3 notice under ch. 985.

(b) *Filing requirements.* The parties entering into a contract under this subsection shall file a copy of the contract with the secretary of state. Upon receipt, the secretary of state shall record the contract and issue a certificate of incorporation stating the name of the authority and the date and fact of incorporation. The corporate existence of the authority begins upon issuance of the certificate.

(4) CONTRACT. A contract establishing an authority under sub. (3) shall specify all of the following:

(a) The name and purpose of the authority and the functions or services to be provided by the authority. The name shall refer to the authority as an agency, authority or district.

(b) The establishment and organization of a board of directors, in which all powers of the authority shall be vested. The contract may permit the board of directors to create an executive committee of the board of directors to which the board of directors may delegate any of its powers and duties, as specified by the board.

(c) The number of directors, the manner of their appointment, the terms of their office, their compensation, if any, and the procedure for filling vacancies on the board of directors. The contracting parties shall appoint the members of the board of directors. Each contracting party shall be entitled to appoint an equal number of directors to the board of directors and may remove those directors at will.

(d) The weight given to each director's vote. Unless specifically provided otherwise, each director's vote shall be given equal weight. If the contract provides for differing weights to be given to each director's vote, the contract shall specify the manner of calculating the weight to be given to each director's vote.

(e) The manner of selection of the officers of the authority and their duties.

(f) The voting requirements for action by the board of directors. Unless specifically provided otherwise, a majority of the authorized directors constitutes a quorum of the board of directors. Unless specifically provided otherwise, a majority of the voting power present is necessary for any action to be taken by the board of directors.

(g) The duties of the board of directors, including the obligation to comply with this section and the laws of this state and with the terms of the contract under this subsection.

(h) The manner in which additional local governmental units and Indian tribes or bands located in the state may become parties to the contract by amendment.

(i) Provisions for the disposition, division or distribution of any property or assets of the authority on dissolution.

(j) The term of the contract and the method, if any, of terminating or rescinding the contract. The term of the contract may be a definite period or it may be until rescinded or terminated. The contract may not be rescinded or terminated so long as the authority has bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

(k) The manner in which the contracting parties shall resolve any disputes.

(5) POWERS. The authority may do all of the following:

(a) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects within the state, either solely or in conjunction with any other person.

(b) Act as agent in conducting an activity under par. (a).

(c) Buy or sell interest in, or rights to the capacity of, projects.

(d) Produce, treat, store, transmit, distribute, purchase, sell or exchange water in such amounts as the board of directors determines to be necessary and appropriate, subject to the limitations in this paragraph. An authority may not sell water at retail. An authority may not sell any water to a person other than a contracting party, except pursuant to an emergency services contract. An authority may enter into an emergency services contract to sell water at wholesale to a person other than a contracting party in emergency situations, to be specified in the contract.

(e) Acquire, own, hold, use, lease as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service.

(f) Acquire property by condemnation using the procedure under s. 32.05 or 32.06 for the purposes set forth in this section.

(g) Enter upon any state, county or municipal street, road or alley, or any public highway for the purpose of installing, maintaining and operating the authority's facilities. Whenever the work is to be done in a state, county or municipal highway, street, road or alley, the public authority having control thereof shall be duly notified, and the highway, street, road or alley shall be restored to as good a condition as existed before the commencement of the work with all costs incident to the work to be borne by the authority.

(h) Install and maintain, without compensation to the state, any part of the authority's facilities over, upon or under any part of the bed of any river or of any land covered by any of the navigable waters of the state, the title to which is held by the state, and over, upon or under canals or through waterways. This paragraph does not relieve the authority of its obligation to obtain any permits or approvals otherwise required by law.

(i) Require contracting parties to purchase water from the authority and to connect any contracting party's distribution system with the authority's distribution system.

(j) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the authority.

(k) Make, and from time to time amend and repeal, bylaws, rules and regulations to carry into effect the powers and purposes of the authority.

(L) Join an organization, if the board of directors determines that membership is beneficial to accomplishment of the authority's purposes.

(m) Sue and be sued in its own name.

(n) Have and use a corporate seal.

(o) Employ agents and employees.

(p) Incur debts, liabilities or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, under sub. (9) (b).

(q) Invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority deems proper in accordance with s. 66.0603 (1m).

(r) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

(s) Exercise any other powers that the board of directors considers necessary and convenient to effectuate the purposes of the authority.

(6) PUBLIC CHARACTER. An authority is a political subdivision and body public and corporate of the state, exercising public pow-

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ers, separate from the contracting parties. It has the duties, privileges, immunities, rights, liabilities and disabilities of a public body but does not have taxing power.

(7) PAYMENTS. (a) *Definition.* In this subsection, "purchase of water" includes any right to capacity or interest in any project.

(b) *Payments for commodities and services.* The contracting parties may agree to pay the authority funds for commodities to be procured or services to be rendered by the authority. The agreement may also provide for payments in the form of contributions to defray the cost of any purpose set forth in the contract under sub. (4) or the agreement and, subject to repayment by the authority, for advances for any purpose set forth in the contract under sub. (4) or the agreement.

(c) *Purchase agreements.* The contracting parties may enter into purchase agreements with the authority for the purchase of water. Purchase agreements may include the following provisions:

1. A provision requiring the purchaser to make payments in amounts that are sufficient to enable the authority to meet its expenses, interest and principal payments, whether at maturity or upon debt service fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument.

2. A provision requiring the purchaser to pay for water regardless of whether water is delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of the project.

3. A provision requiring that, if one or more of the purchasers defaults in the payment of its obligations under a purchase agreement, the remaining purchasers shall accept and pay for, and shall be entitled proportionately to use or otherwise dispose of, the water that was to have been purchased by the defaulting purchaser.

4. A provision providing for a term for the purchase agreement. The term may be for the life of a project, for an indefinite period or for any other term.

5. Other terms and conditions that the authority and the purchasers determine.

(d) *Status of obligations under a purchase agreement.* To the extent that a purchase agreement with an authority provides that the obligations of a contracting party under the purchase agreement are special obligations of the contracting party, payable solely from the revenues and other moneys derived by the contracting party from its water utility, these obligations are not debt of the contracting party and shall be treated as operation and maintenance expenses of a water utility.

(8) REGULATION. (a) An authority may not issue bonds for the construction of a project until the commission has certified that public convenience and necessity require the project. A project need not be certified as being required by public convenience and necessity if no bonds are issued for the project. The commission may promulgate rules regarding the making of certifications of public convenience and necessity under this subsection.

(b) The commission may refuse to certify a project under par. (a) if it appears that the completion of the project will do any of the following:

1. Substantially impair the efficiency of the service of a contracting party's public utility.

2. Provide facilities unreasonably in excess of the probable future requirements.

3. When placed in operation, add to the cost of service without proportionately increasing the value or available quantity of service.

(c) The commission may issue a certificate for the construction of a project or for any part of the project if the project complies with the requirements of par. (b). The commission may attach to the issuance of its certificate terms and conditions that will ensure that the construction of the project meets the requirements of par. (b).

(9) BONDS; GENERALLY. (a) *Types of bonds.* An authority may issue the types of bonds it determines, subject only to any agreement with the holders of particular bonds. An authority may issue bonds, the principal and interest on which are payable exclusively from all or a portion of the revenues from one or more projects, or from one or more revenue producing contracts made by the authority or from its revenues generally. The authority may secure its bonds by a pledge of any grant, subsidy, or contribution from any contracting party, or by a pledge of any income or revenues, funds, or moneys of the authority from any source whatsoever.

(b) *Purposes of bonds.* An authority may issue bonds in such principal amounts as the authority deems necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including the establishment or increase of reserves, interest accrued during construction of a project and for a period not exceeding one year after the completion of construction of a project, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(c) *Liability on the bonds.* 1. Neither the members of the board of directors of an authority nor any person executing the bonds is personally liable on the bonds by reason of the issuance of the bonds.

2. The bonds of an authority is not a debt of the contracting parties. Neither the contracting parties nor the state are liable for the payment of the bonds. The bonds of any authority shall be payable only out of funds or properties of the authority. The bonds of the authority shall state the restrictions contained in this paragraph on the face of the bonds.

(10) ISSUANCE OF BONDS. (a) Bonds of an authority shall be authorized by resolution of the board of directors. The bonds may be issued under such a resolution or under a trust indenture or other security instrument. The bonds may be issued in one or more series and may be in the form of coupon bonds or registered bonds under s. 67.09. The bonds shall bear the dates, mature at the times, bear interest at the rates, be in the denominations, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the places, and be subject to the terms of redemption, with or without premium, as the resolution, trust indenture or other security instrument provides.

(b) The authority may sell the bonds at public or private sales at the price or prices determined by the authority.

(c) If an officer whose signatures appear on any bonds or coupons ceases to be an officer of the authority before the delivery of such obligations, the officer's signature shall, nevertheless, be valid for all purposes as if the officer had remained in office until delivery of the bonds.

(11) COVENANTS. An authority may do all of the following in connection with the issuance of bonds:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, or covenant for the redemption of the bonds, and provide the terms and conditions of the redemption.

(c) Covenant as to charge fees, rates, rents and charges sufficient to meet operating and maintenance expenses, renewals and replacements to a project, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds that the board of directors considers desirable for the marketability of the bonds.

(d) Covenant as to the events of default on the bonds and the terms and conditions upon which the bonds shall become or may be declared due before maturity, as to the terms and conditions upon which this declaration and its consequences may be waived,

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and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of, or the grant of a security interest in, any real or personal property and all or any part of the revenues from any project or any revenue producing contract made by the authority to secure the payment of bonds, subject to any agreements with the bondholders.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property with respect to which the authority may have any rights or interest.

(g) Covenant as to the purposes to which the proceeds from the sale of any bonds may be applied, and as to the pledge of such proceeds to secure the payment of the bonds.

(h) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds, the holders of which must consent thereto, and the manner in which such consent may be given.

(k) Covenant as to the custody and safekeeping of any of its properties or investments, the insurance to be carried on the property or investments and the use and disposition of insurance proceeds.

(L) Covenant as to the vesting in one or more trustees, within or outside the state, of those properties, rights, powers and duties in trust as the authority determines.

(m) Covenant as to the appointing of, and providing for the duties and obligations of, one or more paying agent or other fiduciaries within or outside the state.

(n) Make all other covenants and do any act that may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority, tend to make the bonds more marketable.

(o) Execute all instruments necessary or convenient in the exercise of the powers granted under this section or in the performance of covenants or duties, which may contain such covenants and provisions, as a purchaser of the bonds of the authority may reasonably require.

(12) REFUNDING BONDS. An authority may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. An authority may issue refunding bonds at such time prior to the maturity or redemption of the refunded bonds as the authority deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. To the extent applicable, refunding bonds are subject to subs. (10) and (11).

(13) BONDS ELIGIBLE FOR INVESTMENT. (a) Any of the following may invest funds, including capital in their control or belonging to them, in bonds of the authority:

1. Public officers and agencies of the state.
2. Political subdivisions.
3. Insurance companies.
4. Trust companies.
5. Banks.
6. Savings banks.
7. Savings and loan associations.
8. Investment companies.
9. Personal representatives.
10. Trustees.
11. Other fiduciaries not listed in this paragraph.

(b) The authority's bonds are securities that may be deposited with and received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or obligations of the state or any political subdivision is authorized by law.

(14) BUDGETS; RATES AND CHARGES; AUDIT. An authority shall adopt a calendar year as its fiscal year for accounting purposes. The board of directors of the authority shall annually prepare a budget for the authority. Rates and other charges received by the authority shall be used for the general expenses and capital expenditures of the authority and to pay interest, amortization, and retirement charges on bonds. The authority shall maintain an accounting system in accordance with generally accepted accounting principles and shall have its financial statements and debt covenants audited annually by an independent certified public accountant.

(15) COMPLIANCE WITH LOCAL ORDINANCES AND PERMIT CONDITIONS; DEVIATIONS. The authority shall comply with all local ordinances and permit conditions, unless the authority's board of directors determines that the ordinance or permit condition imposes unreasonable requirements, costs or delays on the authority's ability to carry out its responsibilities. If the board of directors determines that an ordinance or permit condition imposes unreasonable requirements, costs or delays, the board of directors shall pass a resolution specifying the ordinance or permit condition, indicating why it is unreasonable and how the authority intends to deviate from the ordinance or permit condition. If the board of directors passes a resolution under this subsection, the authority shall serve a copy of the resolution by certified mail upon the clerk of the county or municipality whose ordinance or permit condition is specified in the resolution. The copy shall be accompanied by a statement that the authority's determination is subject to review only for a period of 90 days from the date of the postmark. Any aggrieved person may commence an action in the circuit court of the county, or in the circuit court in which the municipality is located, to challenge the authority's determination. The action must be commenced within 90 days of the postmark of the copy served on the county or municipality. An action under this subsection is the only manner by which the authority's determination to deviate from an ordinance or permit condition may be challenged. The circuit court shall give the matter precedence over other matters not accorded similar precedence by law. Failure to commence an action within 90 days from the date of the postmark bars the person from objecting to the authority's determination to deviate from the local ordinance or permit condition. If the determination of the authority either is not challenged or is upheld, the authority may deviate from the ordinance or permit condition in the manner specified in the resolution, except that this subsection does not authorize the authority to deviate from floodplain or shoreland zoning ordinances or permit conditions.

(16) OTHER STATUTES. This section does not limit the powers of local governmental units to enter into intergovernmental cooperation or contracts or to establish separate legal entities under s. 66.0301 or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions.

(17) CONSTRUCTION. This section shall be interpreted liberally to effect the purposes set forth in this section.

History: 1997 a. 184; 1999 a. 150 s. 212; Stats. 1999 s. 66.0823; 1999 a. 186 s. 49; 2001 a. 30, 102.

Cross−reference: See also chs. PSC 8, 183 and 185, Wis. adm. code.

66.0825 Municipal electric companies. (1) SHORT TITLE. This section shall be known as the "Municipal Electric Company Act".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that the operation of electric utility systems by municipalities of this

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state and the improvement of the systems through joint action in the fields of the generation, transmission and distribution of electric power and energy are in the public interest; that there is a need in order to ensure the stability and continued viability of the municipal systems to provide for a means by which municipalities which operate the systems may act jointly in all ways possible, including development of coordinated bulk power and fuel supply programs and efficient, community−based energy systems; and that the necessity in the public interest for the provisions in this section is declared as a matter of legislative determination.

(3) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Bonds" means any bonds, interim certificates, notes, debentures or other obligations of a company issued under this section.

(am) "Community−based energy system" means a small−scale energy production system or device which serves a local area or portion thereof, including, but not limited to, a small scale power plant, using coal, sun, wind, organic waste or other form of energy, if the system is located sufficiently close to the community to make the dual production of heat and electricity possible. "Community−based energy system" also means a methane producing system or solar, wind or other energy source system for individual buildings or facilities.

(b) "Company" and "electric company" mean a municipal electric company.

(c) "Contracting municipality" means a municipality which contracts to establish an electric company under this section.

(d) "Municipal electric company" means a public corporation created by contract between 2 or more municipalities under this section.

(e) "Municipality" means a city, village, or town, or an electric utility, or combined utility, owned or operated by a city, village, or town.

(f) "Person" means a natural person, a public agency, a cooperative, an unincorporated cooperative association, or a private corporation, limited liability company, association, firm, partnership, or business trust of any nature, organized and existing under the laws of any state, the United States, or any foreign nation or any subdivision of any foreign nation.

(g) "Project" means any plant, works, system, facilities, and real and personal property of any nature, together with all parts, and appurtenances, used or useful in the generation, production, transmission, distribution, purchase, sale, exchange, or interchange of electric power and energy, or any interest or right to capacity and the acquisition of fuel of any kind for these purposes including: the acquisition of fuel deposits and the acquisition or construction and operation of facilities for extracting fuel from natural deposits, for converting it for use in another form, for burning it in place, for transportation, storage and reprocessing or for any energy conservation measure which involves public education or the actual fitting and application of a device.

(h) "Public agency" means any of the following:

1. Any municipality, municipal corporation, political subdivision, governmental unit, or public corporation, created under the laws of this state, another state, the United States, or any foreign nation or subdivision of any foreign nation.

2. Any state, the United States, or any foreign nation or subdivision of any foreign nation.

3. Any person, board, or other body, that is declared by the laws of any state, the United States, or any foreign nation or any subdivision of any foreign nation to be a department, agency, or instrumentality of the state, the United States, or the foreign nation or subdivision.

(4) CREATION OF MUNICIPAL ELECTRIC COMPANIES. (a) Any combination of municipalities of this state or of this state and other states which operates facilities for the generation, transmission or distribution of electric power and energy may, by contract with each other, establish a separate governmental entity to be known as a municipal electric company to be used by the contracting municipalities to effect joint development of electric energy resources or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the contracting municipalities. The municipalities party to the contract may amend the contract as provided in the contract.

(b) Any contract entered into under this section shall be filed with the secretary of state. Upon receipt, the secretary shall record the contract and issue a certificate of incorporation stating the name of the company and the date and fact of incorporation. Upon issuance of the certificate, the existence of the company shall begin.

(5) CONTRACT. Any contract establishing an electric company under this section shall specify:

(a) The name and purpose of the company and the functions or services to be provided by the company. The name may refer to the company as an agency, authority, company, corporation, group, system or other descriptive title.

(b) The establishment and organization of a governing body of the company which shall be a board of directors in which all powers of the company are vested. The contract may provide for the creation by the board of an executive committee of the board to which the powers and duties may be delegated as the board specifies.

(c) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality may appoint one member to the board of directors and may remove that member at will.

(d) The manner of selection of the officers of the company and their duties.

(e) The voting requirements for action by the board. Unless specifically provided otherwise, a majority of directors constitutes a quorum and a majority of the quorum is necessary for any action taken by the board.

(f) The duties of the board which shall include the obligation to comply with this section and the laws of the state and with each term, provision and covenant in the contract creating the company on its part to be kept or performed.

(g) The manner in which additional municipalities may become parties to the contract by amendment.

(h) Provisions for the disposition, division or distribution of any property or assets of the company on dissolution.

(i) The term of the contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the contract may be rescinded or terminated. The contract may not be rescinded or terminated while the company has bonds outstanding, unless provision for full payment of the bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

(6) POWERS. The general powers of an electric company include the power to:

(a) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects within or outside the state and act as agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of the project.

(b) Produce, acquire, sell, distribute and process fuels necessary to the production of electric power and energy and implement energy conservation measures necessary to meet energy needs.

(c) Enter into franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person or public agency.

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(d) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the company.

(e) Employ agents and employees.

(f) Contract with any person or public agency within or outside the state, for the construction of any project or for the sale or transmission of electric power and energy generated by any project, or for any interest in a project or any right to capacity of a project, on the terms and for the period that its board of directors determines.

(g) Purchase, sell, exchange, transmit or distribute electric power and energy within and outside the state in the amounts necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person or public agency with respect to the purchase, sale, exchange, or transmission, on the terms and for the period that its board of directors determines. A company may not sell power and energy at retail unless requested to do so by a municipal member within the service area of that municipal member.

(h) Acquire, own, hold, use, lease as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest in any real or personal property, commodity or service, subject to s. 182.017 (7).

(i) Exercise the powers of eminent domain granted to public utility corporations under ch. 32.

(j) Incur debts, liabilities or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, under sub. (11) (b).

(k) Sue and be sued in its own name.

(L) Have and use a corporate seal.

(m) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the company.

(n) Make, and from time to time amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the company.

(o) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in obligations, securities and other investments that the company deems proper.

(p) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the company's purposes.

(q) Exercise any other powers which are deemed necessary and convenient by the company to effectuate the purposes of the company.

(r) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

(6m) ENERGY CONSERVATION DUTIES. A municipal electric company established by contract under this section shall consider energy conservation measures and the development of efficient, community−based energy systems.

(7) PUBLIC CHARACTER. An electric company established by contract under this section constitutes a political subdivision and body public and corporate of the state, exercising public powers, separate from the contracting municipalities. It has the duties, privileges, immunities, rights, liabilities and disabilities of a public body politic and corporate but does not have taxing power.

(8) PAYMENTS. (a) 1. In this paragraph, "purchase of electric power and energy" includes any right to capacity or interest in any project.

2. The contracting municipalities may provide in the contract created under sub. (5) for payment to the company of funds for commodities to be procured and services to be rendered by the company. These municipalities and other persons and public agencies may enter into purchase agreements with the company for the purchase of electric power and energy whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the company to meet its expenses, interest and principal payments, whether at maturity or upon debt service fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument.

3. Purchase agreements entered into under subd. 2. may, in addition to the provisions authorized under subd. 2., contain other terms and conditions that the company and the purchasers determine, including provisions obligating the purchaser to pay for power irrespective of whether energy is produced or delivered to the purchaser or whether any project contemplated by any agreement under subd. 2. is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of the project.

4. Purchase agreements entered into under subd. 2. may be for a term covering the life of a project or for any other term, or for an indefinite period. The contract created under sub. (5) or a purchase agreement may provide that if one or more of the purchasers defaults in the payment of its obligations under a purchase agreement, the remaining purchasers which also have purchase agreements shall accept and pay for and are entitled proportionately to use or otherwise dispose of the power and energy to be purchased by the defaulting purchaser.

(b) The obligations of a municipality under a purchase agreement with a company or arising out of the default by any other purchaser with respect to a purchase agreement are not debt of the municipality. To the extent provided in the purchase agreement, the obligations constitute special obligations of the municipality, payable solely from the revenues and other moneys derived by the municipality from its municipal electric utility and shall be treated as expenses of operating a municipal electric utility.

(c) The contract may provide for payments in the form of contributions to defray the cost of any purpose set forth in the contract and as advances for any purpose in the contract subject to repayment by the company.

(9) SALE OF EXCESS CAPACITY. (a) An electric company may sell or exchange, to any other person or public agency, excess power and energy produced or owned by it not required by any of the contracting municipalities for the consideration, period and terms and conditions that it determines.

(b) Notwithstanding any other provision of this section or any other statute, nothing prohibits a company from undertaking any project in conjunction with or owning any project jointly with any person or public agency.

(10) REGULATION. An electric company created under this section is a "public utility" for purposes of ch. 196, except that the terms and conditions and the rates at which a company sells power and energy for resale are not subject to regulation or alteration by the public service commission.

(11) TYPES OF BONDS. (a) An electric company may issue such types of bonds as it determines, subject only to any agreement with the holders of particular bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenues from one or more projects, from one or more revenue producing contracts made by the company with any person or public agency, or from its revenues generally, or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the company from any source.

(b) A company may issue bonds in principal amounts that the company deems necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including the establishment or increase of reserves, interest accrued during construction of a project and for a period not exceeding one year after the completion of construction of a project, and the payment of all

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other costs or expenses of the company incident to and necessary or convenient to carry out its corporate purposes and powers.

(c) Neither the members of the board of directors of a company nor any person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds.

(d) The bonds of an electric company, and the bonds shall so state on their face, are not a debt of the municipalities which are parties to the contract creating the company or of the state and neither the state nor any municipality is liable on the bonds nor are the bonds payable out of any funds or properties other than those of the company.

(12) FORM AND SALE OF BONDS. (a) Bonds of an electric company shall be authorized by resolution of the board of directors and may be issued under the resolution or under a trust indenture or other security instrument in one or more series and shall bear the dates, mature at the times, bear interest at the rates, be in the denominations, be in the form of coupon bonds or registered bonds under s. 67.09, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the places, and be subject to the terms of redemption, with or without premium, that the resolution, trust indenture or other security instrument provides, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

(b) The bonds may be sold at public or private sale as the company provides and at the prices that the company determines.

(c) If an officer whose signature appears on a bond or coupon ceases to be an officer before the delivery of the obligation, the signature is valid and sufficient for all purposes, as if the officer had remained in office until delivery.

(13) COVENANTS. The company may in connection with the issuance of its bonds:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, covenant for their redemption and provide the terms and conditions of the redemption.

(c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements to a project, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds.

(d) Covenant and prescribe as to events of default and terms and conditions upon which any of its bonds become or may be declared due before maturity, as to the terms and conditions upon which the declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any project or any revenue producing contract made by the company with any person or public agency to secure the payment of bonds, subject to existing agreements with the holders of bonds.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property with respect to which the company may have any rights or interest.

(g) Covenant as to the purposes to which the proceeds from the sale of any bonds may be applied, and the pledge of the proceeds to secure the payment of the bonds.

(h) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds, the holders of which must consent to amendment or abrogation, and the manner in which consent may be given.

(k) Covenant as to the custody and safekeeping of any of its properties or investments, the insurance to be carried on the properties or investments, and the use and disposition of insurance proceeds.

(L) Covenant as to the vesting in one or more trustees, within or outside the state, of those properties, rights, powers and duties in trust that the company determines.

(m) Covenant as to the appointing and providing for the duties and obligations of one or more paying agents or other fiduciaries within or outside the state.

(n) Make all other covenants and do all acts necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the company tend to make the bonds more marketable; notwithstanding that the covenants, acts or things may not be enumerated in this subsection. A company may do all things in the issuance of bonds and in the provisions for security of the bonds which are not inconsistent with the constitution of the state.

(o) Execute all instruments necessary or convenient in the exercise of the powers granted in this subsection or in the performance of covenants or duties, which may contain covenants and provisions that any purchaser of the bonds of the company reasonably requires.

(14) REFUNDING BONDS. A company may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at the time prior to the maturity or redemption of the refunded bonds that the company deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and the reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as required by the resolution, trust indenture or other security instruments. The issue of, the maturities and other details of, the security for, the rights of the holders of, and the rights, duties and obligations of the company in respect of the refunding bonds are governed by the provisions of this section relating to the issue of bonds other than refunding bonds to the extent that the provisions are applicable.

(15) BONDS ELIGIBLE FOR INVESTMENT. (a) Any of the following may invest funds, including capital in their control or belonging to them, in bonds issued by a company under this section:

1. Public officers and agencies and political subdivisions of the state.
2. Insurance companies.
3. Trust companies.
4. Banks.
5. Savings banks.
6. Savings and loan associations.
7. Investment companies.
8. Personal representatives.
9. Trustees.
10. Other fiduciaries not listed in this paragraph.

(b) The bonds described in par. (a) may be deposited with and received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or obligations of the state or any political subdivision is authorized by law.

(16) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. (a) All bonds of a municipal electric company are declared to be issued on behalf of the state for an essential public and governmental purpose and to be debts of a state municipal corporation.

(b) The property of a company, including any proportional share of any property owned by a company in conjunction with

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any other person or public agency, is public property used for essential public and governmental purposes and the property or proportional share, a company and its income are exempt from all taxes of the state or any state public body except that for each project owned or partly owned by it, a company shall make payments−in−lieu−of−taxes to the state equal to the amount which would be paid to the state under ss. 76.01 to 76.26 for the project or share of the project if it were deemed to be owned by a company under s. 76.02 (2). The payment shall be determined, administered and distributed by the state in the same manner as the taxes paid by companies under ss. 76.01 to 76.26.

(17) SUCCESSOR. A company shall, if the contract so provides, be the successor to any nonprofit corporation, agency or any other entity previously organized by the contracting municipalities to provide the same or a related function, and the company is entitled to all rights and privileges and shall assume all obligations and liabilities of the other entity under existing contracts to which the other entity is a party.

(18) OTHER STATUTES. The powers granted under this section do not limit the powers of municipalities to enter into intergovernmental cooperation or contracts or to establish separate legal entities under ss. 66.0301 to 66.0311 or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions, nor do the powers granted under this section limit the powers reserved to municipalities by state law. Section 66.0303 (3) does not apply to a company's contracts or agreements.

(19) CONSTRUCTION. This section shall be interpreted liberally to effect the purposes set forth in this section.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441; 2009 a. 378, 379.

66.0827 Utility districts. (1) Towns, villages and 3rd and 4th class cities may establish utility districts.

(a) In villages and 3rd and 4th class cities, the village board or common council may direct that the cost of utility district highways, sewers, sidewalks, street lighting and water for fire protection not paid for by special assessment be paid out of the district fund under sub. (2). The cost of bridges in the district may not be paid out of the district fund.

(b) In towns, the town board may direct that the cost of any convenience or public improvement provided in the district and not paid for by special assessment be paid from the district fund under sub. (2).

(2) The fund of each utility district shall be provided by taxation of the property in the district, upon an annual estimate by the department in charge of public works in cities and villages, and by the town chairperson in towns, filed by October 1. Separate account shall be kept of each district fund.

(3) In towns a majority vote and in villages and cities a three−fourths vote of all the members of the governing body is required to establish, vacate, alter or consolidate a utility district.

(4) Before the vote is effective to establish, vacate, alter or consolidate a utility district, a hearing shall be held as provided in s. 66.0703 (7) (a). In towns the notice may be given by posting in 3 public places in the town, one of which shall be in the proposed district, at least 2 weeks prior to the hearing.

(5) (a) If a town board establishes a utility district under this section the board may, if a town sanitary district is in existence for the town, dissolve the sanitary district. If the sanitary district is dissolved, all assets, liabilities and functions of the sanitary district shall be taken over by the utility district.

(b) All functions performed by a sanitary district and assumed by a utility district under this subsection remain subject to regulation by the public service commission as if no transfer had occurred.

(c) If a sanitary district is located in more than one municipality, action under this section may be taken only upon approval of a majority of the members of the governing body of each municipality in which the sanitary district is located.

(6) If a municipality within which a utility district is located is consolidated with another municipality which provides the same or similar services for which the district was established, but on a municipality−wide basis rather than on a utility district basis as provided in this section, the fund of the utility district becomes part of the general fund of the consolidated municipality and the utility district terminates. This section applies to consolidations completed prior to, on and after June 30, 1965.

History: 1983 a. 207 s. 93 (1); 1983 a. 532; 1989 a. 56 s. 258; 1999 a. 150 s. 207; Stats. 1999 s. 66.0827.

66.0829 Parking systems. (1) A city, village or town may purchase, acquire, rent from a lessor, construct, extend, add to, improve, conduct, operate or rent to a lessee a municipal parking system for the parking of vehicles, including parking lots and other parking facilities, upon its public streets or roads or public grounds and issue revenue bonds to acquire funds for any one or more of these purposes. The parking lots and other parking facilities may include space designed for leasing to private persons for purposes other than parking. The provisions of s. 66.0621 governing the issuance of revenue bonds apply, to the extent applicable, to revenue bonds issued under this subsection. The municipal parking systems are public utilities under article XI, section 3, of the constitution. Principal and interest of revenue bonds issued under this subsection are payable solely from the revenues to be derived from the parking system, including without limitation revenues from parking meters or other parking facilities. Any revenue derived from a facility financed by a revenue bond issued under this subsection may be used only to pay the principal and interest of that revenue bond, except that after the principal and interest of that revenue bond have been paid in full the revenue derived from the facility may be used for any purpose.

(2) Any part of a parking system under sub. (1) may be financed and operated in the following manner:

(a) The cost of constructing any parking system or facility, including the cost of the land, may be assessed against a benefited area, the benefited area and assessments to be determined in the manner prescribed by either subch. II of ch. 32 or s. 66.0703, except that the number of annual installments in which the assessment is payable may not exceed 20.

(b) The cost of operating and maintaining any parking system or facility may be assessed not more than once in each calendar year against all property in a benefited area, the area and assessments to be determined in the manner prescribed by either subch. II of ch. 32 or by s. 66.0703. The costs may include a payment in lieu of taxes, operating, maintenance and replacement costs, and interest on any unpaid capital cost.

(c) The governing body may, in determining the amount of the assessment under par. (a) or (b), credit any portion of the revenues from the parking system or facility.

(d) No assessment authorized in par. (a) or (b) may be made against any property used wholly for residential purposes.

History: 1973 c. 172; 1983 a. 192; 1983 a. 207 s. 93 (3); 1983 a. 236 ss. 7, 13; 1985 a. 231; 1987 a. 152; 1993 a. 246; 1997 a. 56; 1999 a. 150 s. 232; Stats. 1999 s. 66.0829.

66.0831 Interference with public service structure. A contractor with a contract for work upon, over, along or under a public street or highway may not interfere with, destroy or disturb the structures of a public utility, including a telecommunications carrier as defined in s. 196.01 (8m), encountered in the performance of the work in a manner that interrupts, impairs or affects the public service for which the structures may be used, without first obtaining written authority from the commissioner of public works or other appropriate authority. A public utility, if given reasonable notice by the contractor of the need for temporary protection of, or a temporary change in, the utility's structures, determined by the commissioner of public works or other appropriate authority to be reasonably necessary to enable the work, shall temporarily protect or change its structures located upon, over, along or under the surface of a public street or highway. The contractor shall pay or assure to the public utility the reasonable cost of the

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temporary structure or change, unless the public utility is otherwise liable. If work is done by or for the state or by or for any county, city, village, town sanitary district, metropolitan sewerage district created under ss. 200.01 to 200.15 or 200.21 to 200.65 or town, the cost of the temporary protection or temporary change shall be borne by the public utility.

History: 1973 c. 277; 1983 a. 296, 538; 1993 a. 496; 1999 a. 150 s. 116; Stats. 1999 s. 66.0831.

Cross−reference: See also ss. PSC 165.066, 165.067, and 185.16, Wis. adm. code.

Interference without written authority is prohibited only if the parties cannot agree that requested changes are reasonably necessary. A town sanitary district is not a town under the cost provision of this section. Wisconsin Gas Co. v. Lawrenz & Associates, 72 Wis. 2d 389, 241 N.W.2d 384 (1976).

SUBCHAPTER IX

PUBLIC WORKS AND PROJECTS

66.0901 Public works, contracts, bids. (1) DEFINITIONS. In this section:

(a) "Municipality" means the state or a town, city, village, school district, board of school directors, sewer district, drainage district, technical college district or other public or quasi−public corporation, officer, board or other public body charged with the duty of receiving bids for and awarding any public contracts.

(b) "Person" means an individual, partnership, association, limited liability company, corporation or joint stock company, lessee, trustee or receiver.

(bm) "Political subdivision" means a city, village, town, or county.

(c) "Public contract" means a contract for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or material of any kind, proposals for which are required to be advertised for by law.

(d) "Subcontractor" means a person whose relationship to the principal contractor is substantially the same as to a part of the work as the latter's relationship is to the proprietor. A "subcontractor" takes a distinct part of the work in a way that the "subcontractor" does not contemplate doing merely personal service.

(1m) METHOD OF BIDDING. (a) Except when necessary to secure federal aid, whenever a political subdivision lets a public contract by bidding, the political subdivision shall comply with all of the following:

1. The bidding shall be on the basis of sealed competitive bids.

2. The contract shall be awarded to the lowest responsible bidder.

(b) Except when necessary to secure federal aid, a political subdivision may not use a bidding method that gives preference based on the geographic location of the bidder or that uses criteria other than the lowest responsible bidder in awarding a contract.

(2) BIDDER'S PROOF OF RESPONSIBILITY. A municipality intending to enter into a public contract may, before delivering any form for bid proposals, plans, and specifications to any person, except suppliers, and others not intending to submit a direct bid, require the person to submit a full and complete statement sworn to before an officer authorized by law to administer oaths. The statement shall consist of information relating to financial ability, equipment, experience in the work prescribed in the public contract, and other matters that the municipality requires for the protection and welfare of the public in the performance of a public contract. The statement shall be in writing on a standard form of a questionnaire that is adopted and furnished by the municipality. The statement shall be filed in the manner and place designated by the municipality. The statement shall not be received less than 5 days prior to the time set for the opening of bids. The contents of the statement shall be confidential and may not be disclosed except upon the written order of the person furnishing the statement, for necessary use by the public body in qualifying the person, or in cases of actions against, or by, the person or municipality. The governing body of the municipality or the committee, board, or employee charged with, or delegated by the governing body with, the duty of receiving bids and awarding contracts shall properly evaluate the statement and shall find the maker of the statement either qualified or unqualified.

(3) PROOF OF RESPONSIBILITY, CONDITION PRECEDENT. No bid shall be received from any person who has not submitted the statement as provided in sub. (2), provided that any prospective bidder who has once qualified to the satisfaction of the municipality, committee, board or employee, and who wishes to become a bidder upon subsequent public contracts under the same jurisdiction, need not separately qualify on each public contract unless required so to do by the municipality, committee, board or employee.

(4) REJECTION OF BIDS. If the municipality, committee, board or employee is not satisfied with the sufficiency of the answer contained in the statement provided under sub. (2), the municipality, committee, board or employee may reject or disregard the bid.

(5) CORRECTIONS OF ERRORS IN BIDS. If a person submits a bid or proposal for the performance of public work under any public contract to be let by a municipality and the bidder claims that a mistake, omission or error has been made in preparing the bid, the bidder shall, before the bids are opened, make known the fact that an error, omission or mistake has been made. If the bidder makes this fact known, the bid shall be returned to the bidder unopened and the bidder may not bid upon the public contract unless it is readvertised and relet upon the readvertisement. If a bidder makes an error, omission or mistake and discovers it after the bids are opened, the bidder shall immediately and without delay give written notice and make known the fact of the mistake, omission or error which has been committed and submit to the municipality clear and satisfactory evidence of the mistake, omission or error and that it was not caused by any careless act or omission on the bidder's part in the exercise of ordinary care in examining the plans or specifications and in conforming with the provisions of this section. If the discovery and notice of a mistake, omission or error causes a forfeiture, the bidder may not recover the moneys or certified check forfeited as liquidated damages unless it is proven before a court of competent jurisdiction in an action brought for the recovery of the amount forfeited, that in making the mistake, error or omission the bidder was free from carelessness, negligence or inexcusable neglect.

(6) SEPARATION OF CONTRACTS; CLASSIFICATION OF CONTRACTORS. In public contracts for the construction, repair, remodeling or improvement of a public building or structure, other than highway structures and facilities, a municipality may bid projects based on a single or multiple division of the work. Public contracts shall be awarded according to the division of work selected for bidding. The municipality may set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character and classification of workers to be employed by any contractor, classify contractors as to their financial responsibility, competency and ability to perform work and set up a classified list of contractors. The municipality may reject the bid of any person, if the person has not been classified for the kind or amount of work in the bid.

(7) BIDDER'S CERTIFICATE. When bidding on a public contract, the bidder shall incorporate and make a part of the bidder's proposal for doing any work or labor or furnishing any material in or about any public work or contract of the municipality a sworn statement by the bidder, or if not an individual by one authorized, that the bidder or authorized person has examined and carefully prepared the proposal from the plans and specifications and has checked the same in detail before submitting the proposal or bid to the municipality. As a part of the proposal, the bidder also shall submit a list of the subcontractors the bidder proposes to contract with and the class of work to be performed by each. In order to qualify for inclusion in the bidder's list a subcontractor shall first submit a bid in writing, to the general contractor at least 48 hours prior to the time of the bid closing. The list may not be added to

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or altered without the written consent of the municipality. A proposal of a bidder is not invalid if any subcontractor and the class of work to be performed by the subcontractor has been omitted from a proposal; the omission shall be considered inadvertent or the bidder will perform the work personally.

(8) SETTLEMENT OF DISPUTES; DEFAULTS. Whenever there is a dispute between a contractor or surety or the municipality as to whether there is compliance with the provisions of a public contract as to the hours of labor, wages, residence, character and classification of workers employed by the contractor, the determination of the municipality is final. If a violation of these provisions occurs, the municipality may declare the contract in default and request the surety to perform or relet upon advertisement the remaining portion of the public contract.

(9) ESTIMATES AND RELEASE OF FUNDS. (a) Notwithstanding sub. (1) (a), in this subsection, "municipality" does not include the department of transportation.

(b) *Retained percentages.* As the work progresses under a contract involving $1,000 or more for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or materials, regardless of whether proposals for the contract are required to be advertised by law, the municipality, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which entitles the contractor to receive the amount of the estimate, less the retainage, from the proper fund. The retainage shall be an amount equal to not more than 5% of the estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the architect or engineer certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the contractor. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained but the total retainage may not be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the municipality are valid reasons for noncompletion, the municipality may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by the contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract.

(11) LIMITATION ON PERFORMANCE OF PRIVATE CONSTRUCTION WORK BY POLITICAL SUBDIVISIONS. (a) In this subsection, "construction project" means a road, sewer, water, stormwater, wastewater, grading, parking lot, or other infrastructure−related project or the provision of construction−related services for such a project.

(b) A political subdivision may not use its own workforce to perform a construction project for which a private person is financially responsible.

History: 1971 c. 154; 1975 c. 390; 1983 a. 27; 1991 a. 316; 1993 a. 112, 399, 490, 491; 1999 a. 150 ss. 257, 258, 328 to 334; Stats. 1999 s. 66.0901; 1999 a. 186 s. 50; 2001 a. 103; 2003 a. 157; 2005 a. 204; 2009 a. 173; 2011 a. 32.

Under sub. (5), a bidder has no right to withdraw its bid or demand that it be amended. Under the terms of the proposal, the commission was entitled to retain the deposit upon the plaintiff's failure to execute the contract within 10 days of the notice of award. Nelson Inc. v. Sewerage Commission of Milwaukee, 72 Wis. 2d 400, 241 N.W.2d 390 (1976).

Acceptance of the bid is a precondition to forfeiture of the bidder's deposit under sub. (5). Gaastra v. Village of Fairwater, 77 Wis. 2d 7, 252 N.W.2d 60 (1977).

When a bid error was discovered after the contract was let, the dispute was governed by the arbitration clause in the contract, not by sub. (5). Turtle Lake v. Orvedahl Const., 135 Wis. 2d 385, 400 N.W.2d 475 (Ct. App. 1986).

Sub. (5) does not contemplate bid amendment after bids are open, and municipalities do not have the authority to permit a bidder to amend its bid. The only relief available to a bidder that acknowledges a mistake, error, or omission in its bid is to request that its bid be withdrawn from consideration. James Cape & Sons Company v. Mulcahy, 2005 WI 128, 285 Wis. 2d 200, 700 N.W.2d 243, 02−2817

Acceptance of a bid by a municipality is a precondition to forfeiture of a bidder's deposit under sub. (5). The 4th sentence of sub. (4) specifically contemplates a court proceeding to determine whether a proposal guaranty should be returned to the bidder when a municipality has retained the proposal guaranty. If the bidder can show by clear and satisfactory evidence that its error, omission, or mistake was not caused by any careless act or omission in the exercise of ordinary care in examining the plans or specifications and was in conformance with the conditions of the statute, but the municipality is able to show how the bidder's withdrawal has prejudiced or will prejudice the municipality, the bidder will have to meet the higher standard that it was free from carelessness, negligence, or inexcusable neglect to avoid forfeiture. James Cape & Sons Company v. Mulcahy, 2005 WI 128, 285 Wis. 2d 200, 700 N.W.2d 243, 02−2817

A municipality has no power to enter into a contract unless the bid proposal complies with sub. (7). When a bidder submitted no statement providing any of the assurances required by sub. (7) the bid proposal did not comply with sub. (7), and the municipality had no authority to enter into a contract with the bidder based on that proposal. If there was a contract, it was void at its inception. Andrews Construction, Inc. v. Town of Levis, 2006 WI App 180, 296 Wis. 2d 89, 722 N.W. 2d 389, 04−3338.

Police cars need not be purchased by competitive bid since they are "equipment" and not "supplies [or] material." 66 Atty. Gen. 284.

Municipalities may require bidders to include a list of subcontractors under sub. (7). Counties may reject a proposal for failure to include a complete list, except when omitted subcontractors themselves submitted timely, written bids to the general contractor. 76 Atty. Gen. 29.

66.0903 Municipal prevailing wage and hour scales.

(1) DEFINITIONS. In this section:

(a) "Area" means the county in which a proposed project of public works that is subject to this section is located or, if the department determines that there is insufficient wage data in that county, "area" means those counties that are contiguous to that county or, if the department determines that there is insufficient wage data in those counties, "area" means those counties that are contiguous to those counties or, if the department determines that there is insufficient wage data in those counties, "area" means the entire state or, if the department is requested to review a determination under sub. (3) (br), "area" means the city, village or town in which a proposed project of public works that is subject to this section is located.

(am) "Bona fide economic benefit" has the meaning given in s. 103.49 (1) (am).

(b) "Department" means the department of workforce development.

(c) "Hourly basic rate of pay" has the meaning given in s. 103.49 (1) (b).

(cm) "Insufficient wage data" has the meaning given in s. 103.49 (1) (bg).

(d) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(dr) "Minor service or maintenance work" means a project of public works that is limited to minor crack filling, chip or slurry sealing, or other minor pavement patching, not including overlays, that has a projected life span of no longer than 5 years or that is performed for a town and is not funded under s. 86.31, regardless of projected life span; the depositing of gravel on an existing gravel road applied solely to maintain the road; road shoulder maintenance; cleaning of drainage or sewer ditches or structures; or any other limited, minor work on public facilities or equipment that is routinely performed to prevent breakdown or deterioration.

(em) "Multiple−trade project of public works" has the meaning given in s. 103.49 (1) (br).

(f) "Prevailing hours of labor" has the meaning given in s. 103.49 (1) (c).

(g) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area means the hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation bene-

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fits, pension benefits and any other bona fide economic benefit, paid directly or indirectly, for a majority of the hours worked in the trade or occupation on projects in the area.

2. If there is no rate at which a majority of the hours worked in the trade or occupation on projects in the area is paid, "prevailing wage rate" for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area means the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly for all hours worked at the hourly basic rate of pay of the highest−paid 51% of hours worked in that trade or occupation on projects in that area.

(hm) "Single−trade project of public works" has the meaning given in s. 103.49 (1) (em).

(im) "Supply and installation contract" means a contract under which the material is installed by the supplier, the material is installed by means of simple fasteners or connectors such as screws or nuts and bolts and no other work is performed on the site of the project of public works, and the total labor cost to install the material does not exceed 20 percent of the total cost of the contract.

(j) "Truck driver" has the meaning given in s. 103.49 (1) (g).

(1m) STATEWIDE CONCERN; UNIFORMITY. (a) In this subsection, "publicly funded private construction project" means a construction project in which the developer, investor, or owner of the project receives direct financial assistance from a local governmental unit for the erection, construction, repair, remodeling, demolition, including any alteration, painting, decorating, or grading, of a private facility, including land, a building, or other infrastructure. "Publicly funded private construction project" does not include a project of public works or a housing project involving the erection, construction, repair, remodeling, or demolition of any of the following:

1. A residential property, if the project is supported by affordable housing grants, home improvement grants, or grants from a local housing trust fund.

2. A residential property containing 4 dwelling units or less.

3. A residential property that contains retail, office, or commercial components, if the project is intended to increase the supply of affordable housing in a community.

(b) The legislature finds that the enactment of ordinances or other enactments by local governmental units requiring laborers, workers, mechanics, and truck drivers employed on projects of public works or on publicly funded private construction projects to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of this section and the repeal of s. 66.0904, 2009 stats. Therefore, this section shall be construed as an enactment of statewide concern for the purpose of providing uniform prevailing wage rate and prevailing hours of labor requirements throughout the state.

(c) A local governmental unit may not enact and administer an ordinance or other enactment requiring laborers, workers, mechanics, and truck drivers employed on projects of public works or on publicly funded private construction projects to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor or any similar ordinance or enactment. Any such ordinance or other enactment that is in effect on July 1, 2011, is void.

(2) APPLICABILITY. Subject to sub. (5), this section applies to any project of public works erected, constructed, repaired, remodeled, or demolished for a local governmental unit, including all of the following:

(a) A highway, street, bridge, building, or other infrastructure project.

(b) A project erected, constructed, repaired, remodeled, or demolished by one local governmental unit for another local governmental unit under a contract under s. 66.0301 (2), 83.03, 83.035, or 86.31 (2) (b) or under any other statute specifically authorizing cooperation between local governmental units.

(c) A project in which the completed facility is leased, purchased, lease purchased, or otherwise acquired by, or dedicated to, a local governmental unit in lieu of the local governmental unit contracting for the erection, construction, repair, remodeling, or demolition of the facility.

(d) A road, street, bridge, sanitary sewer, or water main project in which the completed road, street, bridge, sanitary sewer, or water main is acquired by, or dedicated to, a local governmental unit, including under s. 236.13 (2), for ownership or maintenance by the local governmental unit.

(3) PREVAILING WAGE RATES AND HOURS OF LABOR. (am) A local governmental unit, before making a contract by direct negotiation or soliciting bids on a contract for the erection, construction, remodeling, repairing or demolition of any project of public works, shall apply to the department to determine the prevailing wage rate for each trade or occupation required in the work contemplated. The department shall conduct investigations and hold public hearings as necessary to define the trades or occupations that are commonly employed on projects of public works that are subject to this section and to inform itself as to the prevailing wage rates in all areas of the state for those trades or occupations, in order to determine the prevailing wage rate for each trade or occupation. The department shall issue its determination within 30 days after receiving the request and shall file the determination with the requesting local governmental unit.

(ar) The department shall, by January 1 of each year, compile the prevailing wage rates for each trade or occupation in each area. The compilation shall, in addition to the current prevailing wage rates, include future prevailing wage rates when those prevailing wage rates can be determined for any trade or occupation in any area and shall specify the effective date of those future prevailing wage rates. If a project of public works extends into more than one area there shall be but one standard of prevailing wage rates for the entire project.

(av) In determining prevailing wage rates under par. (am) or (ar), the department may not use data from projects that are subject to this section, s. 103.49 or 103.50, or 40 USC 3142 unless the department determines that there is insufficient wage data in the area to determine those prevailing wage rates, in which case the department may use data from projects that are subject to this section, s. 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par. (am) or (ar), the department may not use data from any construction work that is performed by a local governmental unit or a state agency.

(bm) Any person may request a recalculation of any portion of an initial determination within 30 days after the initial determination date if the person submits evidence with the request showing that the prevailing wage rate for any given trade or occupation included in the initial determination does not represent the prevailing wage rate for that trade or occupation in the area. The evidence shall include wage rate information reflecting work performed by persons working in the contested trade or occupation in the area during the current survey period. The department shall affirm or modify the initial determination within 15 days after the date on which the department receives the request for recalculation.

(br) In addition to the recalculation under par. (bm), the local governmental unit that requested the determination under this subsection may request a review of any portion of a determination within 30 days after the date of issuance of the determination if the local governmental unit submits evidence with the request showing that the prevailing wage rate for any given trade or occupation

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included in the determination does not represent the prevailing wage rate for that trade or occupation in the city, village, or town in which the proposed project of public works is located. That evidence shall include wage rate information for the contested trade or occupation on at least 3 similar projects located in the city, village, or town where the proposed project of public works is located and on which some work has been performed during the current survey period and which were considered by the department in issuing its most recent compilation under par. (ar). The department shall affirm or modify the determination within 15 days after the date on which the department receives the request for review.

(dm) A reference to the prevailing wage rates determined by the department and to the prevailing hours of labor shall be published in the notice issued for the purpose of securing bids for the project of public works. If any contract or subcontract for a project of public works is entered into, the prevailing wage rates determined by the department and the prevailing hours of labor shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department, the department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force. No person performing the work described in sub. (4) may be paid less than the prevailing wage rate in the same or most similar trade or occupation determined under this subsection; nor may he or she be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, unless he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay.

(4) COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employees shall be paid the prevailing wage rate determined under sub. (3) and may not be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, unless they are paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

1. All laborers, workers, mechanics, and truck drivers employed on the site of a project of public works that is subject to this section.

2. All laborers, workers, mechanics, and truck drivers employed in the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of a project of public works that is subject to this section or from a facility dedicated exclusively, or nearly so, to a project of public works that is subject to this section by a contractor, subcontractor, agent, or other person performing any work on the site of the project.

(b) A laborer, worker, mechanic, or truck driver who is employed to process, manufacture, pick up, or deliver materials or products from a commercial establishment that has a fixed place of business from which the establishment supplies processed or manufactured materials or products or from a facility that is not dedicated exclusively, or nearly so, to a project of public works that is subject to this section is not entitled to receive the prevailing wage rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor unless any of the following applies:

1. The laborer, worker, mechanic, or truck driver is employed to go to the source of mineral aggregate such as sand, gravel, or stone and deliver that mineral aggregate to the site of a project of public works that is subject to this section by depositing the material directly in final place, from the transporting vehicle or through spreaders from the transporting vehicle.

2. The laborer, worker, mechanic, or truck driver is employed to go to the site of a project of public works that is subject to this section, pick up excavated material or spoil from the site of the project, and transport that excavated material or spoil away from the site of the project.

(c) A truck driver who is an owner−operator of a truck shall be paid separately for his or her work and for the use of his or her truck.

(5) NONAPPLICABILITY. This section does not apply to any of the following:

(a) A single−trade project of public works for which the estimated project cost of completion is less than $48,000, a multiple−trade project of public works for which the estimated project cost of completion is less than $100,000, or, in the case of a multiple−trade project of public works erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village having a population of less than 2,500 or for a town, a multiple−trade project of public works for which the estimated project cost of completion is less than $234,000.

(b) Work performed on a project of public works for which the local governmental unit contracting for the project is not required to compensate any contractor, subcontractor, contractor's or subcontractor's agent, or individual for performing the work.

(c) Minor service or maintenance work, warranty work, or work under a supply and installation contract.

(f) A project of public works involving the erection, construction, repair, remodeling, or demolition of a residential property containing 2 dwelling units or less.

(g) A road, street, bridge, sanitary sewer, or water main project that is a part of a development in which not less than 90 percent of the lots contain or will contain 2 dwelling units or less, as determined by the local governmental unit at the time of approval of the development, and that, on completion, is acquired by, or dedicated to, a local governmental unit, including under s. 236.13 (2), for ownership or maintenance by the local governmental unit.

(8) POSTING. For the information of the employees working on the project of public works, the prevailing wage rates determined by the department, the prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) shall be kept posted by the local governmental unit in at least one conspicuous and easily accessible place on the site of the project or, if there is no common site on the project, at the place normally used by the local governmental unit to post public notices.

(9) COMPLIANCE. (a) When the department finds that a local governmental unit has not requested a determination under sub. (3) (am) or that a local governmental unit, contractor or subcontractor has not physically incorporated a determination into a contract or subcontract as required under this section or has not notified a minor subcontractor of a determination in the manner prescribed by the department by rule promulgated under sub. (3) (dm), the department shall notify the local governmental unit, contractor or subcontractor of the noncompliance and shall file the determination with the local governmental unit, contractor or subcontractor within 30 days after the notice.

(b) Upon completion of a project of public works and before receiving final payment for his or her work on the project, each agent or subcontractor shall furnish the contractor with an affidavit stating that the agent or subcontractor has complied fully with the requirements of this section. A contractor may not authorize final payment until the affidavit is filed in proper form and order.

(c) Upon completion of a project of public works and before receiving final payment for his or her work on the project, each contractor shall file with the local governmental unit authorizing the work an affidavit stating that the contractor has complied fully with the requirements of this section and that the contractor has received an affidavit under par. (b) from each of the contractor's agents and subcontractors. A local governmental unit may not authorize a final payment until the affidavit is filed in proper form and order. If a local governmental unit authorizes a final payment before an affidavit is filed in proper form and order or if the department determines, based on the greater weight of the credible evidence, that any person performing the work specified in sub. (4)

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has been or may have been paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor and requests that the local governmental unit withhold all or part of the final payment, but the local governmental unit fails to do so, the local governmental unit is liable for all back wages payable up to the amount of the final payment.

(10) RECORDS; INSPECTION; ENFORCEMENT. (a) Each contractor, subcontractor, or contractor's or subcontractor's agent performing work on a project of public works that is subject to this section shall keep full and accurate records clearly indicating the name and trade or occupation of every person performing the work described in sub. (4) and an accurate record of the number of hours worked by each of those persons and the actual wages paid for the hours worked.

(b) The department or the contracting local governmental unit may demand and examine, and every contractor, subcontractor, and contractor's or subcontractor's agent shall keep, and furnish upon request by the department or local governmental unit, copies of payrolls and other records and information relating to the wages paid to persons performing the work described in sub. (4) for work to which this section applies. The department may inspect records in the manner provided in ch. 103. Every contractor, subcontractor, or agent performing work on a project of public works that is subject to this section is subject to the requirements of ch. 103 relating to the examination of records.

(c) If requested by any person, the department shall inspect the payroll records of any contractor, subcontractor, or agent performing work on a project of public works that is subject to this section as provided in this paragraph to ensure compliance with this section. On receipt of such a request, the department shall request the contractor, subcontractor, or agent to submit to the department a certified record of the information specified in par. (a), other than personally identifiable information relating to an employee of the contractor, subcontractor, or agent, for no longer than a 4−week period. The department may request a contractor, subcontractor, or agent to submit those records no more than once per calendar quarter for each project of public works on which the contractor, subcontractor, or agent is performing work. The department may not charge a requester a fee for obtaining that information. The department shall make available for public inspection certified records submitted to the department under this paragraph.

(d) Section 103.005 (5) (f), (11), (12) and (13) applies to this section, except that s. 103.005 (12) (a) does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates under sub. (3) (am) or (ar). Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section, including proceedings under sub. (11) (a).

(11) LIABILITY AND PENALTIES. (a) 1. Any contractor, subcontractor, or contractor's or subcontractor's agent who fails to pay the prevailing wage rate determined by the department under sub. (3) or who pays less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor is liable to any affected employee in the amount of his or her unpaid wages or his or her unpaid overtime compensation and in an additional amount as liquidated damages as provided under subd. 2. or 3., whichever is applicable.

2. If the department determines upon inspection under sub. (10) (b) or (c) that a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay the prevailing wage rate determined by the department under sub. (3) or has paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor, the department shall order the contractor to pay to any affected employee the amount of his or her unpaid wages or his or her unpaid overtime compensation and an additional amount equal to 100 percent of the amount of those unpaid wages or that unpaid overtime compensation as liquidated damages within a period specified by the department in the order.

3. In addition to or in lieu of recovering the liability specified in subd. 1. as provided in subd. 2., any employee for and in behalf of that employee and other employees similarly situated may commence an action to recover that liability in any court of competent jurisdiction. If the court finds that a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay the prevailing wage rate determined by the department under sub. (3) or has paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor, the court shall order the contractor, subcontractor, or agent to pay to any affected employee the amount of his or her unpaid wages or his or her unpaid overtime compensation and an additional amount equal to 100 percent of the amount of those unpaid wages or that unpaid overtime compensation as liquidated damages.

5. No employee may be a party plaintiff to an action under subd. 3. unless the employee consents in writing to become a party and the consent is filed in the court in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

(b) 1. Except as provided in subds. 2., 4. and 6., any contractor, subcontractor or contractor's or subcontractor's agent who violates this section may be fined not more than $200 or imprisoned for not more than 6 months or both. Each day that any violation continues is a separate offense.

2. Whoever induces any person who seeks to be or is employed on any project of public works that is subject to this section to give up, waive, or return any part of the wages to which the person is entitled under the contract governing the project, or who reduces the hourly basic rate of pay normally paid to a person for work on a project that is not subject to this section during a week in which the person works both on a project of public works that is subject to this section and on a project that is not subject to this section, by threat not to employ, by threat of dismissal from employment, or by any other means is guilty of an offense under s. 946.15 (1).

3. Any person employed on a project of public works that is subject to this section who knowingly permits a contractor, subcontractor, or contractor's or subcontractor's agent to pay him or her less than the prevailing wage rate set forth in the contract governing the project, who gives up, waives, or returns any part of the compensation to which he or she is entitled under the contract, or who gives up, waives, or returns any part of the compensation to which he or she is normally entitled for work on a project that is not subject to this section during a week in which the person works both on a project of public works that is subject to this section and on a project that is not subject to this section, is guilty of an offense under s. 946.15 (2).

4. Whoever induces any person who seeks to be or is employed on any project of public works that is subject to this section to permit any part of the wages to which the person is entitled under the contract governing the project to be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 3142.

5. Any person employed on a project of public works that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing the project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 3142.

6. Subdivision 1. does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates under sub. (3) (am) or (ar).

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(12) DEBARMENT. (a) Except as provided under pars. (b) and (c), the department shall notify any local governmental unit applying for a determination under sub. (3) of the names of all persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor at any time in the preceding 3 years. The department shall include with each name the address of the person and shall specify when the person failed to pay the prevailing wage rate and when the person paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor. A local governmental unit may not award any contract to the person unless otherwise recommended by the department or unless 3 years have elapsed from the date the department issued its findings or the date of final determination by a court of competent jurisdiction, whichever is later.

(b) The department may not include in a notification under par. (a) the name of any person on the basis of having let work to a person whom the department has found to have failed to pay the prevailing wage rate determined under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.

(c) This subsection does not apply to any contractor, subcontractor or agent who in good faith commits a minor violation of this section, as determined on a case−by−case basis through administrative hearings with all rights to due process afforded to all parties or who has not exhausted or waived all appeals.

(d) Any person submitting a bid or negotiating a contract on a project of public works that is subject to this section shall, on the date the person submits the bid or negotiates the contract, identify any construction business in which the person, or a shareholder, officer or partner of the person, if the person is a business, owns, or has owned at least a 25% interest on the date the person submits the bid or negotiates the contract or at any other time within 3 years preceding the date the person submits the bid or negotiates the contract, if the business has been found to have failed to pay the prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.

(e) The department shall promulgate rules to administer this subsection.

History: 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60; 2009 a. 28, 276; 2011 a. 32, 259.

Cross−reference: See also chs. DWD 290 and 294, Wis. adm. code.

The liability of a prime contractor for damages to employees of a subcontractor under s. 779.14 (2) did not include wage penalties under s. 66.293 (3) [now sub. (11)]. Consent to be a named party under sub. (3) [now sub. (11)] may occur after one year if the action is for damages under this section in the name of the plaintiffs and other similarly situated employees and was filed within the one−year time period. Strong v. C.I.R., Inc. 184 Wis. 2d 619, 516 N.W.2d 719 (1994).

In determining whether a project constitutes a public work, each project must be evaluated separately considering the character, ownership, use, and maintenance of the project, and whether the work is being done for the appropriate municipality. Elliott v. Morgan, 214 Wis. 2d 253, 571 N.W.2d 866 (Ct. App. 1997), 96−1904.

Individual employees have a strong privacy interest in their names, particularly when coupled with their occupation, wages and hours, and place of employment, and the public has a strong interest in protecting that privacy. That public interest substantially outweighs the public interest favoring disclosure of the names in a public records request for wage records of private employees performing a government contract subject to this section. Kraemer Brothers, Inc. v. Dane County, 229 Wis. 2d 86, 599 N.W.2d 75 (Ct. App. 1999), 98−3061.

ERISA does not preempt the prevailing wage law. State v. Phillips, 2000 WI App 184, 238 Wis. 2d 279, 617 N.W.2d 522, 99−3197.

This section is inapplicable to a private corporation contracting for a medical center. 61 Atty. Gen. 426.

Typical turnkey projects financed by industrial development revenue bonds under s. 66.521 are not subject to s. 66.293 (3), concerning prevailing wage rates. 63 Atty. Gen. 145.

Municipalities are subject to sub. (3) on contracts for any project of public works, even if done by the turnkey method. 64 Atty. Gen. 100.

Wisconsin's Prevailing Wage Laws: Why They Have Been Preempted by the Employee Retirement Income Security Act. Fulton. 80 MLR 269 (1997).

66.0905 Pedestrian malls. After referring the matter to the plan commission for report under s. 62.23 (5), or the town zoning committee under s. 60.61 (4), and after holding a public hearing on the matter with publication of a Class 1 notice of the hearing, the governing body of any city or village, or any town board acting under s. 60.61 or 60.62, may by ordinance designate any street, road or public way or any part of a street, road or public way wholly within its jurisdiction as a pedestrian mall and prohibit or limit vehicular traffic in the pedestrian mall. Creation of a pedestrian mall under this section does not constitute a discontinuance or vacation of the street, road or public way under s. 66.1003 or 236.43.

History: 1993 a. 246; 1999 a. 150 s. 345; Stats. 1999 s. 66.0905.

66.0907 Sidewalks. (1) PART OF STREET; OBSTRUCTIONS. Streets shall provide a right−of−way for vehicular traffic and, where the council requires, a sidewalk on either or both sides of the street. The sidewalk shall be for the use of persons on foot, and no person may encumber the sidewalk with boxes or other material. The sidewalk shall be kept clear for the use of persons on foot.

(2) GRADE. If the grades of sidewalks are not specially fixed by ordinance, the sidewalks shall be laid to the established grade of the street.

(3) CONSTRUCTION AND REPAIR. (a) *Authority of council.* The council may by ordinance or resolution determine where sidewalks shall be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks. The standard may be different for different streets. The council may order by ordinance or resolution sidewalks to be laid as provided in this subsection.

(b) *Board of public works.* The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.

(c) *Notice.* A copy of the ordinance, resolution or order directing the laying, removal, replacement or repair of sidewalks shall be served upon the owner, or an agent, of each lot or parcel of land in front of which the work is ordered. The board of public works, or either the street commissioner or the city engineer if so requested by the council, may serve the notice. Service of the notice may be made by any of the following methods:

1. Personal delivery.

2. Certified or registered mail.

3. Publication in the official newspaper as a class 1 notice, under ch. 985, together with mailing by 1st class mail if the name and mailing address of the owner or an agent can be readily ascertained.

(d) *Default of owner.* If the owner neglects for a period of 20 days after service of notice under par. (c) to lay, remove, replace or repair the sidewalk the city may cause the work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1).

(e) *Minor repairs.* If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of $100, the board of public works, street commissioner or city engineer, if so required by the council, may immediately repair the sidewalk, without notice, and charge the cost of the repair to the owner of the lot or parcel of land, as provided in this section.

(f) *Expense.* The board of public works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land, whether the work is done by contract or otherwise, and report the expenses to the comptroller. The comptroller shall annually prepare a statement of the expense incurred in front of each lot or parcel of land and report the amount to the city clerk. The amount charged to each lot or parcel of land shall be entered by the clerk in the tax roll as a special tax against the lot or parcel of land and collected like other taxes upon real estate. The council by resolution or ordinance may provide that the expense incurred may be paid in up to 10 annual installments and the comptroller shall prepare the expense statement to reflect the installment payment schedule. If

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annual installments for sidewalk expenses are authorized, the city clerk shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax against the lot or parcel each year until all installments have been entered, and the amount shall be collected like other taxes upon real estate. The council may provide that the street commissioner or city engineer perform the duties imposed by this section on the board of public works.

(5) SNOW AND ICE. The board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do so, and the expense of clearing in front of any lot or parcel of land shall be included in the statement to the comptroller required by sub. (3) (f), in the comptroller's statement to the city clerk and in the special tax to be levied. The city may also impose a fine or penalty for neglecting to keep sidewalks clear of snow and ice.

(6) REPAIR AT CITY EXPENSE. The council may provide that sidewalks shall be kept in repair by and at the expense of the city or may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the city and the balance by abutting property owners.

(7) RULES. The council may by ordinance implement the provisions of this section, regulate the use of the sidewalks of the city and prevent their obstruction.

(10) APPLICATION OF SECTION; DEFINITIONS. The provisions of this section do not apply to 1st class cities but apply to towns and villages, and when applied to towns and villages:

(a) "Board of public works" means the committee or officer designated to handle street or sidewalk matters.

(b) "City" means town or village.

(c) "Comptroller" means clerk.

(d) "Council" means town board or village board.

History: 1975 c. 172, 356, 421, 422; 1979 c. 32; 1983 a. 189, 532; 1991 a. 316; 1993 a. 490; 1999 a. 150 s. 542; Stats. 1999 s. 66.0907.

A city cannot delegate its primary responsibility to maintain its sidewalks, nor delegate or limit its primary liability by ordinance. Kobelinski v. Milwaukee & Suburban Transport Corp. 56 Wis. 2d 504, 202 N.W.2d 415 (1972).

The defendant property owners' failure to remove snow and ice from sidewalks in violation of a municipal ordinance did not constitute negligence per se. Hagerty v. Village of Bruce, 82 Wis. 2d 208, 262 N.W.2d 102 (1978).

A city, exercising its police power, can impose a special tax on properties for the cost of installing a sidewalk on an adjacent city right−of−way without showing that the properties would be benefited. Stehling v. City of Beaver Dam, 114 Wis. 2d 197, 336 N.W.2d 401 (Ct. App. 1983).

66.0909 Curb ramping. (1) The standard for construction of curbs and sidewalks on each side of a city or village street, or a connecting highway or town road for which curbs and sidewalks have been prescribed by the governing body of the town, city or village having jurisdiction, shall include curb ramping providing access to crosswalks at intersections and other designated locations. Curb ramping includes the curb opening, the ramp and that part of the sidewalk or apron leading to and adjacent to the curb opening. Any person constructing new curbs or sidewalks or replacing curbs or sidewalks within 5 feet of a legal crosswalk in any city street, village street, connecting highway or town road shall comply with the standards for curb ramping under this section.

(3) Curb ramps shall conform to the following requirements:

(a) Curb ramping shall be of permanent construction. The ramp shall be at least 40 inches wide. The sides of the ramp shall slope from the sidewalk or apron elevations to the ramp elevation with the widest portion of the side slope not less than 18 inches nor more than 24 inches wide at the curb. The ramp slope may not exceed one inch vertical to 12 inches horizontal from the flow line elevation of the curb. The curb opening shall be not less than 40 inches nor more than 80 inches wide at the flow line of the curb. The taper of the curb from the top of the curb to the flow line of the curb at the curb opening shall be not less than 18 inches nor more than 24 inches wide. The ramp shall be bordered on both sides and on the curb line with a 4−inch−wide yellow stripe or with brick of a contrasting color.

(b) Curb ramping shall be in one of the following locations, to provide access to each end of each crosswalk affected:

1. At the center of the curve of the street corner to accommodate crossing for either direction at the intersection. The entire curb corner may not be made into a ramp, but shall provide for standard sidewalk apron and curb on both sides of a ramp. Any safety zone marking required by ordinance shall be provided in the street or town road 40 inches out and parallel with the curb, joining with the standard safety pedestrian crossing markings in the street or town road;

2. If subd. 1. is not feasible, centered on line with the crosswalk and pedestrian traffic and containing surface texturing to indicate clearly to the sense of touch that the surface differs from that of the sidewalk or street. The surface texturing shall consist of linear impressions one−fourth of an inch to three−eighths of an inch deep, oriented to provide a uniform pattern of diamond shapes. The diamond shapes shall measure approximately 1 1/4 inches wide by 2 1/4 inches long, with the length of the diamond shape parallel to the direction of pedestrian movement. The diamond shapes shall be spaced one−fourth of an inch to three−eighths of an inch apart. This surface texture may be achieved by impressing and removing expanded metal regular industrial mesh into the surface of the ramp while the concrete is in a plastic state; or

3. If both subds. 1. and 2. are not feasible, at a suitable location as near to the crosswalk as practicable. Any safety zone markings required by ordinance shall be provided in the street or town road 40 inches out and parallel with the curb, joining with the standard safety pedestrian crossing markings in the street or town road.

(5) The district attorney, on his or her own motion or upon the complaint of any person, may bring an action in circuit court to enforce this section.

(6) If any person constructs a new or replacement sidewalk or curb, other than the town, city or village with jurisdiction over the curbs or sidewalks, the town, city or village shall inform the person of the requirements of this section. The town, city or village may agree to construct, or bear the cost of constructing, curb ramping required to provide access to sidewalks opposite the new or replacement curb or sidewalk.

History: 1971 c. 283; 1973 c. 98, 243; 1977 c. 29 s. 1654 (3); 1979 c. 272; 1991 a. 32; 1999 a. 150 s. 543; Stats. 1999 s. 66.0909.

66.0911 Laterals and service pipes. If the governing body by resolution requires water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city, village or town or under a city, village or town contract, a record of the cost of constructing the laterals or service pipes shall be kept and the cost, or the average current cost of laying the laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

History: 1983 a. 532; 1999 a. 150 s. 545; Stats. 1999 s. 66.0911.

66.0913 City and county projects, individual or joint; revenue bonding. (1) (a) A county or city, or both jointly, may construct, purchase, acquire, develop, improve, operate or maintain a county or city building, or both jointly, for a courthouse, safety building, city hall, hospital, armory, library, auditorium and music hall, municipal parking lots or other parking facilities, or municipal center or any combination of the foregoing, or a University of Wisconsin college campus, as defined in s. 36.05 (6m), if the operation of the college campus has been approved by the board of regents of the University of Wisconsin System.

(b) The county board, common council, or both jointly, may, for any of its corporate purposes set forth in this subsection, issue bonds on which the principal and interest are payable from the income and revenues of the project financed with the proceeds of the bonds or with the proceeds together with the proceeds of a grant from the federal government to aid in the financing and construction of the project. In the case of municipal parking lots or

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other parking facilities the bonds may in addition be payable as to both principal and interest from income and revenues from other similar projects, parking meters, parking fees, or any other income or revenue obtained through parking, or any combination of these methods.

(c) The credit of the county, or city, or both jointly, may not be pledged to the payment of the bonds, but the bonds are payable only from the income and revenues described in par. (b) or the funds received from their sale or disposal. If the county board, or common council, or both jointly, so determine, the bonds shall be secured either by a trust indenture pledging the revenues or by a mortgage on the property comprising the project and the revenues from the project.

(2) The bonds or other evidences of indebtedness shall state on their face that the bonds are not a debt of the county, or city, or both jointly, and that the county or city, or both jointly, are not liable for the indebtedness. Any indebtedness created by this section is not an indebtedness of the county or city and shall not be included in determining the constitutional 5% debt limitations.

(3) The provisions of s. 66.0621 relating to the issuance of revenue bonds by cities for public utility purposes, insofar as applicable, and the provisions of ss. 67.08 (1) and 67.09 relating to the execution and registration of municipal obligations apply to the issuance of revenue bonds under this section.

History: 1971 c. 100 s. 23; 1977 c. 26; 1979 c. 89; 1983 a. 24; 1995 a. 225; 1997 a. 237; 1999 a. 150 s. 492; Stats. 1999 s. 66.0913.

66.0915 Viaducts in cities, villages and towns. (1) PRIVATE VIADUCTS IN CITIES, VILLAGES AND TOWNS. The privilege of erecting a viaduct above a public street, road, or alley, for the purpose of connecting buildings on each side, may be granted by the city council, village board, or town board upon the written petition of the owners of all the frontage of the lots and lands abutting the portion sought to be connected, and the owners of more than one−half of the frontage of the lots and lands abutting upon that portion of the remainder that lies within 2,650 feet from the ends of the portion proposed to be connected. If a lot or land is owned by the state, or by a county, city, village, or town, or by a minor or individual adjudicated incompetent, or the title to the lot or land is held in trust, the petition may be signed by the governor, the chairperson of the county board, the mayor of the city, the president of the board of trustees of the village, the chairperson of the town board, the guardian of the minor or individual adjudicated incompetent, or the trustee, respectively, and the signature of a private corporation may be made by its president, secretary, or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and describing the location of the proposed viaduct, shall be given by the city council, village board, or town board by publication of a class 3 notice, under ch. 985.

(2) REMOVAL OF PRIVATE VIADUCTS. A viaduct in a city, village, or town may be discontinued by the city council, village board, or town board, upon written petition of the owners of more than one−half of the frontage of the lots and lands abutting on the street or road approaching on each end of the viaduct, which lies within 2,650 feet from the ends of the viaduct. If a lot or land is owned by the state, or by a county, city, village, or town, or by a minor or individual adjudicated incompetent, or the title to the lot or land is held in trust, the petition may be signed by the governor, the chairperson of the county board, the mayor of the city, the president of the board of trustees of the village, the chairperson of the town board, the guardian of the minor or individual adjudicated incompetent, or the trustee, respectively, and the signature of a private corporation may be made by its president, secretary, or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and stating what viaduct is proposed to be discontinued, shall be given by the city council, village board, or town board by publication of a class 1 notice, under ch. 985, not less than one year before the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days before the date of the hearing.

(3) LEASE OF SPACE OVER PUBLIC PLACES BY CITIES, VILLAGES AND TOWNS. (a) A city, village or town may lease space over any street, road, alley or other public place in the city, village or town which is more than 12 feet above the level of the street, road, alley or other public place for any term not exceeding 99 years to the person who owns the fee in the property on both sides of the portion of the street, road, alley or other public place to be leased, if the governing body of the city, village or town determines that the place is not needed for street, road, alley or other public purpose, and that the public interest will be served by leasing.

(b) The leasing of each space shall be authorized by ordinance. The ordinance shall set forth the proposed lease, the purpose for which the space may be used and the terms of the lease with reasonable certainty.

(c) The lease shall be signed on behalf of the city, village or town by the mayor, village president or town board chairperson and shall be attested by the city, village or town clerk under the corporate seal. The lease shall also be executed by the lessee in a manner that binds the lessee. After being duly executed and acknowledged the lease shall be recorded in the office of the register of deeds of the county in which the leased premises are located.

(d) If the governing body determines that the public interest requires that any building erected in the leased space be removed so that a street, road, alley or public place may be restored to its original condition, the lessor city, village or town may condemn the lessee's interest in the leased space by proceeding under ch. 32. After payment of any damages in the condemnation proceedings, the city, village or town may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition.

(4) SALE OR LEASE OF SPACE OVER OR BELOW PUBLIC PLACE. (a) A city, village or town may sell or lease the space over or below ground level of any street, road, alley or public place or municipally owned real estate to any person, if the governing body determines by resolution and states the reasons that the action is in the best public interest and the prospective purchaser or lessee has provided for the removal and relocation expense for any facilities devoted to a public use where relocation is necessary for the purposes of the purchaser or lessee. Leases shall be granted by ordinance and shall not exceed 99 years in length. No lease may be granted or use authorized which substantially interferes with the public purpose for which the surface of the land is used.

(b) A lease shall specify purposes for which the leased space is to be used. If the purpose is to erect in the space a building or a structure attached to the lot, the lease shall contain a reasonably accurate description of the building to be erected and of the manner in which it will impose upon or around the lot. The lease shall also provide for use by the lessee of those areas of the real estate that are essential for ingress and egress to the leased space, for the support of the building or other structures to be erected and for the connection of essential public or private utilities to the building or structure.

(c) Any building erected in the space leased shall be operated, as far as practicable, separately from the municipal use. The structure shall conform to all state and municipal regulations.

(d) A lease under this subsection is subject to sub. (3) (c) and (d).

History: 1971 c. 43; 1983 a. 192 s. 303 (2); 1991 a. 316; 1993 a. 246; 1999 a. 150 s. 117; Stats. 1999 s. 66.0915; 2005 a. 387.

A statute authorizing cities and villages to lease space over a parking lot would be constitutional. 58 Atty. Gen. 179.

66.0917 Art museums. A city, village or town may establish, purchase land and erect buildings for, and equip, manage and control an art museum. A city, village or town may enter into a contract with any art museum or art institute located in the city, village or town for the education of the people in art, for compensation determined by the governing body of the city, village or town. A

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city, village or town may levy taxes, issue bonds, or appropriate money for the purposes in this section.

History: 1971 c. 152 s. 28; 1993 a. 246; 1999 a. 150 s. 484; Stats. 1999 s. 66.0917.

66.0919 Civic centers. (1) RECREATION AND AMUSEMENT. A city, village or town may by ordinance, enacted by a majority of all the members−elect, as defined in s. 59.001 (2m), of the board or council, provide for the erection, maintenance and operation of a public auditorium, opera house, or other recreation and amusement building. The erection and contracts are governed by the provisions of law applicable to other public buildings in the city, village or town. The board or council shall adopt regulations for maintenance and operation.

(2) REST ROOMS. A city, village or town may erect, purchase, lease, or take by gift or devise, land and buildings for public rest rooms, and may equip, maintain and operate them.

(3) COMFORT STATIONS. A city, village or town may provide and maintain a sufficient number of public comfort stations for both sexes. The department of health services shall establish regulations governing their location, construction, equipment and maintenance and may prescribe minimum standards that shall be uniform throughout the state. The board or council may establish further regulations.

(4) COMFORT STATIONS AND REST ROOMS. The state or a county, city, village or town maintaining places of public assemblage or camp sites may provide and maintain a sufficient number of suitable and adequate public comfort stations for both sexes and may establish rest rooms separate or in connection with the comfort stations.

(5) PUBLIC CONCERTS. A town, village or city may conduct public concerts in auditoriums and such other public places within its boundaries as the board or council determines. The concerts shall be conducted by the department having charge of the place and expenses in excess of receipts, if any, shall be paid out of a fund determined by the board or council. A fee to attend the concerts may be charged for the purpose of defraying expenses in whole or in part.

History: 1971 c. 152 s. 30; Stats. 1971 s. 66.49; 1993 a. 246; 1995 a. 27, s. 9126 (19); 1999 a. 150 s. 485; Stats. 1999 s. 66.0919; 2007 a. 20 s. 9121 (6) (a).

66.0921 Joint civic buildings. (1) DEFINITIONS. In this section:

(a) "Municipality" means a county, city, village, town, technical college district and school district.

(b) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).

(2) FACILITIES AUTHORIZED. A municipality may enter into a joint contract with a nonprofit corporation organized for civic purposes and located in the municipality to construct or otherwise acquire, equip, furnish, operate and maintain a facility to be used for municipal and civic activities if a majority of the voters voting in a referendum at a special election or at a spring primary or election or partisan primary or general election approve the question of entering into the joint contract.

(3) FINANCING. A municipality may borrow money, appropriate funds and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by a municipality by general obligation bonds issued under ch. 67. Funds to be used for the purposes specified in this section may be provided by a county, city, village or town by revenue bonds issued under s. 66.0621. Any bonds issued under this section shall be executed on behalf of the municipality by its chief executive officer and clerk.

(4) COST SHARING. Any contract under this section shall provide that all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of a facility shall be paid by the municipality and nonprofit corporation on an agreed percentage basis.

History: 1983 a. 27; 1985 a. 39; 1993 a. 399; 1997 a. 79; 1999 a. 150 s. 488; Stats. 1999 s. 66.0921; 2011 a. 75.

66.0923 County−city auditoriums. (1) DEFINITIONS. In this section:

(a) "Auditorium" includes a building of arena or music hall type construction or a combination of both, including facilities for sports, dances, convention exhibitions, trade shows, meetings, rallies, theatrical exhibitions, concerts and other events attracting spectators and participants.

(b) "Board" means the joint county−city auditorium board established under this section.

(c) "Ordinance" means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body.

(2) COUNTY−CITY AUDITORIUMS. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county−city auditorium.

(3) FINANCING. The governing bodies of the respective county and city or cities may borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.0913 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.0913. Bonds issued under this section shall be executed on behalf of the county by the county board chairperson and the county clerk and on behalf of a city by its mayor or other chief executive officer and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of an auditorium on an agreed percentage basis.

(5) AUDITORIUM BOARD. (a) The ordinance shall provide for the establishment of a joint county−city auditorium board to be composed of all of the following:

1. The mayor or chief executive of the city, and the chairperson of the county board, who shall serve as members of the board during their respective terms of office.

2. Four members to be appointed by the county board chairperson and confirmed by the county board.

3. Four members to be appointed by the mayor or other chief executive officer of the city and confirmed by the city council.

(b) Under par. (a) 2. and 3., the initial term of one member shall be one year, the initial term of one member shall be 2 years, the initial term of one member shall be 3 years and the initial term of one member shall be 4 years. The respective successors of the members under par. (a) 2. and 3. shall be appointed and confirmed for terms of 4 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(c) The mayor or chief executive of the city, and the county board chairperson, each may appoint not more than 2 public officials to the board under par. (a).

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The board may combine the offices of secretary and treasurer. Members may receive compensation as provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services. However, members serving on the board because of

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holding another office or position shall not receive compensation other than any actual and necessary expenses for their services. With the approval of the board, the treasurer may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform services specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in a sum specified by the board and in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board may, subject to provisions of the ordinance, do all of the following:

(a) Contract for the construction or other acquisition, equipping or furnishing of an auditorium; accept and use donated services and gifts, grants or donations of money or property for the purposes given and consistent with this section; and contract for and authorize the installation of equipment and furnishings in all or part of the auditorium by private individuals, persons or corporations by donations, loan, lease or concession.

(b) Contract for the construction or other acquisition of additions or improvements to, or alterations in, an auditorium and the equipment or furnishing of any addition; and contract for or authorize the installation of equipment and furnishings in all or part of the addition by private individuals, persons or corporations by donation, loan or concession.

(c) Employ a manager of an auditorium and other necessary personnel and fix their compensation.

(d) Enact, amend and repeal rules and regulations for the leasing of, charges for admission to, and government of audiences and participants in events at an auditorium, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the auditorium and the auditorium's employees.

(e) Contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of an auditorium; contract for, purchase, hire, promote, conduct and operate, either by lease of all or part of an auditorium building or by direct operation by an auditorium board, meetings, concerts, theatricals, sporting events, conventions and other entertainment or events suitable to be held at the auditorium; and handle and make all proper arrangements for the sale and disposition of admission tickets to auditorium events and the establishment of seating arrangements and priorities.

(f) Audit all accounts and claims against an auditorium or against the board, and, if approved, pay the accounts and claims from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) Sue and be sued, and collect or compromise any obligations due to an auditorium. All money received shall be paid into the joint auditorium fund.

(h) Make studies and recommendations to the county board and city council relating to the operation of an auditorium as the board considers advisable or the governing bodies request.

(i) Employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, before the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city under the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. The county board and the common council of the city shall consider the budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. After this determination, the county and city respectively shall levy a tax sufficient to produce the amount to be raised by the county and city.

(9) AUDITORIUM FUND. A joint county−city auditorium fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay into the fund the amounts specified by the ordinance and resolutions of the respective municipalities when the amounts have been collected. All of the moneys which come into the fund are appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the auditorium board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. (a) If a bid is a prerequisite to contract in connection with a county or city auditorium under s. 66.0901, it is also a prerequisite to a valid contract by the board. For this purpose the board is a municipality and the contract a public contract under s. 66.0901.

(b) All statutory requirements, not inconsistent with the provisions of this section and applicable to city auditoriums, apply to auditoriums provided for in this section.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of the municipalities requires.

History: 1979 c. 110; 1983 a. 189; 1983 a. 192 s. 303 (1); 1999 a. 150 ss. 261, 489, 490; Stats. 1999 s. 66.0923; 2001 a. 30 s. 45.

66.0925 County−city safety building. (1) DEFINITIONS. In this section:

(a) "Board" means the joint county−city safety building board established under this section.

(b) "Ordinance" means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body.

(2) COUNTY−CITY SAFETY BUILDING. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county−city safety building.

(3) FINANCING. The governing bodies of the respective county and city may borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county or city by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.0913 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.0913. Bonds issued under this section shall be executed on behalf of the county by the county board chairperson and the county clerk and on behalf of a city by its mayor or other chief executive officer and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of a safety building on an agreed percentage basis.

(5) SAFETY BUILDING BOARD. The ordinance shall provide for the establishment of a joint county−city safety building board to be composed of 3 members to be appointed by the county board, one for a one−year, one for a 2−year and one for a 3−year term; 3 members to be appointed by the city council, one for a one−year, one for a 2−year and one for a 3−year term; and one additional member appointed by the other members for a 3−year term. The membership of the board shall include the chairperson of the county board and the mayor of the city, who shall be initially designated as members for the 3−year terms. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. If a member of the board ceases to hold a city or county office, membership on the board also terminates. Vacancies shall be filled for the unexpired term in the manner in which the original

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appointment was made. Members of the board shall be officials of the county or city.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The board may combine the offices of secretary and treasurer. Members may receive compensation as provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services. The board may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform services specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in a sum specified by the board and in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board may, subject to provisions of the ordinance:

(a) Contract for the construction or other acquisition, equipping or furnishing of a county−city safety building; accept and use donated services and gifts, grants or donations of money or property for the purposes given and consistent with this section; and contract for and authorize the installation of equipment and furnishings in all or part of the safety building by private individuals, persons or corporations by donations, loan, lease or concession.

(b) Contract for the construction or other acquisition of additions or improvements to, or alterations in, a safety building and the equipment or furnishing of all or part of the addition; and contract for or authorize the installation of equipment and furnishings in all or part of the addition by private individuals, persons or corporations by donation, loan or concession.

(c) Employ a superintendent of a safety building and other necessary personnel and fix their compensation.

(d) Enact, amend and repeal rules and regulations, not inconsistent with law, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of a safety building and the safety building's employees.

(e) Contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of a safety building.

(f) Audit all accounts and claims against a safety building or against a board, and, if approved, pay the accounts or claims from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) Sue and be sued, and collect or compromise any obligations due to a safety building. All money received shall be paid into the joint safety building fund.

(h) Make studies and recommendations to the county board and city council relating to the operation of a safety building as the board considers advisable or the governing bodies request.

(i) Employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, before the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. The county board and the common council of the city shall consider the budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. After this determination, the county and city respectively shall levy a tax sufficient to produce the amount to be raised by the county and city.

(9) SAFETY BUILDING FUND. A joint county−city safety building fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay into the fund the amounts specified by the ordinance and resolutions of the respective municipalities when the amounts have been collected. All of the moneys which come into the fund are appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the safety building board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. In any case where a bid is a prerequisite to contract in connection with a county or city safety building under s. 66.0901, it is also a prerequisite to a valid contract by the board. For this purpose the board is a municipality and the contract a public contract under s. 66.0901.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of the municipalities may require.

(13) INSURANCE. The board may procure and enter contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employee of the board in the performance of his or her duties, or any other insurable risk.

(14) CONSTRUCTION. Nothing in this section shall be construed as relieving, modifying, or interfering with the responsibilities for operating jails which are vested in sheriffs under s. 59.27 (1) and chiefs of police or chiefs of combined protective services departments under s. 62.09 (13) (b).

History: 1983 a. 189; 1983 a. 192 ss. 151, 303 (1); 1991 a. 316; 1995 a. 201; 1999 a. 150 s. 491; Stats. 1999 s. 66.0925; 2011 a. 32.

66.0927 County−city hospitals; village and town powers. (1) DEFINITIONS. In this section:

(a) "Board" means the joint county−city hospital board established under this section.

(am) "Hospital" means a general county−city hospital.

(b) "Ordinance" means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body or bodies.

(2) COUNTY−CITY HOSPITALS. A county and city or cities partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a hospital. The hospital is subject to ch. 150.

(3) FINANCING. The governing bodies of the respective county and city or cities may borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.0913. Bonds issued under this section shall be executed on behalf of the county by the county board chairperson and the county clerk and on behalf of a city by its mayor or other chief executive officer and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of a hospital on an agreed percentage basis.

(5) HOSPITAL BOARD. The ordinance shall provide for the establishment of a joint county−city hospital board to be composed as follows: 2 to be appointed by the county board chairperson and confirmed by the county board, one for a one−year and one for a 2−year term; 2 by the mayor or other chief executive officer and confirmed by the city council, one for a one−year and one for a 2−year term; and one jointly by the county board chairperson and the mayor or other chief executive officer of the city or cities, for a term of 3 years, confirmed by the county board and the city

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council or councils. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(7) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The board may combine the offices of secretary and treasurer. Members shall receive compensation as provided in the ordinance and shall be reimbursed their actual and necessary expenses. With the approval of the board, the treasurer may appoint an assistant treasurer, who need not be a member of the board, to perform services specified by the board.

(b) Members, and any assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in a sum specified by the board and in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(8) POWERS OF BOARD. The board may, subject to provisions of the ordinance:

(a) Contract for the construction or other acquisition, equipment or furnishing of a hospital.

(b) Contract for the construction or other acquisition of additions or improvements to, or alterations in, a hospital and the equipment or furnishing of an addition.

(c) Employ a manager of a hospital and other necessary personnel and fix their compensation.

(d) Enact, amend and repeal rules and regulations for the admission to, and government of patients at, a hospital, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the hospital and the hospital employees.

(e) Contract for and purchase all fuel, food, equipment, furnishings and supplies reasonably necessary for the proper operation and maintenance of a hospital.

(f) Audit all accounts and claims against a hospital or against the board, and, if approved, pay the accounts and claims from the fund specified in sub. (10). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) Sue and be sued, and to collect or compromise any obligations due to the hospital. All money received shall be paid into the joint hospital fund.

(h) Make studies and recommendations to the county board and city council or city councils relating to the operation of a hospital as the board considers advisable or the governing bodies request.

(i) Employ counsel on either a temporary or permanent basis.

(9) BUDGET. The board shall annually, before the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city or cities under the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city or cities, shall be delivered to the clerks of the respective municipalities. The county board and the common council of the city or cities shall consider the budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. After this determination, the county and city or cities respectively shall levy a tax sufficient to produce the amount to be raised by the county and city or cities.

(10) HOSPITAL FUND. A joint county−city hospital fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city or cities shall pay into the fund the amounts specified by the ordinance and resolutions of the respective municipalities when the amounts have been collected. All of the moneys which come into the fund are appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the hospital board only upon the approval or direction of the board.

(11) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city hospital under s. 66.0901, it is also a prerequisite to a valid contract by the board. For this purpose, the board is a municipality and the contract a public contract under s. 66.0901.

(b) All statutory requirements, not inconsistent with the provision of this section, applicable to general county or city hospitals apply to hospitals referred to in this section.

(12) REPORTS. The board shall report its activities to the county board and the city council or councils annually, or oftener as either of the municipalities requires.

(14) POWERS OF VILLAGES. Villages have all of the powers granted to cities under subs. (1) to (12) and whenever any village exercises these powers the word "city" wherever it appears in subs. (1) to (12) means "village" unless the context otherwise requires. Any village participating in the construction or other acquisition of a hospital or in its operation, pursuant to this section, may enter into lease agreements leasing the hospital and its equipment and furnishings to a nonprofit corporation.

(15) POWERS OF TOWNS. Towns have all of the powers granted to cities under subs. (1) to (12) and whenever any town exercises these powers the word "city" wherever it appears in subs. (1) to (12) means "town" unless the context otherwise requires. Any town participating in the construction or other acquisition of a hospital or in its operation, under this section, may enter into lease agreements leasing the hospital and its equipment and furnishings to a nonprofit corporation.

History: 1977 c. 29; 1983 a. 189; 1983 a. 192 s. 303 (1); 1993 a. 246; 1999 a. 150 ss. 262, 480 to 483; Stats. 1999 s. 66.0927.

SUBCHAPTER X

PLANNING, HOUSING AND TRANSPORTATION

66.1001 Comprehensive planning. (1) DEFINITIONS. In this section:

(a) "Comprehensive plan" means a guide to the physical, social, and economic development of a local governmental unit that is one of the following:

1. For a county, a development plan that is prepared or amended under s. 59.69 (2) or (3).

2. For a city, village, or town, a master plan that is adopted or amended under s. 62.23 (2) or (3).

3. For a regional planning commission, a master plan that is adopted or amended under s. 66.0309 (8), (9) or (10).

(am) "Consistent with" means furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan.

(b) "Local governmental unit" means a city, village, town, county or regional planning commission that may adopt, prepare or amend a comprehensive plan.

(c) "Political subdivision" means a city, village, town, or county that may adopt, prepare, or amend a comprehensive plan.

(2) CONTENTS OF A COMPREHENSIVE PLAN. A comprehensive plan shall contain all of the following elements:

(a) *Issues and opportunities element.* Background information on the local governmental unit and a statement of overall objectives, policies, goals and programs of the local governmental unit to guide the future development and redevelopment of the

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local governmental unit over a 20−year planning period. Background information shall include population, household and employment forecasts that the local governmental unit uses in developing its comprehensive plan, and demographic trends, age distribution, educational levels, income levels and employment characteristics that exist within the local governmental unit.

(b) *Housing element.* A compilation of objectives, policies, goals, maps and programs of the local governmental unit to provide an adequate housing supply that meets existing and forecasted housing demand in the local governmental unit. The element shall assess the age, structural, value and occupancy characteristics of the local governmental unit's housing stock. The element shall also identify specific policies and programs that promote the development of housing for residents of the local governmental unit and provide a range of housing choices that meet the needs of persons of all income levels and of all age groups and persons with special needs, policies and programs that promote the availability of land for the development or redevelopment of low−income and moderate−income housing, and policies and programs to maintain or rehabilitate the local governmental unit's existing housing stock.

(c) *Transportation element.* A compilation of objectives, policies, goals, maps and programs to guide the future development of the various modes of transportation, including highways, transit, transportation systems for persons with disabilities, bicycles, electric personal assistive mobility devices, walking, railroads, air transportation, trucking and water transportation. The element shall compare the local governmental unit's objectives, policies, goals and programs to state and regional transportation plans. The element shall also identify highways within the local governmental unit by function and incorporate state, regional and other applicable transportation plans, including transportation corridor plans, county highway functional and jurisdictional studies, urban area and rural area transportation plans, airport master plans and rail plans that apply in the local governmental unit.

(d) *Utilities and community facilities element.* A compilation of objectives, policies, goals, maps and programs to guide the future development of utilities and community facilities in the local governmental unit such as sanitary sewer service, storm water management, water supply, solid waste disposal, on−site wastewater treatment technologies, recycling facilities, parks, telecommunications facilities, power−generating plants and transmission lines, cemeteries, health care facilities, child care facilities and other public facilities, such as police, fire and rescue facilities, libraries, schools and other governmental facilities. The element shall describe the location, use and capacity of existing public utilities and community facilities that serve the local governmental unit, shall include an approximate timetable that forecasts the need in the local governmental unit to expand or rehabilitate existing utilities and facilities or to create new utilities and facilities and shall assess future needs for government services in the local governmental unit that are related to such utilities and facilities.

(e) *Agricultural, natural and cultural resources element.* A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical and cultural resources, community design, recreational resources and other natural resources.

(f) *Economic development element.* A compilation of objectives, policies, goals, maps and programs to promote the stabilization, retention or expansion, of the economic base and quality employment opportunities in the local governmental unit, including an analysis of the labor force and economic base of the local governmental unit. The element shall assess categories or particular types of new businesses and industries that are desired by the local governmental unit. The element shall assess the local governmental unit's strengths and weaknesses with respect to attracting and retaining businesses and industries, and shall designate an adequate number of sites for such businesses and industries. The element shall also evaluate and promote the use of environmentally contaminated sites for commercial or industrial uses. The element shall also identify county, regional and state economic development programs that apply to the local governmental unit.

(g) *Intergovernmental cooperation element.* A compilation of objectives, policies, goals, maps, and programs for joint planning and decision making with other jurisdictions, including school districts, drainage districts, and adjacent local governmental units, for siting and building public facilities and sharing public services. The element shall analyze the relationship of the local governmental unit to school districts, drainage districts, and adjacent local governmental units, and to the region, the state and other governmental units. The element shall consider, to the greatest extent possible, the maps and plans of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, with which the local governmental unit shares common territory. The element shall incorporate any plans or agreements to which the local governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall identify existing or potential conflicts between the local governmental unit and other governmental units that are specified in this paragraph and describe processes to resolve such conflicts.

(h) *Land−use element.* A compilation of objectives, policies, goals, maps and programs to guide the future development and redevelopment of public and private property. The element shall contain a listing of the amount, type, intensity and net density of existing uses of land in the local governmental unit, such as agricultural, residential, commercial, industrial and other public and private uses. The element shall analyze trends in the supply, demand and price of land, opportunities for redevelopment and existing and potential land−use conflicts. The element shall contain projections, based on the background information specified in par. (a), for 20 years, in 5−year increments, of future residential, agricultural, commercial and industrial land uses including the assumptions of net densities or other spatial assumptions upon which the projections are based. The element shall also include a series of maps that shows current land uses and future land uses that indicate productive agricultural soils, natural limitations for building site development, floodplains, wetlands and other environmentally sensitive lands, the boundaries of areas to which services of public utilities and community facilities, as those terms are used in par. (d), will be provided in the future, consistent with the timetable described in par. (d), and the general location of future land uses by net density or other classifications.

(i) *Implementation element.* A compilation of programs and specific actions to be completed in a stated sequence, including proposed changes to any applicable zoning ordinances, official maps, or subdivision ordinances, to implement the objectives, policies, plans and programs contained in pars. (a) to (h). The element shall describe how each of the elements of the comprehensive plan will be integrated and made consistent with the other elements of the comprehensive plan, and shall include a mechanism to measure the local governmental unit's progress toward achieving all aspects of the comprehensive plan. The element shall include a process for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.

(2m) EFFECT OF ENACTMENT OF A COMPREHENSIVE PLAN. The enactment of a comprehensive plan by ordinance does not make the comprehensive plan by itself a regulation.

(3) ORDINANCES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS. Except as provided in sub. (3m), beginning on January 1, 2010, if a local governmental unit enacts or amends any of the following ordinances, the ordinance shall be consistent with that local governmental unit's comprehensive plan:

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(g) Official mapping ordinances enacted or amended under s. 62.23 (6).

(h) Local subdivision ordinances enacted or amended under s. 236.45 or 236.46.

(j) County zoning ordinances enacted or amended under s. 59.69.

(k) City or village zoning ordinances enacted or amended under s. 62.23 (7).

(L) Town zoning ordinances enacted or amended under s. 60.61 or 60.62.

(q) Shorelands or wetlands in shorelands zoning ordinances enacted or amended under s. 59.692, 61.351 or 62.231.

(3m) DELAY OF CONSISTENCY REQUIREMENT. (a) If a local governmental unit has not adopted a comprehensive plan before January 1, 2010, the local governmental unit is exempt from the requirement under sub. (3) if any of the following applies:

1. The local governmental unit has applied for but has not received a comprehensive planning grant under s. 16.965 (2), and the local governmental unit adopts a resolution stating that the local governmental unit will adopt a comprehensive plan that will take effect no later than January 1, 2012.

2. The local governmental unit has received a comprehensive planning grant under s. 16.965 (2) and has been granted an extension of time under s. 16.965 (5) to complete comprehensive planning.

(b) The exemption under par. (a) shall continue until the following dates:

1. For a local governmental unit exempt under par. (a) 1., January 1, 2012.

2. For a local governmental unit exempt under par. (a) 2., the date on which the extension of time granted under s. 16.965 (5) expires.

(4) PROCEDURES FOR ADOPTING COMPREHENSIVE PLANS. A local governmental unit shall comply with all of the following before its comprehensive plan may take effect:

(a) The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services, and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative, or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments. The written procedures shall describe the methods the governing body of a local governmental unit will use to distribute proposed, alternative, or amended elements of a comprehensive plan to owners of property, or to persons who have a leasehold interest in property pursuant to which the persons may extract nonmetallic mineral resources in or on property, in which the allowable use or intensity of use of the property is changed by the comprehensive plan.

(b) The plan commission or other body of a local governmental unit that is authorized to prepare or amend a comprehensive plan may recommend the adoption or amendment of a comprehensive plan only by adopting a resolution by a majority vote of the entire commission. The vote shall be recorded in the official minutes of the plan commission or other body. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of a comprehensive plan. One copy of an adopted comprehensive plan, or of an amendment to such a plan, shall be sent to all of the following:

1. Every governmental body that is located in whole or in part within the boundaries of the local governmental unit.

2. The clerk of every local governmental unit that is adjacent to the local governmental unit that is the subject of the plan that is adopted or amended as described in par. (b) (intro.).

4. After September 1, 2005, the department of administration.

5. The regional planning commission in which the local governmental unit is located.

6. The public library that serves the area in which the local governmental unit is located.

(c) No comprehensive plan that is recommended for adoption or amendment under par. (b) may take effect until the political subdivision enacts an ordinance or the regional planning commission adopts a resolution that adopts the plan or amendment. The political subdivision may not enact an ordinance or the regional planning commission may not adopt a resolution under this paragraph unless the comprehensive plan contains all of the elements specified in sub. (2). An ordinance may be enacted or a resolution may be adopted under this paragraph only by a majority vote of the members−elect, as defined in s. 59.001 (2m), of the governing body. One copy of a comprehensive plan enacted or adopted under this paragraph shall be sent to all of the entities specified under par. (b).

(d) No political subdivision may enact an ordinance or no regional planning commission may adopt a resolution under par. (c) unless the political subdivision or regional planning commission holds at least one public hearing at which the proposed ordinance or resolution is discussed. That hearing must be preceded by a class 1 notice under ch. 985 that is published at least 30 days before the hearing is held. The political subdivision or regional planning commission may also provide notice of the hearing by any other means it considers appropriate. The class 1 notice shall contain at least the following information:

1. The date, time and place of the hearing.

2. A summary, which may include a map, of the proposed comprehensive plan or amendment to such a plan.

3. The name of an individual employed by the local governmental unit who may provide additional information regarding the proposed ordinance.

4. Information relating to where and when the proposed comprehensive plan or amendment to such a plan may be inspected before the hearing, and how a copy of the plan or amendment may be obtained.

(e) At least 30 days before the hearing described in par. (d) is held, a local governmental unit shall provide written notice to all of the following:

1. An operator who has obtained, or made application for, a permit that is described under s. 295.12 (3) (d).

2. A person who has registered a marketable nonmetallic mineral deposit under s. 295.20.

3. Any other property owner or leaseholder who has an interest in property pursuant to which the person may extract nonmetallic mineral resources, if the property owner or leaseholder requests in writing that the local governmental unit provide the property owner or leaseholder notice of the hearing described in par. (d).

(f) A political subdivision shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance, described under par. (c), that affects the allowable use of the property owned by the person. At least 30 days before the hearing described in par. (d) is held a political subdivision shall provide written notice, including a copy of the proposed ordinance, to all such persons. The notice shall be by mail or in any reasonable form that is agreed to by the person and the political subdivision. The political subdivision 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.

(5) APPLICABILITY OF A REGIONAL PLANNING COMMISSION'S PLAN. A regional planning commission's comprehensive plan is only advisory in its applicability to a political subdivision and a political subdivision's comprehensive plan.

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(6) COMPREHENSIVE PLAN MAY TAKE EFFECT. Notwithstanding sub. (4), a comprehensive plan, or an amendment of a comprehensive plan, may take effect even if a local governmental unit fails to provide the notice that is required under sub. (4) (e) or (f), unless the local governmental unit intentionally fails to provide the notice.

History: 1999 a. 9, 148; 1999 a. 150 s. 74; Stats. 1999 s. 66.1001; 1999 a. 185 s. 57; 1999 a. 186 s. 42; 2001 a. 30, 90; 2003 a. 33, 93, 233, 307, 327; 2005 a. 26, 208; 2007 a. 121; 2009 a. 372; 2011 a. 257.

A municipality has the authority under s. 236.45 (2) to impose a temporary town−wide prohibition on land division while developing a comprehensive plan under this section. Wisconsin Realtors Association v. Town of West Point, 2008 WI App 40, 309 Wis. 2d 199, 747 N.W.2d 681, 06−2761.

The use of the word "coordination" in various statutes dealing with municipal planning does not by itself authorize towns to invoke a power of "coordination" that would impose affirmative duties upon certain municipalities that are in addition to any other obligations that are imposed under those statutes. With respect to the development of and amendment of comprehensive plans, s. 66.1001 is to be followed by the local governmental units and political subdivisions identified in that section. OAG 3−10

66.1002 Development moratoria. (1) DEFINITIONS. In this section:

(a) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

(b) "Development moratorium" means a moratorium on rezoning or approving any subdivision or other division of land by plat or certified survey map that is authorized under ch. 236.

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

(e) "Public health professional" means any of the following:

1. A physician, as defined under s. 48.375 (2) (g).

2. A registered professional nurse, as defined under s. 49.498 (1) (L).

(f) "Registered engineer" means an individual who satisfies the registration requirements for a professional engineer as specified in s. 443.04

(2) MORATORIUM ALLOWED. Subject to the limitations and requirements specified in this section, a municipality may enact a development moratorium ordinance if the municipality has enacted a comprehensive plan, is in the process of preparing its comprehensive plan, is in the process of preparing a significant amendment to its comprehensive plan in response to a substantial change in conditions in the municipality, or is exempt from the requirement as described in s. 66.1001 (3m), and if at least one of the following applies:

(a) The municipality's governing body adopts a resolution stating that a moratorium is needed to prevent a shortage in, or the overburdening of, public facilities located in the municipality and that such a shortage or overburdening would otherwise occur during the period in which the moratorium would be in effect, except that the governing body may not adopt such a resolution unless it obtains a written report from a registered engineer stating that in his or her opinion the possible shortage or overburdening of public facilities justifies the need for a moratorium.

(b) The municipality's governing body adopts a resolution stating that a moratorium is needed to address a significant threat to the public health or safety that is presented by a proposed or anticipated activity specified under sub. (4), except that the governing body may not adopt such a resolution unless it obtains a written report from a registered engineer or public health professional stating that in his or her opinion the proposed or anticipated activity specified under sub. (4) presents such a significant threat to the public health or safety that the need for a moratorium is justified.

(3) ORDINANCE REQUIREMENTS. (a) An ordinance enacted under this section shall contain at least all of the following elements:

1. A statement describing the problem giving rise to the need for the moratorium.

2. A statement of the specific action that the municipality intends to take to alleviate the need for the moratorium.

3. Subject to par. (b), the length of time during which the moratorium is to be in effect.

4. A statement describing how and why the governing body decided on the length of time described in subd. 3.

5. A description of the area in which the ordinance applies.

6. An exemption for any activity specified under sub. (4) that would have no impact, or slight impact, on the problem giving rise to the need for the moratorium.

(b) 1. A development moratorium ordinance may be in effect only for a length of time that is long enough for a municipality to address the problem giving rise to the need for the moratorium but, except as provided in subd. 2., the ordinance may not remain in effect for more than 12 months.

2. A municipality may amend the ordinance one time to extend the moratorium for not more than 6 months if the municipality's governing body determines that such an extension is necessary to address the problem giving rise to the need for the moratorium.

(c) A municipality may not enact a development moratorium ordinance unless it holds at least one public hearing at which the proposed ordinance is discussed. The public hearing must be preceded by a class 1 notice under ch. 985, the notice to be at least 30 days before the hearing. The municipality may also provide notice of the hearing by any other appropriate means. The class 1 notice shall contain at least all of the following:

1. The time, date, and place of the hearing.

2. A summary of the proposed development moratorium ordinance, including the location where the ordinance would apply, the length of time the ordinance would be in effect, and a statement describing the problem giving rise to the need for the moratorium.

3. The name and contact information of a municipal official who may be contacted to obtain additional information about the proposed ordinance.

4. Information relating to how, where, and when a copy of the proposed ordinance may be inspected or obtained before the hearing.

(4) APPLICABILITY. A development moratorium ordinance enacted under this section applies to any of the following that is submitted to the municipality on or after the effective date of the ordinance:

(a) A request for rezoning.

(c) A plat or certified survey map.

(d) A subdivision plat or other land division.

History: 2011 a. 144.

66.1003 Discontinuance of a public way. (1) In this section, "public way" means all or any part of a road, street, slip, pier, lane or paved alley.

(2) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of a public way upon the written petition of the owners of all the frontage of the lots and lands abutting upon the public way sought to be discontinued, and of the owners of more than one−third of the frontage of the lots and lands abutting on that portion of the remainder of the public way which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as is within the corporate limits of the city, village or town. The beginning and ending of an alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to s. 82.21.

(3) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of an unpaved alley upon the written petition of the owners of more than 50% of the frontage of the lots and lands abutting upon the portion of the unpaved alley sought to be discontinued. The beginning and ending of an unpaved alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to s. 82.21.

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(4) (a) Notwithstanding subs. (2) and (3), proceedings covered by this section may be initiated by the common council or village or town board by the introduction of a resolution declaring that since the public interest requires it, a public way or an unpaved alley is vacated and discontinued. No discontinuance of a public way under this subsection may result in a landlocked parcel of property.

(b) A hearing on the passage of a resolution under par. (a) shall be set by the common council or village or town board on a date which shall not be less than 40 days after the date on which the resolution is introduced. Notice of the hearing shall be given as provided in sub. (8) (b), except that in addition notice of the hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the public way or unpaved alley sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before the hearing. When service cannot be made within the city, village or town, a copy of the notice shall be mailed to the owner's last−known address at least 30 days before the hearing.

(c) Except as provided in this paragraph, no discontinuance of the whole or any part of a public way may be ordered under this subsection if a written objection to the proposed discontinuance is filed with the city, village or town clerk by any of the owners abutting on the public way sought to be discontinued or by the owners of more than one−third of the frontage of the lots and lands abutting on the remainder of the public way which lies within 2,650 feet from the ends of the public way proposed to be discontinued or which lies within that portion of the 2,650 feet that is within the corporate limits of the city, village or town. If a written objection is filed, the discontinuance may be ordered only by the favorable vote of two−thirds of the members of the common council or village or town board voting on the proposed discontinuance. An owner of property abutting on a discontinued public way whose property is damaged by the discontinuance may recover damages as provided in ch. 32. The beginning and ending of an alley shall be considered to be within the block in which it is located.

(d) No discontinuance of an unpaved alley shall be ordered if a written objection to a proposed discontinuance is filed with the city, village or town clerk by the owner of one parcel of land that abuts the portion of the alley to be discontinued and if the alley provides the only access to off−street parking for the parcel of land owned by the objector.

(5) For the purpose of this section, the narrowing, widening, extending or other alteration of any road, street, lane or alley does not constitute a discontinuance of any part of the former road, street, lane or alley, including any right−of−way, which is included within the right−of−way for the new road, street, lane or alley.

(6) Whenever any of the lots or lands subject to this section is owned by the state, county, city, village or town, or by a minor or incompetent person, or the title to the lots or lands is held in trust, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairperson of the board of supervisors of the county, mayor of the city, president of the village, chairperson of the town board, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

(7) The city council or village or town board may by resolution discontinue any alley or any portion of an alley which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion of an alley for a period of 5 years next preceding the date of notice provided for in sub. (8) (b) shall be considered an abandonment for the purpose of this section.

(8) (a) Upon receiving a petition under sub. (2) or (3) or upon the introduction of a resolution under sub. (4), the city, village, town, or county shall deliver a copy of the petition or resolution to all of the following:

1. The secretary of transportation, if the public way or unpaved alley that is the subject of the petition or resolution is located within one−quarter mile of a state trunk highway or connecting highway.

2. The commissioner of railroads, if there is a railroad highway crossing within the portion of the public way that is the subject of the petition or resolution.

(b) Notice stating when and where the petition or resolution under this section will be acted upon and stating what public way or unpaved alley is proposed to be discontinued shall be published as a class 3 notice under ch. 985.

(9) In proceedings under this section, s. 840.11 shall be considered as a part of the proceedings.

(10) Notwithstanding ss. 82.10 and 82.21, no city council or county, village, or town board may discontinue a highway when the discontinuance would deprive a landowner or a public school of all access to a highway.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 46; 1993 a. 184, 246, 491; 1995 a. 239; 1999 a. 150 ss. 265, 337 to 343; Stats. 1999 s. 66.1003; 2003 a. 214; 2009 a. 107, 223.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

Cross−reference: See s. 236.43 for other provisions for vacating streets.

The enactment of sub. (2m) [now sub. (5)] did not eliminate any vested rights of abutting property owners. Miller v. City of Wauwatosa, 87 Wis. 2d 676, 275 N.W.2d 876 (1979).

An abutting property owner under sub. (2) (c) [now sub. (4) (c)] at the very least must be somehow supporting or sustaining travel on the street. Voss v. City of Middleton, 162 Wis. 2d 737, 470 N.W.2d 625 (1991).

The plain language of this section unambiguously shows that a town has authority to proceed under sub. (3) to vacate unpaved alley segments, even when considered in conjunction with ch. 236, which provides for county vacation of platted alleys in towns. The legislature could have exempted roads and alleys that fall under ch. 236, but it did not. That omission shows that the legislature did not intend for ch. 236 to be the exclusive means of dealing with unpaved alleys in recorded plats. Smerz v. Delafield Town Board, 2011 WI App 41, 332 Wis. 2d 189, 796 N.W.2d 852, 10−1186.

66.1005 Reversion of title. (1) When any highway or public ground acquired or held for highway purposes is discontinued, the land where the highway or public ground is located shall belong to the owner or owners of the adjoining lands. If the highway or public ground is located between the lands of different owners, it shall be annexed to the lots to which it originally belonged if that can be ascertained. If the lots to which the land originally belonged cannot be ascertained, the land shall be equally divided between the owners of the lands on each side of the highway or public ground.

(2) (a) Whenever any public highway or public ground acquired or held for public purposes has been vacated or discontinued, all easements and rights incidental to the easements that belong to any county, school district, town, village, city, utility, or person that relate to any underground or overground structures, improvements, or services and all rights of entrance, maintenance, construction, and repair of the structures, improvements, or services shall continue, unless one of the following applies:

1. The owner of the easements and incidental rights gives written consent to the discontinuance of the easements and rights as a part of the vacation or discontinuance proceedings and the vacation or discontinuance resolution, ordinance or order refers to the owner's written consent.

2. The owner of the easements and incidental rights fails to use the easements and rights for a period of 4 years from the time that the public highway or public ground was vacated or discontinued.

(b) The easements and incidental rights described in par. (a) may be discontinued in vacation or discontinuance proceedings in any case where benefits or damages are to be assessed as provided in par. (c), if one of the following applies:

1. The interested parties fail to reach an agreement permitting discontinuance of the easements and incidental rights.

2. The owner of the easements and incidental rights refuses to give written consent to their discontinuance.

(c) Damages for the discontinuance of the easements and rights described in par. (a) shall be assessed against the land bene-

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fited in the proceedings for assessment of damages or benefits upon the vacation or discontinuance of the public highway or public ground. Unless the parties agree on a different amount, the amount of the damages shall be the present value of the property to be removed or abandoned, plus the cost of removal, less the salvage value of the removed or abandoned property. The owner of the easements and incidental rights, upon application to the treasurer and upon furnishing satisfactory proof, shall be entitled to any payments of or upon the assessment of damages.

(d) Any person aggrieved by the assessment of damages under this subsection may appeal the assessment in the same time and manner as is provided for appeals from assessments of damages or benefits in vacation or discontinuance proceedings in the town, village or city.

History: 2003 a. 214 ss. 15, 86 to 91.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

66.1006 Department of natural resources approval of discontinuance. No resolution, ordinance, order, or similar action of a town board or county board, or of a committee of a town board or county board, discontinuing any highway, street, alley, or right−of−way that provides public access to any navigable lake or stream shall be effective until such resolution, ordinance, order, or similar action is approved by the department of natural resources.

History: 1971 c. 164; 1993 a. 490; 1997 a. 172; 2003 a. 214 s. 100; Stats. 2003 s. 66.1006.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

Cross−reference: See also ss. NR 1.91 and 1.92, Wis. adm. code.

66.1007 Architectural conservancy districts. (1) In this section:

(a) "Architectural conservancy district" means an area within a municipality consisting of contiguous parcels subject to general real estate taxes, other than railroad rights−of−way.

(b) "Board" means an architectural conservancy district board appointed under sub. (3) (a).

(c) "Chief executive officer" means a mayor, city manager, village president or town chairperson.

(cm) "Historic property" means any building or structure that is any of the following:

1. Listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin or the state register of historic places.

2. Included in a district that is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin or the state register of historic places, and has been determined by the state historical society to contribute to the historic significance of the district.

3. Included on a list of properties that have been determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places.

(d) "Local legislative body" means a common council, village board of trustees or town board of supervisors.

(e) "Municipality" means a city, village or town.

(f) "Operating plan" means a plan that is adopted or amended under this section for the development, redevelopment, maintenance, operation and promotion of an architectural conservancy district and that includes all of the following:

1. The special assessment method applicable to the architectural conservancy district.

2. The kind, number and location of all proposed expenditures within the architectural conservancy district.

3. A description of the methods of financing all estimated expenditures and the time when related costs will be incurred.

4. A description of how the creation of the architectural conservancy district promotes the orderly development of the municipality, including its relationship to any municipal master plan.

5. A legal opinion that subds. 1. to 4. have been complied with.

(g) "Planning commission" means a plan commission under s. 62.23 or, if one does not exist, a board of public land commissioners or, if neither exists, a planning committee of the local legislative body.

(2) A municipality may create an architectural conservancy district and adopt its operating plan if all of the following are met:

(a) An owner of real property located in the proposed architectural conservancy district designated under par. (b) petitions the municipality for creation of an architectural conservancy district.

(am) At least 50% of the properties included within the proposed architectural conservancy district are historic properties.

(b) The planning commission designates a proposed architectural conservancy district and adopts its proposed initial operating plan.

(c) At least 30 days before the creation of the architectural conservancy district and adoption of its initial operating plan by the municipality, the planning commission holds a public hearing on the proposed architectural conservancy district and initial operating plan. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication of the notice, a copy of that notice, a copy of the proposed initial operating plan and a copy of a detail map showing the boundaries of the proposed architectural conservancy district shall be sent by certified mail to all owners of real property within the proposed architectural conservancy district. The notice shall state the boundaries of the proposed architectural conservancy district and shall indicate that copies of the proposed initial operating plan are available on request from the planning commission.

(d) Within 30 days after the hearing under par. (c), the owners of property to be assessed under the proposed initial operating plan having a valuation equal to more than 40% of the valuation of all property to be assessed under the proposed initial operating plan, using the method of valuation specified in the proposed initial operating plan, or the owners of property to be assessed under the proposed initial operating plan having an assessed valuation equal to more than 40% of the assessed valuation of all property to be assessed under the proposed initial operating plan, have not filed a petition with the planning commission protesting the proposed architectural conservancy district or its proposed initial operating plan.

(e) The local legislative body votes to adopt the proposed initial operating plan for the municipality.

(3) (a) The chief executive officer shall appoint members to an architectural conservancy district board to implement the operating plan. Board members shall be confirmed by the local legislative body and shall serve staggered terms designated by the local legislative body. The board shall have at least 5 members. A majority of board members shall own or occupy real property in the architectural conservancy district.

(b) The board shall annually consider and may make changes to the operating plan, which may include termination of the plan, for its architectural conservancy district. The board shall then submit the operating plan to the local legislative body for its approval. If the local legislative body disapproves the operating plan, the board shall consider and may make changes to the operating plan and may continue to resubmit the operating plan until local legislative body approval is obtained. Any change to the special assessment method applicable to the architectural conservancy district shall be approved by the local legislative body.

(c) The board shall prepare and make available to the public annual reports describing the current status of the architectural conservancy district, including expenditures and revenues. The

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report shall include an independent certified audit of the implementation of the operating plan that shall be obtained by the municipality. The municipality shall obtain an additional independent certified audit upon termination of the architectural conservancy district.

(d) Either the board or the municipality, as specified in the operating plan as adopted, or as amended and approved under par. (b), shall have all powers necessary or convenient to implement the operating plan, including the power to contract.

(4) All special assessments received from an architectural conservancy district, all other appropriations by the municipality and all other moneys received for the benefit of the architectural conservancy district shall be placed in a segregated account in the municipal treasury. No disbursements from the account may be made except to reimburse the municipality for appropriations other than special assessments, to pay the costs of audits required under sub. (3) (c) or on order of the board for the purpose of implementing the operating plan. On termination of the architectural conservancy district by the municipality, all moneys collected by special assessment that remain in the account shall be disbursed to the owners of specially assessed property in the architectural conservancy district in the same proportion as the last collected special assessment.

(5) A municipality shall terminate an architectural conservancy district if the owners of property assessed under the operating plan having a valuation equal to more than 50% of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, or the owners of property assessed under the operating plan having an assessed valuation equal to more than 50% of the assessed valuation of all property assessed under the operating plan, file a petition with the planning commission requesting termination of the architectural conservancy district, subject to all of the following conditions:

(a) A petition may not be filed under this subsection earlier than one year after the date on which the municipality first adopts the operating plan for the architectural conservancy district.

(b) On and after the date on which a petition is filed under this subsection, neither the board nor the municipality may enter into any new obligations by contract or otherwise to implement the operating plan until 30 days after the date of hearing under par. (c) and unless the architectural conservancy district is not terminated under par. (e).

(c) Within 30 days after the filing of a petition under this subsection, the planning commission shall hold a public hearing on the proposed termination. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication of the notice, a copy of that notice, a copy of the operating plan and a copy of a detail map showing the boundaries of the architectural conservancy district shall be sent by certified mail to all owners of real property within the architectural conservancy district. The notice shall state the boundaries of the architectural conservancy district and shall indicate that copies of the operating plan are available on request from the planning commission.

(d) Within 30 days after the hearing held under par. (c), every owner of property assessed under the operating plan may send written notice to the planning commission indicating, if the owner signed a petition under this subsection, that the owner retracts the owner's request to terminate the architectural conservancy district or, if the owner did not sign the petition, that the owner requests termination of the architectural conservancy district.

(e) If on the 31st day after the hearing held under par. (c), the owners of property assessed under the operating plan having a valuation equal to more than 50% of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, or the owners of property assessed under the operating plan having an assessed valuation equal to more than 50% of the assessed valuation of all property assessed under the operating plan, after adding subsequent notifications under par. (d) and after subtracting any retractions under par. (d), have requested the termination of the architectural conservancy district, the municipality shall terminate the architectural conservancy district on the date that the obligation with the latest completion date entered into to implement the operating plan expires.

(6) (a) A municipality may terminate an architectural conservancy district at any time.

(b) This section does not limit the authorities of a municipality to regulate the use of or specially assess real property.

History: 1991 a. 269; 1999 a. 150 s. 540; Stats. 1999 s. 66.1007.

66.1009 Agreement to establish an airport affected area. Any county, town, city or village may establish by written agreement with an airport, as defined in s. 62.23 (6) (am) 1. a.:

(1) The area which will be subject to ss. 59.69 (4g) and (5) (e) 2. and 5m., 60.61 (2) (e) and (4) (c) 1. and 3. and 62.23 (7) (d) 2. and 2m. b. respectively, except that no part of the area may be more than 3 miles from the boundaries of the airport.

(2) Any requirement related to permitting land use in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., which does not conform to the zoning plan or map under s. 59.69 (4g), 60.61 (2) (e) or 62.23 (6) (am) 2. A city, village, town or county may enact such requirement by ordinance.

History: 1985 a. 136; 1995 a. 201; 1999 a. 150 s. 365; Stats. 1999 s. 66.1009.

NOTE: Section 1 of 85 Act 136 is entitled "Findings and purpose".

66.1010 Moratorium on evictions. (1) In this section, "political subdivision" has the meaning given in s. 66.1011 (1m) (e).

(2) A political subdivision may not enact or enforce an ordinance that imposes a moratorium on a landlord from pursuing an eviction action under ch. 799 against a tenant of the landlord's residential or commercial property.

(3) If a political subdivision has in effect on March 31, 2012, an ordinance that is inconsistent with sub. (2), the ordinance does not apply and may not be enforced.

History: 2011 a. 143.

66.1011 Local equal opportunities. (1) DECLARATION OF POLICY. The right of all persons to have equal opportunities for housing regardless of their sex, race, color, disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32 (13m), religion, national origin, marital status, family status, as defined in s. 106.50 (1m) (k), status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), lawful source of income, age, or ancestry is a matter both of statewide concern under ss. 101.132 and 106.50 and also of local interest under this section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the legislature does not preempt the subject matter of equal opportunities in housing from consideration by political subdivisions, and does not exempt political subdivisions from their duty, nor deprive them of their right, to enact ordinances that prohibit discrimination in any type of housing solely on the basis of an individual being a member of a protected class.

(1m) DEFINITIONS. In this section:

(a) "Aggrieved person" has the meaning given in s. 106.50 (1m) (b).

(b) "Complainant" has the meaning given in s. 106.50 (1m) (c).

(c) "Discriminate" has the meaning given in s. 106.50 (1m) (h).

(d) "Member of a protected class" has the meaning given in s. 106.50 (1m) (nm).

(e) "Political subdivision" means a city, village, town or county.

(2) ANTIDISCRIMINATION HOUSING ORDINANCES. Political subdivisions may enact ordinances prohibiting discrimination in housing within their respective boundaries solely on the basis of an individual being a member of a protected class. An ordinance may be similar to ss. 101.132 and 106.50 or may be more inclusive in its terms or in respect to the different types of housing subject to its provisions. An ordinance establishing a forfeiture as a pen-

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alty for violation may not be for an amount that is less than the statutory forfeitures under s. 106.50 (6) (h). An ordinance may permit a complainant, aggrieved person or respondent to elect to remove the action to circuit court after a finding has been made that there is reasonable cause to believe that a violation of the ordinance has occurred. An ordinance may authorize the political subdivision, at any time after a complaint has been filed alleging an ordinance violation, to file a complaint in circuit court seeking a temporary injunction or restraining order pending final disposition of the complaint.

(3) CONTINGENCY RESTRICTION. No political subdivision may enact an ordinance under sub. (2) that contains a provision making its effective date or the operation of any of its provisions contingent on the enactment of an ordinance on the same or similar subject matter by one or more other political subdivisions.

History: 1971 c. 185 s. 7; 1975 c. 94, 275, 422; 1977 c. 418 s. 929 (55); 1981 c. 112; 1981 c. 391 s. 210; 1985 a. 29; 1989 a. 47; 1991 a. 295; 1995 a. 27; 1997 a. 237; 1999 a. 82; 1999 a. 150 s. 447; Stats. 1999 s. 66.1011; 1999 a. 186 ss. 61, 62; 2009 a. 95.

NOTE: 1991 Wis. Act 295, which affected this section, contains extensive legislative council notes.

An ordinance provision banning discrimination against "cohabitants" was outside the authority of sub. (2) and was invalid. County of Dane v. Norman, 174 Wis. 2d 683, 497 N.W.2d 714 (1993).

66.1013 Urban homestead programs. (1) PROGRAM ESTABLISHED. In this section "governing body" means a county board, city council, village board or town board that establishes a program under this section and "property" means any property used principally for dwelling purposes that contains no more than 2 dwelling units and that is owned by a governing body. Any county board, city council, village board or town board may establish an urban homestead program. A program established by a county board under this section applies only to those unincorporated areas of the county in which no program exists. The program shall consist of the conveyance of property at cost under conditions set by the governing body and under the requirements of this section, to any individual or household satisfying eligibility requirements established by the governing body. The governing body may appropriate money for the administration of the program and may take any other action considered advisable or necessary to promote the program, including, but not limited to, the following:

(a) Acquisition under ch. 75 of any property which would be eligible for conveyance under the program.

(b) Acquisition of any other property which would be eligible for conveyance under this program and that is declared unfit for human habitation by any housing code enforcement agency with jurisdiction over the property or that is found to be in substantial noncompliance with local housing codes.

(2) CONDITIONS OF CONVEYANCE. As a condition of the conveyance of the property under sub. (1), the governing body shall require that:

(a) The property be rehabilitated so that it satisfies all housing−related requirements of applicable law, including, but not limited to, building, plumbing, electrical and fire prevention codes, within a specific period, not to exceed 2 years, after the conveyance.

(b) The person to whom the property is conveyed live on the premises for a specified period, which may not be less than 3 years.

(c) The legal title to and ownership of any property conditionally conveyed under this section remain in the governing body until quitclaim deed to the property is conveyed to the individual or household under this subsection. The instrument of a conditional conveyance of property under this subsection shall contain the provision of this paragraph.

(2m) ELIGIBILITY. The governing body may establish reasonable eligibility criteria and other conditions and requirements necessary to ensure that the purposes of a program under this section are carried out.

(3) TRANSFER OF TITLE. If an individual or household has resided on property conveyed under this section for the period of time required under sub. (2) and has rehabilitated and maintained and otherwise complied with the terms of the conditional conveyance under subs. (2) and (2m) throughout the period, the governing body shall convey to the individual or household, by quitclaim deed, all of the body's reversionary interests in the property.

(4) MORTGAGES. If an individual or household obtains a mortgage from a lending institution and uses the proceeds of the mortgage solely for the purposes of rehabilitating or constructing the premises or property under this section, the governing body shall agree to subjugate its rights to the premises or property in case of default, and shall agree that in such case it will execute and deliver a deed conveying title in fee simple to the institution, provided that the institution shall dispose of the property in like manner as foreclosed real estate and shall pay over any part of the proceeds of the disposition as shall exceed the amount remaining to be paid on account of the mortgage together with the actual cost of the sale, to the governing body. In return for relinquishing such rights, the governing body shall be given by the lending institution the opportunity to find, within 90 days of the default, another individual or household to assume the mortgage obligation.

History: 1981 c. 231; Stats. 1981 s. 66.91; 1981 c. 391 s. 80; Stats. 1981 s. 66.925; 1987 a. 378; 1993 a. 246; 1999 a. 150 s. 602; Stats. 1999 s. 66.1013.

NOTE: Chapter 231, laws of 1981, section 2, which created this section, contains legislative "findings and purpose" in section 1.

66.1015 Municipal rent control prohibited. (1) No city, village, town or county may regulate the amount of rent or fees charged for the use of a residential rental dwelling unit.

(2) This section does not prohibit a city, village, town, county, or housing authority or the Wisconsin Housing and Economic Development Authority from doing any of the following:

(a) Entering into a rental agreement which regulates rent or fees charged for the use of a residential rental dwelling unit it owns or operates.

(b) Entering into an agreement with a private person who regulates rent or fees charged for a residential rental dwelling unit.

History: 1991 a. 39; 1999 a. 150 s. 377; Stats. 1999 s. 66.1015; 2001 a. 104.

This section preempted an ordinance that required a development with 10 or more rental dwelling units to provide no less than 15% of its total number of dwelling units as inclusionary dwelling units when the development required a zoning map amendment, subdivision or land division, defining "inclusionary dwelling unit" as a dwelling unit for rent to a family with an annual median income at or below 60% of the area median income. Sub. (2) (b) plainly applies only to agreements with private persons who, on their own, choose to regulate rent and makes clear that a municipality is not imposing rent control if it contracts with those persons for some other purpose or somehow assists them. The ordinance was not an agreement to regulate rent between the city and persons who apply for zoning map amendments, subdivision or land division. Apartment Association of South Central Wisconsin, Inc. v. City of Madison, 2006 WI App 192, 296 Wis. 2d 173, 722 N.W. 2d 614, 05−3140.

66.1017 Family child care homes. (1) In this section:

(a) "Family child care home" means a dwelling licensed as a child care center by the department of children and families under s. 48.65 where care is provided for not more than 8 children.

(b) "Municipality" means a county, city, village or town.

(2) No municipality may prevent a family child care home from being located in a zoned district in which a single−family residence is a permitted use. No municipality may establish standards or requirements for family child care homes that are different from the licensing standards established under s. 48.65. This subsection does not prevent a municipality from applying to a family child care home the zoning regulations applicable to other dwellings in the zoning district in which it is located.

History: 1983 a. 193; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 361; Stats. 1999 s. 66.1017; 2007 a. 20; 2009 a. 185.

66.1019 Housing codes to conform to state law. (1) ONE− AND 2−FAMILY DWELLING CODE. Ordinances enacted by any county, city, village or town relating to the construction and inspection of one− and 2−family dwellings shall conform to subch. II of ch. 101.

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(2) MODULAR HOME CODE. Ordinances enacted by any county, city, village or town relating to the on−site inspection of the installation of modular homes shall conform to subch. III of ch. 101.

(2m) MANUFACTURED HOMES. (a) Ordinances enacted, or resolutions adopted, on or after January 1, 2007, by any county, city, village, or town relating to manufactured home installation shall conform to s. 101.96.

(b) If a city, village, town, or county has in effect on or after January 1, 2007, an ordinance or resolution relating to manufactured home installation that does not conform to s. 101.96, the ordinance or resolution does not apply and may not be enforced.

(3) MULTIFAMILY DWELLING CODE. (a) Except as provided in par. (b), any ordinance enacted by a county, city, village or town relating to the construction or inspection of multifamily dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s. 101.02 (7m).

(b) If a county, city, village or town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a), that ordinance remains in effect and the county, city, village or town may take any action with regard to that ordinance that a political subdivision may take under s. 101.975 (3) (b).

History: 1999 a. 150 ss. 266, 358 to 360; Stats. 1999 s. 66.1019; 2005 a. 45; 2007 a. 11.

66.1021 City, village and town transit commissions. **(1)** A city, village or town may enact an ordinance for the establishment, maintenance and operation of a comprehensive unified local transportation system, the major portion of which is located within, or the major portion of the service of which is supplied to the inhabitants of, the city, village or town, and which system is used for the transportation of persons or freight.

(2) The transit commission shall be designated "Transit Commission" preceded by the name of the enacting city, village or town.

(3) In this section:

(a) "Comprehensive unified local transportation system" means a transportation system comprised of motor bus lines and any other local public transportation facilities or freight transportation facilities, the major portions of which are within the city, village or town.

(b) "Transit commission" or "commission" means the local transit commission created under this section.

(4) The transit commission shall consist of not less than 3 members to be appointed by the mayor or village board or town board chairperson and approved by the common council or village or town board, one of whom shall be designated as chairperson.

(5) (a) The first members of the transit commission shall be appointed for staggered 3−year terms. The term of office of each member appointed after the first members of the transit commission shall be 3 years.

(c) No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission, or who is in any other manner pecuniarily interested in any such corporation, may be a member of nor be employed by the transit commission.

(6) The transit commission may appoint a secretary and employ accountants, engineers, experts, inspectors, clerks and other employees and fix their compensation, and purchase furniture, stationery and other supplies and materials, that are reasonably necessary to enable it to perform its duties and exercise its powers.

(7) (a) The transit commission may conduct hearings and 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.

(b) For the purpose of receiving, considering and acting upon any complaints or applications that may be presented to it or for the purpose of conducting investigations or hearings on its own motion the transit commission shall hold regular meetings at least once a week except in the months of July and August and special meetings on the call of the chairperson or at the request of the common council or village or town board.

(c) The transit commission may adopt a seal, of which judicial notice shall be taken in all courts. Any process, writ, notice or other instrument that the commission may be authorized by law to issue shall be considered sufficient if signed by the secretary of the commission and authenticated by the commission's 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 by a copy of the documents that is certified by the secretary under the seal of the commission.

(8) Except as otherwise provided in this subsection, the jurisdiction, powers and duties of the transit commission shall extend to the comprehensive unified local transportation system for which the commission is established including any portion of the system extending into adjacent or suburban territory that is outside of the city, village or town not more than 30 miles from the nearest point marking the corporate limits of the city, village or town. The jurisdiction, powers and duties of a transit commission providing rail service shall extend to the comprehensive unified local rail transportation system for which the commission is established including any portion of the system that extends into adjacent or suburban territory that is outside of the city, village or town and in an adjoining state whose laws permit, subject to the laws of that state but subject to the laws of this state in all matters relating to rail service.

(9) The initial acquisition of the properties for the establishment of, and to comprise, the comprehensive unified local transportation system is subject to s. 66.0803 or ch. 197.

(10) (a) Any city, village, town or federally recognized Indian tribe or band may by contract under s. 66.0301 establish a joint municipal transit commission with the powers and duties of city, village or town transit commissions under this section. Membership on the joint transit commission shall be as provided in the contract established under s. 66.0301.

(b) Notwithstanding any other provision of this section, no joint municipal transit commission under par. (a) 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 paragraph 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.

(11) (a) In lieu of providing transportation services, a city, village or town may contract with a private organization for the services.

(b) Notwithstanding any other provision of this section, no municipality may contract with a private organization to provide service outside the corporate limits of the municipality unless the municipality receives financial support for the service under a contract with a public or other private organization for the service. This paragraph does not apply to service provided under par. (a) outside the corporate limits of a municipality 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 municipality elects to continue the service.

(12) Notwithstanding any other provision of this section, no transit commission may provide service outside the corporate limits of the city 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 subsection does not apply to service provided by a tran-

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sit commission outside the corporate limits of the city 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.

History: 1975 c. 224; 1977 c. 418; 1981 c. 247; 1983 a. 189, 266; 1993 a. 184, 246, 279, 491; 1999 a. 150 s. 606; Stats. 1999 s. 66.1021.

66.1023 Transit employees; Wisconsin retirement system. (1) (a) This subsection applies to all affected employees of a transportation system which is acquired, after June 29, 1975, but prior to January 1, 1982, by a city, a city transit commission or a metropolitan transit authority which is a participating employer in the Wisconsin retirement fund.

(b) Within 60 days after May 19, 1978, or within 60 days after a system is acquired by a city, a city transit commission or a metropolitan transit authority, whichever is later, an election shall be conducted by the department of employee trust funds under procedures adopted by the department of employee trust funds. If all of the affected employees of the transportation system who are members of a retirement system established by the previous employer vote to be included within the Wisconsin retirement fund, prior to January 1, 1982, or the Wisconsin retirement system, after that date, rather than their present retirement system, their eligibility for participation within the Wisconsin retirement system shall be computed from the date of acquisition.

(c) Notwithstanding any other law, no city, city transit commission or metropolitan transit authority may be required to contribute to more than one retirement fund for an affected employee.

(2) (a) Notwithstanding any other law pension benefits, rights and obligations of persons who are employed by a transportation system on the date of its acquisition by a participating employer in the Wisconsin retirement system shall be determined under pars. (b) and (c) if the date of acquisition is on or after January 1, 1982.

(b) Participating employers who acquire a transportation system on or after January 1, 1982 may elect to permit the employees of the transportation system on the date of acquisition to elect to continue participation under a retirement plan which has been established for those employees prior to the acquisition, rather than to participate in the Wisconsin retirement system. An employee who elects to continue participation in the prior established retirement plan is included under the Wisconsin retirement system as a participating employee but no contributions shall be made to the Wisconsin retirement system, and the employee is not eligible for any benefits from the system for service as an employee of the transportation system. If an affected employee does not elect to continue participation in the previously established retirement plan the employee is a participant in the Wisconsin retirement system from the date of acquisition and employer and employee contributions are required commencing with that date. The government entity acquiring the transportation system is not required to contribute, directly or indirectly, to the Wisconsin retirement system and also to another retirement plan for the employee.

(c) An employee may elect to continue under a previously established retirement plan as provided by par. (b) only if the participating employer in the Wisconsin retirement system which acquired the transportation system files with the department of employee trust funds within 60 days after the date of acquisition notice of election to make the option available. An employee who does not elect under par. (b), according to the procedures established by the department of employee trust funds, to continue participation under a previously established retirement plan within 60 days after the employer's notice is filed is a participant in the Wisconsin retirement system.

(3) A person who commences employment on or after January 1, 1982 or the date of acquisition, whichever is later, with a transportation system which has been acquired by a participating employer in the Wisconsin retirement system is, if otherwise eligible under the Wisconsin retirement system, a participating employee under that system.

History: 1977 c. 418; 1981 c. 96; 1999 a. 150 s. 607; Stats. 1999 s. 66.1023.

66.1024 Effect of reservation or exception in conveyance. Whenever an executed and recorded deed, land contract, or mortgage of lands abutting on an existing public street, highway, or alley or a projected extension thereof contains language reserving or excepting certain lands for street, highway, or alley purposes, the reservation or exception shall constitute a dedication for such purpose to the public body having jurisdiction over the highway, street, alley, or projected extension thereof, unless the language of the reservation or exception plainly indicates an intent to create a private way. Any reservation or exception shall not be effective until it is accepted by a resolution of the governing body having jurisdiction over such street, highway, alley, or projected extension thereof.

History: 2003 a. 214 s. 27.

NOTE: 2003 Wis. Act 214, which created this section, contains extensive explanatory notes.

66.1025 Relief from conditions of gifts and dedications. (1) If the governing body of a county, city, town or village accepts a gift or dedication of land made on condition that the land be devoted to a special purpose, and the condition subsequently becomes impossible or impracticable, the governing body may by resolution or ordinance enacted by a two−thirds vote of its members−elect either to grant the land back to the donor or dedicator or the heirs of the donor or dedicator, or accept from the donor or dedicator or the heirs of the donor or dedicator, a grant relieving the county, city, town or village of the condition, pursuant to article XI, section 3a, of the constitution.

(2) (a) If the donor or dedicator of land to a county, city, town or village or the heirs of the donor or dedicator are unknown or cannot be found, the resolution or ordinance described under sub. (1) may provide for the commencement of an action under this section for the purpose of relieving the county, city, town or village of the condition of the gift or dedication.

(b) Any action under this subsection shall be brought in a court of record in the manner provided in ch. 801. A lis pendens shall be filed or recorded as provided in s. 840.10 upon the commencement of the action. Service upon persons whose whereabouts are unknown may be made in the manner prescribed in s. 801.12.

(c) The court may render judgment in an action under this subsection relieving the county, city, town or village of the condition of the gift or dedication.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1991 a. 316; 1997 a. 304; 1999 a. 150 s. 323; Stats. 1999 s. 66.1025.

66.1027 Traditional neighborhood developments and conservation subdivisions. (1) DEFINITIONS. In this section:

(a) "Conservation subdivision" means a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

(b) "Extension" has the meaning given in s. 36.05 (7).

(c) "Traditional neighborhood development" means a compact, mixed−use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(2) MODEL ORDINANCES. (a) Not later than January 1, 2001, the extension, in consultation with any other University of Wisconsin System institution or with a landscape architect, as that term is used in s. 443.02 (2), or with independent planners or any other consultant with expertise in traditional neighborhood planning and development, shall develop a model ordinance for a traditional neighborhood development and an ordinance for a conservation subdivision.

(b) The model ordinances developed under par. (a) shall be presented to the chief clerk of each house of the legislature, and shall be referred immediately by the speaker of the assembly and

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the presiding officer of the senate to the appropriate standing committee in each house. The model ordinances shall be considered to have been approved by a standing committee if within 14 working days of the referral, the committee does not schedule a meeting for the purpose of reviewing the model ordinance. If the committee schedules a meeting for the purpose of reviewing the model ordinance, the ordinance may not be considered to have been approved unless the committee approves the model ordinance.

(3) CITY AND VILLAGE REQUIREMENTS. (a) Not later than January 1, 2002, every city and village with a population of at least 12,500 shall, and every city and village with a population of less than 12,500 is encouraged to, enact an ordinance that is similar to the model traditional neighborhood development ordinance that is developed under sub. (2) (a) if the ordinance is approved under sub. (2) (b), although the ordinance is not required to be mapped.

(b) A city or village whose population reaches at least 12,500, after January 1, 2002, shall enact an ordinance that is similar to the model traditional neighborhood development ordinance that is developed under sub. (2) (a) if the ordinance is approved under sub. (2) (b) not later than the first day of the 12th month beginning after the city's or village's population reaches at least 12,500, although the ordinance is not required to be mapped.

(c) Not later than January 1, 2011, every city and village with a population of at least 12,500 shall report to the department of administration whether it has enacted an ordinance under par. (a). A city or village whose population reaches at least 12,500, after January 1, 2011, shall report to the department of administration whether it has enacted an ordinance under par. (b) not later than the first day of the 18th month beginning after the city's or village's population reaches at least 12,500.

History: 1999 a. 9, 148; 1999 a. 150 s. 85; Stats. 1999 s. 66.1027; 2009 a. 123, 351.

66.1031 Widening of highways; establishment of excess widths. (1) With the approval of the governing body of a city, village, or town in which a street or highway or part of a street or highway is located, the county board, to promote the general welfare, may establish street and highway widths in excess of the widths in use and adopt plans showing the location and width proposed for any future street or highway, which shall not be subject to s. 82.19 (2). Streets or highways or plans for streets or highways established or adopted under this section shall be shown on a map showing present and proposed street or highway lines and, except in counties having a population of 500,000 or more, property lines and owners. The map shall be recorded in the office of the register of deeds, subject to s. 59.43 (2m) and, if applicable, the requirements under s. 84.095. Notice of the recording shall be published as a class 1 notice, under ch. 985, in any city, village, or town in which the affected streets or highways are located. The notice shall briefly set forth the action of the county board.

(2) The excess width for streets or highways in use for the right−of−way required for those planned may be acquired at any time either in whole or in part by the state, county, city, village, or town in which located; but no part shall be acquired in less than the full extent, in width, of the excess width to be made up of land on the same side of the street or highway, nor for less than the full length of such excess width lying within contiguous land owned by the same owner. Any land so acquired, whether the excess width is acquired for the full length of the street or highway or not, shall at once become available for highway purposes. The power to acquire such right−of−way or additional width in portions as provided in this section may be exercised to acquire the land on advantageous terms.

(3) In counties containing a population of 500,000 or more if, subsequent to the establishment of widths on streets or highways under sub. (2), in conformity with this section or s. 59.69, any area embracing a street or highway upon which a width has been established under this section is annexed to a city or village or becomes a city or village by incorporation, the city or village shall adhere to the established width, and shall not, subsequent to any annexation or incorporation, except with the approval of the county board, do any of the following:

(a) Alter or void the established width.

(b) Permit or sanction any construction or development that will interfere with, prevent, or jeopardize the obtaining of the necessary right−of−way to such established width.

History: 1993 a. 301; 1995 a. 201, 225; 1997 a. 35; 2003 a. 214 s. 103; Stats. 2003 s. 66.1031; 2005 a. 253.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

66.1033 Curative provisions. (1) In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "Public way" means a highway, street, slip, pier, or alley.

(2) For proceedings taken, or for plats, deeds, orders, or resolutions executed before January 1, 2005, notwithstanding s. 840.11, no defect, omission or informality in the proceedings of, or execution of a plat, deed of dedication, order, or resolution by, a political subdivision shall affect or invalidate the proceedings, plat, deed, order, or resolution after 5 years from the date of the proceeding, plat, deed, order, or resolution. The public way dedicated, laid out, or altered by a defective or informal proceeding, plat, deed, order, or resolution shall be limited in length to the portion actually worked and used.

(3) For proceedings taken, or for plats, deeds, orders, or resolutions executed after January 1, 2005, except as provided in s. 840.11, no defect, omission, or informality in the proceedings of, or execution of a plat, deed of dedication, order, or resolution by, a political subdivision shall affect or invalidate the proceedings, plat, deed, order, or resolution after 5 years from the date of the proceedings, plat, deed, order, or resolution. The public way dedicated, laid out, or altered by a defective or informal proceeding, plat, deed, order, or resolution shall be limited in length to the portion actually worked and used.

History: 2003 a. 214 ss. 16, 25, 26.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

66.1035 Rights of abutting owners. The owners of land abutting on any highway, street, or alley shall have a common right in the free and unobstructed use of the full width of the highway, street, or alley. No town, village, city, county, company, or corporation shall close up, use, or obstruct any part of the highway, street, or alley so as to materially interfere with its usefulness as a highway or so as to damage abutting property, or permit the same to be done, without just compensation being made for any resulting damage. This section does not impose liability for damages arising from the use, maintenance, and operation of tracks or other public improvement legally laid down, built, or established in any street, highway, or alley prior to April 7, 1889. All rights in property that could entitle an owner to damages under this section may be condemned by any corporation that is listed in s. 32.02 in the same manner that other property may be condemned by the corporation.

History: 2003 a. 214 s. 101; Stats. 2003 s. 66.1035.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

This section does not authorize the recovery of damages for a loss of business due to the temporary closing of a street for construction purposes. Weinandt v. Appleton, 58 Wis. 2d 734, 207 N.W.2d 673 (1973).

Landowners whose property abuts a public roadway, but who have no ownership interest in the land under the roadway, are abutting landowners for purposes of access rights. The right attributed to an abutting landowner is the right of reasonable access. Geyso v. Daly, 2005 WI App 18, 278 Wis. 2d 475, 691 N.W.2d 915, 04−0748

66.1037 Beautification and protection. (1) No lands abutting on any highway, and acquired or held for highway purposes, shall be deemed discontinued for such purposes so long as they abut on any highway. All lands acquired for highway purposes after June 23, 1931, may be used for any purpose that the public authority in control of the highway determines promotes the public use and enjoyment. The authority may improve such

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lands by suitable planting, to prevent the erosion of the soil, or to beautify the highway. The right to protect and to plant vegetation in any highway laid out prior to June 23, 1931, may be acquired in any manner that lands may be acquired for highway purposes. Subject to sub. (2), it shall be unlawful for any person to injure any tree or shrub, or cut or trim any vegetation other than grass, or make any excavation in any highway laid out after June 23, 1931, or where the right to protect vegetation has been acquired, without the consent of the highway authority and under its direction. The authority shall remove, cut, or trim or consent to the removing, cutting, or trimming of any tree, shrub, or vegetation in order to provide safety to users of the highway.

(2) (a) Except as provided in par. (b), no person may cut or trim grass along any state trunk highway without the consent of the department of transportation.

(b) A person who owns or leases land abutting a state trunk highway may, without the consent of the department of transportation, cut or trim grass that is within the highway right−of−way and that is located along the land's frontage with the highway right−of−way or within 200 feet of a driveway, railroad crossing, or intersection along the land's frontage with the highway right−of−way. This paragraph does not permit a person to cut or trim grass without the consent of the department of transportation if any of the following applies:

1. The state trunk highway is a freeway, as defined in s. 346.57 (1) (am), or an expressway, as defined in s. 59.84 (1) (b).

2. The person farms or harvests the grass.

3. The grass is located in any of the following:

a. An area where pedestrians are prohibited.

b. An area accessible only by crossing a traffic lane of the state trunk highway.

c. An area located within 50 feet of a sign, as defined in s. 84.30 (2) (j).

History: 2003 a. 214 ss. 23m to 24g.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

Municipalities may incur liability for failure to trim vegetation obstructing the view at an intersection. Walker v. Bignell, 100 Wis. 2d 256, 301 N.W.2d 447 (1981).

Although this section mandates that governmental authorities "remove, cut or trim or consent to the removing, cutting or removal of any tree, shrub or vegetation in order to provide safety to users of the highway," it has not also created a private cause of action for damages caused by a failure to comply with that mandate. Estate of Wagoner v. City of Milwaukee, 2001 WI App 292, 249 Wis. 2d 306, 638 N.W.2d 382, 01−0623.

SUBCHAPTER XI

DEVELOPMENT

66.1101 Promotion of industry; industrial sites. (1) It is declared to be the policy of the state to encourage and promote the development of industry to provide greater employment opportunities and to broaden the state's tax base to relieve the tax burden of residents and home owners. It is recognized that the availability of suitable sites is a prime factor in influencing the location of industry but that existing available sites may be encroached upon by the development of other uses unless protected from encroachment by purchase and reservation. It is further recognized that cities, villages and towns have broad power to act for the commercial benefit and the health, safety and public welfare of the public. However, to implement that power, legislation authorizing borrowing is necessary. It is, therefore, the policy of the state to authorize cities, villages and towns to borrow for the reservation and development of industrial sites, and the expenditure of funds for that purpose is determined to be a public purpose.

(2) For financing purposes, the purchase, reservation and development of industrial sites undertaken by a city, village or town is a public utility within the meaning of s. 66.0621. In financing under that section, rentals and fees are considered to be revenue. Any indebtedness created under this section shall not be included in arriving at the constitutional debt limitation.

(3) Sites purchased for industrial development under this section or under any other authority may be developed by the city, village or town by the installation of utilities and roadways but not by the construction of buildings or structures. The sites may be sold or leased for industrial purposes but only for a fair consideration to be determined by the governing body.

History: 1999 a. 150 s. 494; Stats. 1999 s. 66.1101.

66.1102 Land development; notification; records requests. (1) DEFINITIONS. In this section:

(a) "Land information" has the meaning given in s. 59.72 (1) (a).

(b) "Political subdivision" means any city, village, town, or county.

(2) NOTIFICATION REQUIREMENTS. Before a political subdivision may take action that would allow the development of a residential, commercial, or industrial property that would likely increase the amount of water that the main drain of a drainage district would have to accommodate, the political subdivision shall send notice to the drainage district.

(3) FAILURE TO NOTIFY. A political subdivision's failure to notify under sub. (2) does not invalidate any decision made or action taken by the political subdivision.

(4) LAND INFORMATION RECORD REQUESTS. Whenever any office or officer of a political subdivision receives a request to copy a record containing land information, the requester has a right to receive a copy of the record in the same format in which the record is maintained by the custodian, unless the requester requests that a copy be provided in a different format that is authorized by law.

History: 2007 a. 121; 2009 a. 370.

66.1103 Industrial development revenue bonding. (1) FINDINGS. (a) 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 raising through the loss or reduction of income and franchise taxes, real estate and other local taxes 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 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; and that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies and other financial institutions. It is therefore the policy of this state to promote the right to gainful employment, business opportunities and general welfare of its inhabitants and to preserve and enhance the tax base by authorizing municipalities and counties to acquire industrial buildings and to finance the acquisition through the issuance of revenue bonds for the purpose of fulfilling the aims of this section. These purposes are declared to be public purposes for which public money may be spent and the necessity in the public interest for the provisions of this section is declared a matter of legislative determination.

(b) It is found and declared that the control of pollution of the environment of this state, the provision of medical, safe employment, telecommunications and telegraph, research, industrial park, dock, wharf, airport, recreational, convention center, trade

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center, headquarters and mass transit facilities in this state, and the furnishing of electric energy, gas and water in this state, are necessary to retain existing industry in, and attract new industry to, this state, and to protect the health, welfare and safety of the citizens of this state.

(c) It is found and declared that the revitalization of counties and of the central business districts of the municipalities of this state is necessary to retain existing industry in, and attract new industry to, this state and to protect the health, welfare and safety of residents of this state.

(2) DEFINITIONS. As used in this section, unless the context otherwise requires:

(a) "Authorized developer" means a corporation organized under ch. 180 or 181 which the governing body designates as an authorized developer after making a finding that the principal purpose of the corporation is the general promotion of business development in the municipality or county or in the local area containing the municipality or county.

(as) "County" means any county in this state.

(b) "Distributor" includes any person engaged primarily in the business of making sales of any products of agriculture, forestry, mining or manufacture in the ordinary course of business to purchasers for purposes of resale or further processing or manufacturing.

(c) "Eligible participant" includes any person, other than the state or any other governmental unit, who enters into a revenue agreement with a municipality or county with respect to an industrial project. If more than one eligible participant is a party to a revenue agreement, the undertaking of each shall be either several or joint and several as the revenue agreement provides. An eligible participant need not be directly or indirectly a user of the project.

(d) "Equip" means to install or place on or in any building or improvements or the site of the building or improvements equipment of any kind, including machinery, utility service connections, pollution control facilities, building service equipment, fixtures, heating equipment and air conditioning equipment.

(e) "Governing body" means the board, council or other body in which the legislative powers of the municipality or county are vested.

(f) "Improve," "improving," "improvements," and "facilities" include any real or personal property or mixed property of whatever useful life that can be used or that will be useful in an industrial project including sites for buildings, equipment, or other improvements, rights−of−way, roads, streets, sidings, foundations, tanks, structures, pipes, pipelines, reservoirs, lagoons, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities, pollution control facilities, and other real, personal, or mixed property.

(g) "Indenture" means an instrument under which bonds may be issued and the rights and security of the bondholders are defined, whether the instrument is in the form of an indenture of trust, deed of trust, resolution of the governing body, mortgage, security agreement, instrument of pledge or assignment or any similar instrument or any combination of these forms and whether or not the instrument creates a lien on property.

(h) "Initial resolution" means a resolution of the governing body expressing an intention, which may be subject to conditions stated in the resolution, to issue revenue bonds under this section in an amount stated, or a sum not to exceed a stated amount, on behalf of a specified eligible participant, for a stated purpose.

(i) "Municipality" means any city, village or town in this state.

(j) "Pollution control facilities" include, without limitation because of enumeration, any facilities, temporary or permanent, which are reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(k) "Project" and "industrial project" mean any of the following:

1. Assembling, fabricating, manufacturing, mixing or processing facilities for any products of agriculture, forestry, mining or manufacture, even though the products may require further treatment before delivery to the ultimate consumer;

2. Generating, manufacturing, transmission or distributing facilities for electric energy, gas or water;

3. Telecommunications and telegraph facilities;

4. Pollution control facilities, including any connected environmental studies and monitoring systems;

5. Sewage and solid and liquid waste disposal facilities;

6. Printing facilities;

7. Hospital, clinic or nursing home facilities.

7m. Animal hospitals and veterinary clinics;

8. Industrial park facilities;

9. Dock, wharf, airport, railroad or mass transit facilities;

10. National or regional headquarters facilities;

11. Recreational facilities, convention centers and trade centers, as well as related hotels, motels or marinas;

12. Facilities to provide service activities, including but not limited to warehousing, storage, distribution, research and data processing, which are directly related to and used in conjunction with a project enumerated in this paragraph having the same principal user;

13. Facilities required for compliance with a lawful order of the U.S. occupational safety and health administration or any similar governmental agency; and

14. In addition to subd. 12., facilities used primarily for the storage or distribution of products described under subd. 1., materials, components or equipment, but not including facilities regularly used for the sale of goods or services to ultimate consumers for personal, family or household purposes.

15. Facilities for compliance with a lawful order of any state or federal governmental agency controlling the use of land with respect to any of the industries, activities or facilities enumerated in this paragraph.

16. Repair or new construction of dry dock facilities, storage facilities or other harbor improvements.

17. Nonresidential facilities including, but not limited to, one or more shopping centers, office buildings, convention or trade centers, hotels, motels or other nonresidential buildings, with respect to which an urban development action grant has been made under 42 USC 5318 as in effect on April 30, 1980.

19. Facilities for research and development activities relating to the production of products described under subd. 1. regardless of whether the user of the facilities is also engaged in the production of one or more of those products.

20. A shopping center, or an office building, convention or trade center, hotel, motel or other nonresidential facility, which is located in or adjacent to a blighted area as defined by s. 66.1105 (2) (ae), 66.1331 (3) (a) or 66.1333 (2m) (b) or in accordance with a redevelopment plan or urban renewal plan adopted under s. 66.1331 (5) or 66.1333 (6).

21. Cable television facilities which provide services only in a municipality having a population of 2,500 or less.

22. Facilities with respect to which is issued either a recovery zone facility bond under 26 USC 1400U−3 or a qualified Midwestern disaster area bond under 26 USC 1400N (a), as modified by P.L. 110−343, title VII, subtitle A, section 702 (d) (intro.) and (1).

(L) "Revenue agreement" includes any lease, sublease, installment or direct sales contract, service contract, take or pay contract, loan agreement or similar agreement providing that an eligible

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participant agrees to pay the municipality or county an amount of funds sufficient to provide for the prompt payment of the principal of, and interest on, the revenue bonds and agrees to construct the project.

(m) "Revenue bonds" and "bonds" means bonds, notes or any other contract or instrument evidencing a debt or providing for the payment of money entered into or issued in connection with a revenue agreement.

(n) "Trustee" means any corporation, bank or other entity authorized under any law of the United States or of any state to exercise trust powers or any natural person, or any one or more of them, acting as trustee, cotrustee or successor trustee under an indenture pursuant to designation of the governing body.

(3) POWERS. A municipality or county may:

(a) Construct, equip, reequip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects.

(b) Borrow money and issue revenue bonds:

1. To finance all or part of the costs of the construction, equipping, reequipping, acquisition, purchase, installation, reconstruction, rebuilding, rehabilitation, improving, supplementing, replacing, maintaining, repairing, enlarging, extending or remodeling of industrial projects and the improvement of sites for industrial projects;

2. To fund the whole or part of any revenue bonds issued by the municipality or county, including any premium payable with respect to the bonds and any interest accrued or to accrue on the bonds; or

3. For any combination of the purposes under subd. 1. or 2.

(c) Enter into revenue agreements with eligible participants with respect to industrial projects.

(d) Mortgage all or part of the industrial project or assign the revenue agreements in favor of the holders of the bonds issued for the industrial project and in connection with the mortgage or assignment irrevocably waive any rights it would otherwise have to redeem the mortgaged premises in the event of foreclosure.

(e) Sell and convey the industrial project and site, including without limitation the sale and conveyance subject to a mortgage, for the price and at the time that the governing body determines, but no sale or conveyance of any industrial project or site may be made that impairs the rights or interests of the holders of any bonds issued for the industrial project.

(f) Finance an industrial project which is located entirely within the geographic limits of the municipality or county or some contiguous part of which is located within and some contiguous part outside the geographic limits of the municipality or county; or, finance an industrial project which is located entirely outside the geographic limits of the municipality or county, but only if the revenue agreement for the project also relates to another project of the same eligible participant, part of which is located within the geographic limits of the municipality or county. The power granted by this paragraph does not include the power to annex, tax, zone or exercise any other municipal or county power with respect to that part of the project located outside of the geographic limits of the municipality or county.

(g) Consent, whenever it deems it necessary or desirable in fulfillment of the purposes of this section, to a modification of a rate of interest, a time of payment of any installment of principal or interest or any other term of the revenue agreement, indenture or bonds.

(h) Provide for any type of insurance against any risk including, without limitation, insurance on the revenues to be derived pursuant to the revenue agreement or on the obligation to make payment of the principal of or interest on the bonds.

(4) BONDS. (a) Bonds issued by a municipality or county under this section are limited obligations of the municipality or county. The principal of and interest on the bonds are payable solely out of the revenues derived under the revenue agreement pertaining to the project to be financed by the bonds, or, if there is a default of the agreement and to the extent that the municipality or county provides in the proceedings of the governing body authorizing the bonds to be issued, out of any revenues derived from the sale, releasing or other disposition of the project, or out of any collateral securing the revenue agreement, or out of the proceeds of the sale of bonds. Bonds and interest coupons issued under this section are not an indebtedness of the municipality or county, within the meaning of any state constitutional provision or statutory limitation. Bonds and interest coupons issued under this section are not a charge against the municipality's or county's general credit or taxing powers or a pecuniary liability of the municipality or county or a redevelopment authority under s. 66.1333, including but not limited to:

1. Liability for failure to investigate or negligence in the investigation of the financial position or prospects of an eligible participant, a user of a project or any other person or for failure to consider, or negligence concerning, the adequacy of terms of, or collateral security for, the bonds or any related agreement to protect interests of holders of the bonds; and

2. Any liability in connection with the issuance or sale of bonds, for representations made, or for the performance of the obligation of any person who is a party to a related transaction or agreement except as specifically provided in this section or by an express provision of the bond or a related written agreement to which the municipality or county is a party.

(b) The limitation of liability provided by par. (a) (intro.) shall be plainly stated on the face of each bond.

(c) The bonds may be executed and delivered at any time; be in the form and denominations, without limitation as to the denomination of any bond, any other law to the contrary notwithstanding; be registered under s. 67.09; be payable in one or more installments and at such time, not exceeding 35 years from their date; be payable before maturity on the terms and conditions; be payable both with respect to principal and interest at the place in or out of this state; bear interest at the rate, either fixed or variable in accordance with the formula; be evidenced in the manner; and may contain other provisions not inconsistent with this section, as specified by the governing body.

(d) Unless otherwise expressly or implicitly provided in the proceedings of the governing body authorizing the bonds to be issued, bonds issued under this section are subject to the general provisions of law, not inconsistent with this section, respecting the authorization, execution and delivery of the bonds of the municipality or county.

(e) Bonds issued under this section may be sold at public or private sale in the manner, at the price and at the time determined by the governing body. The municipality or county may pay all expenses, premiums and commissions which the governing body considers necessary or advantageous in connection with the authorization, sale and issuance of the bonds.

(f) All bonds issued under the authority of this section, and all interest coupons applicable to the bonds, are negotiable instruments, even though they are payable solely from a specified source.

(4m) JOB PROTECTION ESTIMATES. (a) A municipality or county may not enter into a revenue agreement with any person unless all of the following apply:

1. The person, at least 30 days prior to entering into the revenue agreement, has given a notice of intent to enter into the agreement, on a form prescribed under s. 238.11 (1), to the Wisconsin Economic Development Corporation and to any collective bargaining agent in this state with whom the person has a collective bargaining agreement.

2. The municipality or county has received an estimate issued under s. 238.11 (5), and the Wisconsin Economic Development Corporation has estimated whether the project which the municipality or county would finance under the revenue agreement is

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expected to eliminate, create, or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created, or maintained as a result of the project.

(b) Any revenue agreement which an eligible participant enters into with a municipality or county to finance a project shall require the eligible participant to submit to the Wisconsin Economic Development Corporation within 12 months after the project is completed or 2 years after a revenue bond is issued to finance the project, whichever is sooner, on a form prescribed under s. 238.11 (1), the net number of jobs eliminated, created, or maintained on the project site and elsewhere in this state as a result of the project.

(c) Nothing in this subsection requires a person with whom a municipality or county has entered into a revenue agreement to satisfy an estimate under par. (a) 2.

(4s) JOB SHIFTING REQUIREMENTS. (a) In this subsection:

1. "Corporation" means the Wisconsin Economic Development Corporation.

2. "Employer" means an eligible participant, as defined in sub. (2) (c).

3. "Lost job" means an employment position with an employer that is eliminated at a site in this state other than a project site when the employer moves any part of its operation to a project site.

4. "New job" means an employment position with an employer that meets all of the following requirements:

a. Is created at a project site when the employer moves any part of its operation to a project site from another site in this state.

b. Increases the employer's total number of jobs at a project site after the construction of the project compared to the employer's total number of jobs at that project site before the construction of the project.

c. Is created within one year after the construction of the project is completed.

d. Is substantially similar in tasks performed and skills required as a lost job.

e. Is not a construction job or other nonpermanent job at a project site that is required only during and because of the construction of the project.

5. "Project site" means the location of a project that is the subject of a revenue agreement.

(b) A municipality or county may not enter into a revenue agreement with any employer that employs individuals in this state at a site other than a project site unless the employer certifies that the project is not expected to result in any lost jobs or the employer agrees to all of the following:

1. Notwithstanding sub. (6m), the employer shall offer employment at any new job first to persons who were formerly employed at lost jobs.

2. The offer of employment for the new job shall have compensation and benefit terms at least as favorable as those of the lost job.

3. The employer shall certify compliance with this subsection to the corporation, to the governing body of each municipality or county within which a lost job exists and to any collective bargaining agent in this state with which the employer has a collective bargaining agreement at the project site or at a site where a lost job exists.

4. The employer shall submit a report to the corporation every 3 months during the first year after the construction of the project is completed. The reports shall provide information about new jobs, lost jobs, and offers of employment made to persons who were formerly employed at lost jobs. The 4th report shall be the final report. The form and content of the reports shall be prescribed by the corporation under par. (d).

(c) A determination of whether the job offer required under par. (b) is an offer of suitable work under s. 108.04 (8) may not take into consideration the requirements of this subsection. Whether the job offer is an offer of suitable work under ch. 108 may be determined only by the same standards and requirements that apply to any other job offer under ch. 108, including any standards relating to the relative location of the offered work and the location of the employee's domicile.

(d) The corporation shall administer this subsection and shall prescribe forms for certification and reports under par. (b).

(5) PLEDGE OF REVENUES AND PROCEEDINGS FOR ISSUANCE OF BONDS. (a) The principal of, and interest on, any bonds issued under this section shall be secured by a pledge of the revenues out of which the bonds are made payable. The bonds may, but need not, be secured by any one or more of the following:

1. A real estate mortgage or a security interest covering all or any part of the project from which the revenues so pledged may be derived.

2. A pledge of the revenue agreement; or

3. An assignment of the revenue agreement and any security given for the revenue agreement.

(b) The proceedings under which the bonds are authorized to be issued under this section, and any indenture given to secure the bonds, may contain any agreements and provisions customarily contained in instruments securing bonds, including, but not limited to:

1. Provisions respecting custody of the proceeds from the sale of the bonds including their investment and reinvestment until used to defray the cost of the project.

2. Provisions respecting the fixing and collection of the proceeds under the revenue agreement pertaining to any project covered by the proceedings or indenture.

3. The terms to be incorporated in the revenue agreement pertaining to the project.

4. The maintenance and insurance of the project.

5. The creation, maintenance, custody, investment and reinvestment and use of special funds from the revenues of the project.

6. The rights and remedies available in case of a default to the bondholders or to any trustee for the bondholders.

(c) A municipality or county may provide that proceeds from the sale of bonds and special funds from the revenues of the project and any funds held in reserve or debt service funds shall be invested and reinvested in securities and other investments as provided in the proceedings under which the bonds are authorized to be issued. The municipality or county may also provide that the proceeds or funds or investments and the revenues derived pursuant to the revenue agreement shall be received, held and disbursed by one or more banks or trust companies located in or out of this state. A municipality or county may also provide that the project and improvements shall be constructed or installed by the municipality or county, the eligible participant or the eligible participant's designee or any one or more of them on real estate owned by the municipality or county, the eligible participant or the eligible participant's designee and that the bond proceeds shall be disbursed by the trustee bank or trust company during construction upon the estimate, order or certificate of the eligible participant or the eligible participant's designee. In making agreements or provisions under this paragraph, a municipality or county may not obligate itself, except with respect to the project and the application of the revenues from the project, and may not incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(d) The proceedings authorizing any bonds under this section, or any indenture securing the bonds, may provide that if there is a default in the payment of the principal of, or the interest on, the bonds or in the performance of any agreement contained in the proceedings or indenture, the payment and performance may be enforced by the appointment of a receiver with power to charge, collect and apply the revenues from the project in accordance with the proceedings or the provisions of the indenture.

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(e) An indenture made under this section to secure bonds and which constitutes a lien on property may also provide that if there is a default in the payment of the bonds or a violation of any agreement contained in the indenture, it may be foreclosed and the collateral sold under proceedings in any manner permitted by law. The indenture may also provide that a trustee under or a pledgee or assignee of or the holder of any bonds secured by the indenture may become the purchaser at any foreclosure sale if that person is the highest bidder.

(f) The revenue agreement may include any provisions that the municipality or county considers appropriate to effect the financing of the project, including a provision for payments to be made in installments and the securing of the obligation for any payments by lien or security interest in the undertaking either senior or junior to, or ranking equally with, any lien, security interest or rights of others.

(6) DETERMINATION OF REVENUE PAYMENT. (a) Before the execution of a revenue agreement with respect to a project, the governing body shall determine all of the following:

1. The amount necessary in each year to pay the principal of, and the interest on, the bonds proposed to be issued to finance the project.

2. The amount necessary to be paid each year into any reserve funds which the governing body deems advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project.

3. Unless the terms of the revenue agreement provide that the eligible participant is obligated to provide for maintenance of the project and the carrying of all proper insurance with respect to the project, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(b) The determination and findings of the governing body shall be embodied in the proceedings under which the proposed bonds are to be issued; but the amounts specified in par. (a) need not be expressed in dollars and cents in the revenue agreement and proceedings under which the bonds are authorized to be issued, but may be set forth in the form of a formula. Before the issuance of the bonds authorized by this section the municipality or county shall enter into a revenue agreement providing for payment to the municipality or county, or to the trustee for the account of the municipality or county, of those amounts, based upon the determination and findings, that will be sufficient to pay the principal of, and interest on, the bonds issued to finance the project; to build up and maintain any reserves considered advisable by the governing body, in connection with the project; and, unless the revenue agreement obligates the eligible participant to provide for the maintenance of and insurance on the project, to pay the costs of maintaining the project in good repair and keeping it properly insured.

(c) A governing body may not adopt an initial resolution authorizing issuance of bonds to finance a project specified under sub. (2) (k) 11. unless the governing body finds and states in the initial resolution that the project will significantly increase the number of persons traveling to the municipality or county for business or recreation. The statement shall be included in the public notice required under sub. (10) (b).

(6m) NOTIFICATION OF POSITION OPENINGS. A municipality or county may not enter into a revenue agreement with any person who operates for profit unless that person has agreed to notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any position to be filled in that municipality or county within one year after issuance of the revenue bonds. The person shall provide this notice at least 2 weeks before advertising the position. The notice required by this subsection does not affect the offer of employment requirements of sub. (4s).

(7) APPLICATION OF PROCEEDS LIMITED. The proceeds from the sale of bonds issued under this section may be applied only for the purpose for which the bonds were issued and if, for any reason, any portion of the proceeds are not needed for the purpose for which the bonds were issued, the unneeded portion of the proceeds shall be applied, directly or indirectly, to the payment of the principal or the interest on the bonds. The following costs may be financed as part of a bond issue:

(a) The actual cost of the construction of any part of a project which may be constructed including but not limited to, permit and license fees, preparation of cost estimates, feasibility studies, consultants, architects', engineers' and similar fees;

(b) The purchase price and installation cost of any part of a project that may be acquired by purchase;

(c) The costs of environmental studies and monitoring systems in connection with the industrial project;

(d) The costs of moving to the situs of the project property previously owned or leased by an eligible participant;

(e) The current fair market value of any real property and improvements thereto acquired as a part of the project and any costs directly related to such real property;

(f) The current fair market value of any personal property acquired as a part of the project;

(g) All expenses in connection with the authorization, sale and issuance of the bonds;

(h) The interest on the bonds, or on any debt which is replaced by the proceeds of the bonds, for a reasonable time prior to construction or acquisition, during construction or acquisition and for not exceeding 6 months after completion of construction or acquisition; and

(i) A reserve for payment of the principal of and interest on the bonds.

(j) The financing of the acquisition cost, incurred after the date of adoption of the initial resolution, of property acquired from an authorized developer which is substantially completed or under construction on July 25, 1980, and which is substantially unused prior to the acquisition, except the authorized developer may have leased the property prior to its acquisition, for a period not to exceed 2 years, for the purpose of deriving revenue from the property pending its sale.

(8) PURCHASE. The municipality or county may, by or with the consent of the eligible participant, accept any bona fide offer to purchase the project which is sufficient to pay all the outstanding bonds, interest, taxes, special levies and other costs that have been incurred. The municipality or county may also, by or with the consent of the eligible participant, accept any bona fide offer to purchase any unimproved land which is a part of the project, if the purchase price is not less than the cost of the land to the municipality or county computed on a prorated basis and if the purchase price is applied directly or indirectly to the payment of the principal or interest on the bonds.

(9) PAYMENT OF TAXES. If an industrial project acquired by a municipality or county under this section is used by a private person as a lessee, sublessee or in any capacity other than owner, that person is subject to taxation in the same amount and to the same extent as if that person were the owner of the property. Taxes shall be assessed to the private person using the real property and collected in the same manner as taxes assessed to owners of real property. When due, the taxes constitute a debt due from the private person to the taxing unit and are recoverable as provided by law, and the unpaid taxes become a lien against the property with respect to which they were assessed, superior to all other liens, except a lien under s. 292.31 (8) (i) or 292.81, and shall be placed on the tax roll when there has been a conveyance of the property in the same manner as other taxes assessed against real property.

(10) PROCEDURE. (a) An action required or permitted by this section to be taken by a governing body may be taken at any lawful meetings of the governing body. A simple majority of a quorum of the governing body is sufficient for the action under this sec-

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tion. The ayes and noes need not be taken with respect to the action and the action need not be officially read before adoption. Failure to publish an action under this section does not affect the validity of the action.

(b) Upon the adoption of an initial resolution under this section, public notice of the adoption shall be given to the electors of the municipality or county before the issuance of the bonds described in the resolution, by publication as a class 1 notice, under ch. 985. The notice need not set forth the full contents of the resolution, but shall state the maximum amount of the bonds; the name of the eligible participant; the purpose of the bonds; the net number of jobs which the project the municipality or county would finance with the bond issue is expected to eliminate, create or maintain on the project site and elsewhere in this state which is required to be shown by the proposed eligible participant on the form submitted under sub. (4m) (a) 1.; and that the resolution was adopted under this section. A form of the public notice shall be attached to the initial resolution. Prior to adoption of the initial resolution, the open meeting notice given to members of the public under s. 19.84 shall indicate that information with respect to the job impact of the project will be available at the time of consideration of the initial resolution. No other public notice of the authorization, issuance or sale of bonds under this section is required.

(c) A copy of the initial resolution together with a statement indicating when the public notice required under par. (b) was published shall be filed with the Wisconsin Economic Development Corporation within 20 days following publication of notice. Prior to the closing of the bond issue, the corporation may require additional information from the eligible participant or the municipality or county. After the closing of the bond issue, the corporation shall be notified of the closing date, any substantive changes made to documents previously filed with the corporation, and the principal amount of the financing.

(d) The governing body may issue bonds under this section without submitting the proposition to the electors of the municipality or county for approval unless within 30 days from the date of publication of notice of adoption of the initial resolution for the bonds, a petition conforming to the requirements of s. 8.40, signed by not less than 5% of the registered electors of the municipality or county, or, if there is no registration of electors in the municipality or county, by 10% of the number of electors of the municipality or county voting for the office of governor at the last general election as determined under s. 115.01 (13), is filed with the clerk of the municipality or county and as provided in s. 8.37 requesting a referendum upon the question of the issuance of the bonds. If a petition is filed, the bonds may not be issued until approved by a majority of the electors of the municipality or county voting on the referendum at a general or special election.

(e) Members of a governing body and officers and employees of a municipality or county are not personally liable on bonds and are not personally liable for any act or omission related to the authorization or issuance of bonds.

(g) Bonds may not be issued unless prior to adoption of an initial resolution a document which provides a good faith estimate of attorney fees which will be paid from bond proceeds is filed with the clerk of the municipality or county and the Wisconsin Economic Development Corporation.

(h) Bonds may not be issued unless prior to issuance all prerequisite conditions contained in the initial resolution are satisfied.

(11) CERTAIN LAWS NOT APPLICABLE. (a) With respect to the enforcement of any construction lien or other lien under ch. 779 arising out of the construction of projects financed under this section, no deficiency judgment or judgment for costs may be entered against the municipality or county. Projects financed under this section are not public works, public improvements or public construction within the meaning of ss. 59.52 (29), 60.47, 61.54, 62.15, 779.14, 779.15 and 779.155 and contracts for the construction of the projects are not public contracts within the meaning of ss. 59.52 (29) and 66.0901 unless factors including municipal or county control over the costs, construction and operation of the project and the beneficial ownership of the project warrant the conclusion that they are public contracts.

(b) 1. Except as provided by subd. 2., construction work which is let by contract and which has an estimated cost exceeding $5,000 may be financed with bonds only if the contract is let to the lowest responsible bidder and proposals for the contract are advertised by publishing a class 2 notice under ch. 985.

1m. The contract shall include a clause prohibiting discrimination in employment and subcontracting. No facility constructed with industrial revenue bonds shall be used for any purpose which includes any act of employment discrimination as specified under s. 111.322.

2. The governing body of a municipality or county may waive subd. 1. with respect to a particular project by adopting an ordinance or resolution containing a statement of the reasons for the waiver and a description of the project for which waiver is made and publishing it as a class 1 notice under ch. 985.

(12) VALIDATION OF CERTAIN BONDS AND PROCEEDINGS. Notwithstanding this section or any other law:

(a) In the absence of fraud, all bonds issued before July 25, 1980, purportedly under this section, and all proceedings taken purportedly under this section before that date for the authorization and issuance of those bonds or of bonds not yet issued, and the sale, execution and delivery of bonds issued before July 25, 1980, are validated, ratified, approved and confirmed, notwithstanding any lack of power, however patent, other than constitutional, of the issuing municipality or the governing body or municipal officer, to authorize and issue the bonds, or to sell, execute or deliver the bonds, and notwithstanding any defects or irregularities, however patent, other than constitutional, in the proceeding or in the sale, execution or delivery of bonds issued before July 25, 1980. All bonds issued before July 25, 1980, are binding, legal obligations in accordance with their terms.

(b) Any proceedings for the authorization and issuance of bonds under this section in process prior to July 25, 1980 may be continued under this section as in effect prior to July 25, 1980 or under this section as in effect on and after July 25, 1980 if the governing body so elects and the initial resolution is published or republished after July 25, 1980. All such continued proceedings are validated, ratified, approved and confirmed; and all bonds issued as a result of such proceedings are binding, legal obligations in accordance with their terms.

(13) COST OF INDUSTRIAL PROJECT ELIGIBLE FOR FINANCING. (a) In this subsection:

1. "Placed into service" means having become a completed part of a facility which is in fact operational at the level of pollution control for which it was designed.

2. "Substantially" refers to an expenditure of 15% or more of the financed cost of acquiring the property involved.

(b) This section may be used to finance all or part of the cost, tangible or intangible, whenever incurred, of providing an industrial project under this section, whether or not the industrial project is in existence on the date of adoption of the initial resolution or of issuance of the bonds; whether new or previously used; whether or not previously owned by the eligible participant, the eligible participant's designee or a party affiliated with either; and notwithstanding that this section was not in effect or did not permit the financing on the date of adoption of the resolution or at the time ownership was acquired, except as follows:

1. No part of the costs of constructing or acquiring personal property owned by the eligible participant, the eligible participant's designee or a party affiliated with either at any time before the date of adoption of the initial resolution may be so financed except costs for:

a. Pollution control facilities which have not been placed into service on the date of adoption of the initial resolution; or

b. Personal property which will either be substantially reconstructed, rehabilitated, rebuilt or repaired in connection with the financing or which represents less than 10% of the entire financ-

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ing. Personal property is considered owned only after 50% of the acquisition cost of the personal property has been paid and the property has been delivered and installed.

2. No part of the costs of acquiring real property or of acquiring or constructing improvements to the real property may be so financed except costs:

a. For pollution control facilities which have not been placed into service on the date of adoption of the initial resolution;

b. For real property which will be substantially improved or rehabilitated in connection with the project or which represents less than 25% of the entire financing;

c. For acquiring improvements which will themselves be substantially improved or rehabilitated in connection with the project, which represent less than 25% of the entire financing, or the cost of which is less than 33% of the cost of the real property to which they are appurtenant which is also being acquired; or

d. As are incurred after the date of adoption of the initial resolution for constructing improvements.

History: 1973 c. 265; 1977 c. 28; 1979 c. 32 s. 92 (9); 1979 c. 34, 221, 350, 355; 1979 c. 361 s. 112; 1979 c. 362 ss. 3 to 12, 16, 17, 18; 1981 c. 314; 1983 a. 24, 27; 1983 a. 189 ss. 63 to 65, 329 (14); 1983 a. 207 s. 93 (8); 1983 a. 532 s. 36; 1985 a. 29, 222, 285; 1985 a. 297 s. 76; 1985 a. 299; 1987 a. 27; 1989 a. 192; 1991 a. 39, 316; 1993 a. 122, 124, 453; 1995 a. 27 ss. 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 332; 1997 a. 3, 27, 35, 39; 1999 a. 9; 1999 a. 150 ss. 495 to 497; Stats. 1999 s. 66.1103; 1999 a. 182 s. 206; 2001 a. 30, 38, 103; 2009 a. 28, 112, 173, 401; 2011 a. 32, 214, 258.

This section is constitutional. Hammermill Paper Co. v. La Plante, 58 Wis. 2d 32, 205 N.W.2d 784 (1973).

Industrial development revenue bonding is not available for a project for a new automobile showroom, warehouse, and repair facility of a retail automobile dealership. 62 Atty. Gen. 141.

Typical turnkey projects financed by industrial development revenue bonds under s. 66.521 [now s. 66.1103] are not subject to s. 66.293 (3) [now s. 66.0903 (3)], concerning prevailing wage rates. 63 Atty. Gen. 145.

Sub. (11) does not require a municipality to obtain performance bonds for typical industrial revenue bond projects constructed by private industry. 64 Atty. Gen. 169.

A chiropractic clinic may qualify for financing under this section. 70 Atty. Gen. 133.

The financing of corporate expansion through industrial revenue bonds. Mulcahy, Guszkowski, 57 MLR 201.

66.1105 Tax increment law. (1) SHORT TITLE. This section shall be known and may be cited as the "Tax Increment Law".

(2) DEFINITIONS. In this section, unless a different intent clearly appears from the context:

(ab) "Affordable housing" means housing that costs a household no more than 30 percent of the household's gross monthly income.

(ae) 1. "Blighted area" means any of the following:

a. An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

b. An area which is predominantly open and which consists primarily of an abandoned highway corridor, as defined in s. 66.1333 (2m) (a), or that consists of land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

2. "Blighted area" does not include predominantly open land area that has been developed only for agricultural purposes.

(am) "Environmental pollution" has the meaning given in s. 299.01 (4).

(bm) "Highway" has the meaning provided in s. 340.01 (22).

(bq) "Household" means an individual and his or her spouse and all minor dependents.

(c) "Local legislative body" means the common council.

(cm) "Mixed−use development" means development that contains a combination of industrial, commercial, or residential uses, except that lands proposed for newly platted residential use, as shown in the project plan, may not exceed 35 percent, by area, of the real property within the district.

(d) "Personal property" has the meaning prescribed in s. 70.04.

(e) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the city has no plan commission, or a city plan committee of the local legislative body, if the city has neither a commission nor a board.

(f) 1. "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subds. 1. k., 1. m., and 1. n., without the district, plus any incidental costs, diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received by the city in connection with the implementation of the plan. For any tax incremental district for which a project plan is approved on or after July 31, 1981, only a proportionate share of the costs permitted under this subdivision may be included as project costs to the extent that they benefit the tax incremental district. To the extent the costs benefit the municipality outside the tax incremental district, a proportionate share of the cost is not a project cost. "Project costs" include:

a. Capital costs including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures other than the demolition of listed properties as defined in s. 44.31 (4); the acquisition of equipment to service the district; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.

b. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.

c. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the city of real or personal property within a tax incremental district for consideration which is less than its cost to the city.

d. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.

e. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by city employees in connection with the implementation of a project plan.

f. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.

g. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.

h. The amount of any contributions made under s. 66.1333 (13) in connection with the implementation of the project plan.

i. Payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans, including payments made to a town that relate to property taxes levied on territory to be included in a tax incremental district as described in sub. (4) (gm) 1.

j. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of

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streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district and is within the district.

k. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets outside the district if the construction, alteration, rebuilding or expansion is necessitated by the project plan for a district, and if at the time the construction, alteration, rebuilding or expansion begins there are improvements of the kinds named in this subdivision on the land outside the district in respect to which the costs are to be incurred.

L. Costs for the removal, or containment, of lead contamination in buildings or infrastructure if the city declares that such lead contamination is a public health concern.

m. With regard to a tax incremental district that is located in a city to which sub. (6) (d) applies and about which a finding has been made that not less than 50 percent, by area, of the real property within the district is a blighted area, project costs incurred for territory that is located within a one−half mile radius of the district's boundaries.

n. With regard to a tax incremental district that is located anywhere other than a city to which sub. (6) (d) applies, and subject to sub. (4m) (d), project costs incurred for territory that is located within a one−half mile radius of the district's boundaries and within the city that created the district.

2. Notwithstanding subd. 1., none of the following may be included as project costs for any tax incremental district for which a project plan is approved on or after July 31, 1981:

a. The cost of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings, unless the administrative buildings, police and fire buildings, libraries and community and recreational buildings were damaged or destroyed before January 1, 1997, by a natural disaster.

b. The cost of constructing or expanding any facility, if the city generally finances similar facilities only with utility user fees.

c. General government operating expenses, unrelated to the planning or development of a tax incremental district.

d. Cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district unless the grant recipient has signed a development agreement with the city, a copy of which shall be sent to the appropriate joint review board or, if that joint review board has been dissolved, retained by the city in the official records for that tax incremental district.

3. Notwithstanding subd. 1., project costs may include any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city for newly platted residential development only for any tax incremental district for which a project plan is approved before September 30, 1995, or for a mixed−use development tax incremental district to which one of the following applies:

a. The density of the residential housing is at least 3 units per acre.

b. The residential housing is located in a conservation subdivision, as defined in s. 66.1027 (1) (a).

c. The residential housing is located in a traditional neighborhood development, as defined in s. 66.1027 (1) (c).

(g) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district, including all properly approved amendments thereto.

(h) "Real property" has the meaning prescribed in s. 70.03.

(i) "Tax increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.

(j) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created, determined as provided in sub. (5) (b). The base of districts created before October 1, 1980, does not include the value of property exempted under s. 70.111 (17).

(k) 1. "Tax incremental district" means a contiguous geographic area within a city defined and created by resolution of the local legislative body, consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights−of−way, rivers or highways. Railroad rights−of−way, rivers or highways may be included in a tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the tax incremental district. "Tax incremental district" does not include any area identified as a wetland on a map under s. 23.32, except for an area identified on such a map that has been converted in compliance with state law so that it is no longer a wetland and except as provided in subd. 2.

2. For an area that is identified as a wetland on a map under s. 23.32 and that is within the boundaries of a tax incremental district or is part of a tax incremental district parcel, the area shall be considered part of the tax incremental district for determining the applicability of exemptions from or compliance with water quality standards that are applicable to wetlands.

(L) "Taxable property" means all real and personal taxable property located in a tax incremental district.

(m) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.

(3) POWERS OF CITIES. In addition to any other powers conferred by law, a city may exercise any powers necessary and convenient to carry out the purposes of this section, including the power to:

(a) Create tax incremental districts and define the boundaries of the districts;

(b) Cause project plans to be prepared, approve the plans, and implement the provisions and effectuate the purposes of the plans;

(c) Issue tax incremental bonds and notes;

(d) Deposit moneys into the special fund of any tax incremental district; or

(e) Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. The contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.

(f) Designate, by ordinance or resolution, the local housing authority, the local redevelopmental authority, or both jointly, or the local community development authority, as agent of the city, to perform all acts, except the development of the master plan of the city, which are otherwise performed by the planning commission under this section and s. 66.1337.

(g) Create a standing joint review board that may remain in existence for the entire time that any tax incremental district exists in the city. All of the provisions that apply to a joint review board that is convened under sub. (4m) (a) apply to a standing joint review board that is created under this paragraph. A city may disband a joint review board that is created under this paragraph at any time.

(4) CREATION OF TAX INCREMENTAL DISTRICTS AND APPROVAL OF PROJECT PLANS. In order to implement the provisions of this section, the following steps and plans are required:

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(a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries of the district. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

(b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it and submission of the recommendation to the local legislative body.

(c) Identification of the specific property to be included under par. (gm) 4. as blighted or in need of rehabilitation or conservation work. Owners of the property identified shall be notified of the proposed finding and the date of the hearing to be held under par. (e) at least 15 days prior to the date of the hearing. In cities with a redevelopment authority under s. 66.1333, the notification required under this paragraph may be provided with the notice required under s. 66.1333 (6) (b) 3., if the notice is transmitted at least 15 days prior to the date of the hearing to be held under par. (e).

(d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.

(e) At least 14 days before adopting a resolution under par. (gm), holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). If the city anticipates that the proposed project plan's project costs may include cash grants made by the city to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice shall contain a statement to that effect. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement advising that a copy of the proposed project plan will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, notice shall be sent to the county board chairperson.

(f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (f) 1. k. and 1. n., outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances, master plan, if any, map, building codes and city ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced. The plan shall indicate how creation of the tax incremental district promotes the orderly development of the city. The city shall include in the plan an opinion of the city attorney or of an attorney retained by the city advising whether the plan is complete and complies with this section.

(g) Approval by the local legislative body of a project plan prior to or concurrent with the adoption of a resolution under par. (gm). The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the city.

(gm) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the district. The boundaries of the tax incremental district may not include any annexed territory that was not within the boundaries of the city on January 1, 2004, unless at least 3 years have elapsed since the territory was annexed by the city, unless the city enters into a cooperative plan boundary agreement, under s. 66.0301 (6) or 66.0307, with the town from which the territory was annexed, or unless the city and town enter into another kind of agreement relating to the annexation except that, notwithstanding these conditions, the city may include territory that was not within the boundaries of the city on January 1, 2004, if the city pledges to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years. If, as the result of a pledge by the city to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years, the city includes territory in a tax incremental district that was not within the boundaries of the city on January 1, 2004, the city's pledge is enforceable by the town from which the territory was annexed. The boundaries shall include only those whole units of property as are assessed for general property tax purposes. Property standing vacant for an entire 7−year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than 25 percent of the area in the tax incremental district, unless the tax incremental district is suitable under subd. 4. a. for either industrial sites or mixed use development and the local legislative body implements an approved project plan to promote industrial development within the meaning of s. 66.1101 if the district has been designated as suitable for industrial sites, or mixed−use development if the district has been designated as suitable for mixed−use development. In this subdivision, "vacant property" includes property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land. In this subdivision, "vacant property" does not include property acquired by the local legislative body under ch. 32, property included within the abandoned Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee County, or property that is contaminated by environmental pollution, as defined in s. 66.1106 (1) (d).

2. Creates the district as of a date provided in the resolution. If the resolution is adopted during the period between January 2 and September 30, then the date shall be the next preceding January 1. If the resolution is adopted during the period between October 1 and December 31, then the date shall be the next subsequent January 1. If the resolution is adopted on January 1, the district is created on that January 1.

3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, City of ...." and the first district created under sub. (18) shall be known as "Multijurisdictional District Number One, City of ...". Each subsequently created district shall be assigned the next consecutive number.

NOTE: Subd. 3. is shown as amended eff. 10−1−12 by 2011 Wis. Act 77. Prior to 10−1−12 it reads:

3. Assigns a name to the district for identification purposes. The first district created shall be known as "Tax Incremental District Number One, City of ...." Each subsequently created district shall be assigned the next consecutive number.

4. Contains findings that:

a. Not less than 50%, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. 66.1337 (2m)

(a); suitable for industrial sites within the meaning of s. 66.1101 and has been zoned for industrial use; or suitable for mixed−use development; and

b. The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria; and

bm. The project costs relate directly to eliminating blight, directly serve to rehabilitate or conserve the area or directly serve to promote industrial development, consistent with the purpose for which the tax incremental district is created under subd. 4. a.; and

c. Except as provided in subs. (10) (c), (16) (d), (17), and (18) (c) 3., the equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city. In determining the equalized value of taxable property under this subd. 4. c. or sub. (17) (c), the department of revenue shall base its calculations on the most recent equalized value of taxable property of the district that is reported under s. 70.57 (1m) before the date on which the resolution under this paragraph is adopted. If the department of revenue determines that a local legislative body exceeds the 12 percent limit described in this subd. 4. c. or sub. (17) (c), the department shall notify the city of its noncompliance, in writing, not later than December 31 of the year in which the department receives the completed application or amendment forms described in sub. (5) (b).

NOTE: Subd. 4. c. is shown as affected by 2011 Wis. Acts 32, 40, and 77 and as merged by the legislative reference bureau under s. 13.92 (2) (i) effective 10−1−12. Prior to 10−1−12, as affected by 2011 Wis. Acts 32 and 40 and as merged by the legislative reference bureau under s. 13.92 (2) (i), subd. 4. c. reads:

c. Except as provided in subs. (10) (c), (16) (d), and (17), the equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city. In determining the equalized value of taxable property under this subd. 4. c. or sub. (17) (c), the department of revenue shall base its calculations on the most recent equalized value of taxable property of the district that is reported under s. 70.57 (1m) before the date on which the resolution under this paragraph is adopted. If the department of revenue determines that a local legislative body exceeds the 12 percent limit described in this subd. 4. c. or sub. (17) (c), the department shall notify the city of its noncompliance, in writing, not later than December 31 of the year in which the department receives the completed application or amendment forms described in sub. (5) (b).

5. Confirms that any real property within the district that is found suitable for industrial sites and is zoned for industrial use under subd. 4. a. will remain zoned for industrial use for the life of the tax incremental district.

6. Declares that the district is a blighted area district, a rehabilitation or conservation district, an industrial district, or a mixed−use district based on the identification and classification of the property included within the district under par. (c) and subd. 4. a. If the district is not exclusively blighted, rehabilitation or conservation, industrial, or mixed use, the declaration under this subdivision shall be based on which classification is predominant with regard to the area described in subd. 4. a.

(gs) Review by a joint review board, acting under sub. (4m), that results in its approval of the resolution under par. (gm).

(h) 1. Subject to subds. 2., 4., 5., and 6., the planning commission may, by resolution, adopt an amendment to a project plan. The amendment is subject to approval by the local legislative body and approval requires the same findings as provided in par. (g) and, if the amendment adds territory to a district under subd. 2., approval also requires the same findings as provided in par. (gm) 4. c. Any amendment to a project plan is also subject to review by a joint review board, acting under sub. (4m). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. The notice shall include a statement of the purpose and cost of the amendment and shall advise that a copy of the amendment will be provided on request. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

2. Except as provided in subds. 4., 5., 7., 8., and 9., the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries, not more than 4 times during the district's existence, by subtracting territory from the district in a way that does not remove contiguity from the district or by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan. A single amendment to a project plan that both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan.

4. With regard to a village that has a population of less than 10,000, was incorporated in 1914 and is located in a county that has a population of less than 25,000 and that contains a portion of the Yellow River and the Chequamegon Waters Flowage, not more than once during the 11 years after the tax incremental district is created, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is to be served by public works or improvements that were created as part of the district's project plan. Expenditures for project costs that are incurred because of an amendment to a project plan to which this subdivision applies may be made for not more than 5 years after the date on which the local legislative body adopts a resolution amending the project plan.

5. With regard to a city that has a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 that is adjacent to one of the Great Lakes, the planning commission may adopt an amendment to a project plan under subd. 1. to modify the district's boundaries by adding territory to the district that is contiguous to the district and that is served by public works or improvements that were created as part of the district's project plan not more than once during the expenditure period specified in sub. (6) (am) 1. for a district that is located in a city to which sub. (6) (d) applies, except that in no case may expenditures for project costs that are incurred because of an amendment to a project plan that is authorized under this subdivision be made later than 17 years after the district is created. This subdivision does not apply to a tax incremental district that is created after January 1, 2004.

6. Notwithstanding subd. 1., a project plan shall be considered to have been amended, without compliance with any of the procedures required under subd. 1., if the only change to the project plan is the extension of the period during which expenditures may be made under sub. (6) (am) 1., as authorized under that subdivision by a provision of state law that takes effect after a tax incremental district's project plan is first adopted under par. (f).

7. If the department of revenue, acting under sub. (5) (dm), makes a determination that any of the conditions listed in sub. (5) (de) apply, a planning commission may amend its project plan to ensure that, with regard to that mixed−use district, the percentage of lands proposed for newly platted residential use does not exceed the percentage specified in sub. (2) (cm), or that at least one of the conditions specified in sub. (2) (f) 3. a. to c. applies, even if such an amendment to a project plan would exceed the number of amendments allowed under subd. 2.

8. Notwithstanding the limitation in subd. 2., the planning commission in the village of Pleasant Prairie may adopt an amendment to a project plan under subd. 1. to modify the boundaries of tax incremental district number 2 not more than 6 times during the district's existence. A single amendment to a project plan that

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both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan.

9. Notwithstanding the limitation in subd. 2., the planning commission in the city of Middleton may adopt an amendment to a project plan under subd. 1. to modify the boundaries of Tax Incremental District Number 3 not more than 7 times during the district's existence. A single amendment to a project plan that both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan.

(i) The local legislative body shall provide the joint review board with the following information and projections:

1. The specific items that constitute the project costs, the total dollar amount of these project costs to be paid with the tax increments, and the amount of tax increments to be generated over the life of the tax incremental district.

2. The amount of the value increment when the project costs in subd. 1. are paid in full and the tax incremental district is terminated.

3. The reasons why the project costs in subd. 1. may not or should not be paid by the owners of property that benefits by improvements within the tax incremental district.

4. The share of the projected tax increments in subd. 1. estimated to be paid by the owners of taxable property in each of the taxing jurisdictions overlying the tax incremental district.

5. The benefits that the owners of taxable property in the overlying taxing jurisdictions will receive to compensate them for their share of the projected tax increments in subd. 4.

(k) Calculation by the local assessor of the value of all tax−exempt city−owned property, except property described in sub. (5) (bm), in the proposed tax incremental district, as of the day of the district's creation. This information shall be sent to the department of revenue for inclusion in the tax incremental district's initial tax incremental base under sub. (5) (b).

(4e) DISTRESSED, OR SEVERELY DISTRESSED, TAX INCREMENTAL DISTRICTS. (a) Before October 1, 2015, and subject to par. (am) and the limitations in this subsection, a city may designate a tax incremental district that it created before October 1, 2008, as a distressed or severely distressed tax incremental district if all of the following occur or apply:

1. The local legislative body adopts a resolution finding that its project costs incurred, with regard to the tax incremental district, exceed the amount of revenues from all sources that the city expects the district to generate to pay off such project costs during the life of the district.

2. The clerk of the local legislative body certifies the resolution and forwards a copy of the certified resolution and a copy of all of the financial data that the local legislative body used in the adoption process under subd. 1. to the department of revenue and the joint review board.

3. Subject to par. (e), the planning commission amends the district's project plan under sub. (4) (h) 1. to reflect the district's distressed status.

5. Except as provided in subd. 3., the local legislative body has not approved an amendment to the tax incremental district's project plan after October 1, 2009.

(am) To be designated as a severely distressed tax incremental district under par. (a), a district must meet all of the conditions under par. (a) and its value increment in any year must have declined at least 25 percent from the district's highest value increment determined by the department of revenue over the course of the district's life. The joint review board may request that the department of revenue certify that a district meets the decline in value increment percentage described in this paragraph.

(b) 1. Adoption of a resolution under par. (a) 1. shall be preceded by a public hearing held by the common council at which interested parties shall be afforded a reasonable opportunity to express their views on the proposed designation of a distressed, or severely distressed, tax incremental district. Notice of the hearing shall be published as a class 2 notice under ch. 985. The notice shall describe the resolution and shall advise that a copy of the resolution will be provided on request. The notice shall also explain that the life of a distressed tax incremental district may be extended, that it may receive excess tax increments from a donor district, and that the life of the donor district may be extended to provide such increments. Before publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer or administrator of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district that includes property located within the proposed district. For a county with no chief executive officer or administrator, this notice shall be sent to the county board chairperson.

2. Following receipt of the resolution and the financial data under par. (a) 2., the joint review board shall evaluate the resolution and data to determine whether the designation of the district as a distressed, or severely distressed, district or the sharing of tax increments by a donor district with the distressed, or severely distressed, district is likely to enhance the ability of the city to pay its project costs related to the district within the time specified in par. (d) 2. The joint review board may approve or deny the designation and shall send a written copy of its findings to the common council.

3. A resolution adopted under par. (a) 1. may not take effect unless the joint review board approves, by resolution, the designation under subd. 2. The joint review board shall approve or deny the designation within 30 days after receiving the resolution under subd. 2.

(c) If the department of revenue prescribes any forms that the city clerk must complete as part of the designation of a distressed, or severely distressed, tax incremental district, the clerk shall submit the forms to the department on or before December 31 of the year the district is designated as distressed, or severely distressed.

(d) 1. Notwithstanding the time limits for the allocation of positive tax increments under sub. (6) (a), but subject to sub. (6) (a) 1., and notwithstanding the requirement under sub. (6) (f) 1. b., the department of revenue shall allocate positive tax increments for up to 10 years after a district would otherwise be required to terminate, if the district is designated as a distressed district under this subsection, or up to 40 years after the district is created, if the district is designated as a severely distressed district under this subsection.

2. Notwithstanding the time limits for termination under sub. (7) (ak) to (at), but subject to sub. (7) (a) and (b), a district may remain in existence for up to 10 years after the district would otherwise be required to terminate, if the district is designated as a distressed district under this subsection, or up to 40 years after the district is created, if the district is designated as a severely distressed district under this subsection.

3. Notwithstanding the time limits and other provisions for termination under sub. (7), a donor tax incremental district under sub. (6) (d), (dm), (e), and (f) may share tax increments with a distressed, or severely distressed, district until the earlier of the following occurs:

a. The distressed, or severely distressed, district terminates under sub. (7) (a), (au), or (b).

b. Following its creation, the donor district has existed for 10 years after the district would otherwise be required to terminate, if the district is sharing its increment with a district designated as a distressed district under this subsection, or until the donor district has been in existence for 40 years, if the district is sharing its increment with a district designated as a severely distressed district under this subsection.

(e) A distressed, or severely distressed, tax incremental district may not do any of the following:

1. Amend its project plan to add any new project costs.

2. Become part of a district with overlapping boundaries under sub. (10).

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3. Expend any funds outside of the tax incremental district's boundaries.

4. Add any territory to the district under sub. (4) (h) 2.

5. Become a donor district under sub. (6) (d), (dm), (e), or (f).

6. Make any expenditures after its expenditure period, as determined before its designation as a distressed, or severely distressed, district expires.

(f) If the joint review board approves a designation under par. (b) 3., the department of revenue shall certify the district as a distressed, or severely distressed, tax incremental district and shall send a copy of the certification to the city and to all overlying taxation jurisdictions. The department may impose a fee of $500 on a city for each district in the city that is so designated, for the additional costs incurred by the department in administering such a district.

(g) If any tax increments allocated to a distressed, or severely distressed, tax incremental district under this subsection exceed the amount needed to meet the distressed, or severely distressed, district's annual expenditures identified in its existing project plan, the excess amount shall be used to retire any outstanding debt obligations of the district or to establish a reserve fund that may be used only to retire outstanding debt obligations of the distressed, or severely distressed, district.

(4m) JOINT REVIEW BOARD. (a) Any city that seeks to create a tax incremental district, amend a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries, shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. Except as provided in par. (am) and (as), and subject to par. (ae), the board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district, amend its project plan, or make or incur an expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).

NOTE: Par. (a) is shown as amended eff. 10−1−12 by 2011 Wis. Act 77. Prior to 10−1−12 it reads:

(a) Any city that seeks to create a tax incremental district, amend a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries, shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. Except as provided in par. (am), and subject to par. (ae), the board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district, amend its project plan, or make or incur an expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).

(ae) 1. A representative chosen by a school district under par. (a), (am), or (as) shall be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she shall give preference to the school district's finance director or another person with knowledge of local government finances.

2. The representative chosen by the county under par. (a) or (as) shall be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she shall give preference to the county treasurer or another person with knowledge of local government finances.

3. The representative chosen by the city under par. (a) or (as) shall be the mayor, or city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she shall give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

4. The representative chosen by the technical college district under par. (a) or (as) shall be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she shall give preference to the district's chief financial officer or another person with knowledge of local government finances.

NOTE: Par. (ae) is shown as amended eff. 10−1−12 by 2011 Wis. Act 77. Prior to 10−1−12 it reads:

(ae) 1. A representative chosen by a school district under par. (a) or (am) shall be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she shall give preference to the school district's finance director or another person with knowledge of local government finances.

2. The representative chosen by the county under par. (a) shall be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she shall give preference to the county treasurer or another person with knowledge of local government finances.

3. The representative chosen by the city under par. (a) shall be the mayor, or city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she shall give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

4. The representative chosen by the technical college district under par. (a) shall be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she shall give preference to the district's chief financial officer or another person with knowledge of local government finances.

(am) If a city seeks to create a tax incremental district that is located in a union high school district, the seat that is described under par. (a) for the school district representative to the board shall be held by 2 representatives, each of whom has one−half of a vote. Subject to par. (ae), one representative shall be chosen by the union high school district that has the power to levy taxes on the property within the tax incremental district and one representative shall be chosen by the elementary school district that has the power to levy taxes on the property within the tax incremental district.

(as) With regard to a multijurisdictional tax incremental district created under this section, all of the following apply:

1. Each participating city may appoint one public member to the joint review board under par. (a).

2. If more than one school district, more than one union high school district, more than one elementary school district, more

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than one technical college district, or more than one county has the power to levy taxes on the property within the tax incremental district, each such jurisdiction may select a representative to the joint review board under par. (a), or 2 representatives as provided under par. (am), unless the jurisdiction's governing body opts out of this authority by adopting a resolution to that effect.

NOTE: Par. (as) is created eff. 10−1−12 by 2011 Wis. Act 77.

(b) 1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (gm) or (h) 1. As part of its deliberations the board may hold additional hearings on the proposal.

2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after receiving the resolution. With regard to a multijurisdictional tax incremental district created under this section, each public member of a participating city must be part of the majority that votes for approval of the resolution or the district may not be created. The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1. would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

NOTE: Subd. 2. is shown as amended eff. 10−1−12 by 2011 Wis. Act 77. Prior to 10−1−12 it reads:

2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority vote within 30 days after receiving the resolution. The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1. would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

2m. The requirement under subd. 2. that a vote by the board take place within 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the resolution relates to a tax incremental district, the application for the redetermination of the tax incremental base of which was made in 1998, that is located in a village that was incorporated in 1912, has a population of at least 3,800 and is located in a county with a population of at least 108,000.

3. The board shall submit its decision to the city no later than 7 days after the board acts on and reviews the items in subd. 2., except that, if the board requests a department of revenue review under subd. 4., the board shall do one of the following:

a. Submit its decision to the city no later than 10 working days after receiving the department's written response.

b. If the city resubmits its proposal under subd. 4. no later than 10 working days after the board receives the department's written response, submit its decision to the city no later than 10 working days after receiving the city's resubmitted proposal.

4. Before the joint review board submits its decision under subd. 3., or sub. (4e) (b) 3., a majority of the members of the board may request that the department of revenue review the objective facts contained in any of the documents listed in subd. 1., or sub. (4e) (a) 2. to determine whether the information submitted to the board complies with this section or whether any of the information contains a factual inaccuracy. The request must be in writing and must specify which particular objective fact or item the members believe is incomplete or inaccurate. Not later than 10 working days after receiving a request that complies with the requirements of this subdivision, the department of revenue shall investigate the issues raised in the request and shall send its written response to the board. If the department of revenue determines that the information in the proposal does not comply with this section or contains a factual inaccuracy, the department shall return the proposal to the city. The board shall request, but may not require, that the city resolve the problems in its proposal and resubmit the proposal to the board. If the city resubmits its proposal, the board shall review the resubmitted proposal and vote to approve or deny the proposal as specified in this paragraph.

4m. The board shall notify prospectively the governing body of every local governmental unit that is not represented on the board, and that has power to levy taxes on the property within the tax incremental district, of meetings of the board and of the agendas of each meeting for which notification is given.

(c) 1. The board shall base its decision to approve or deny a proposal on the following criteria:

a. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.

b. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.

c. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

2. The board shall issue a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(d) Before a city may make or incur an expenditure for project costs, as described in sub. (2) (f) 1. n., for an area that is outside of a district's boundaries, the joint review board must approve the proposed expenditure.

(e) Notice of all meetings held by a joint review board shall be published as a class 1 notice, under ch. 985, at least 5 days before the meeting.

(5) DETERMINATION OF TAX INCREMENT AND TAX INCREMENTAL BASE. (a) Subject to sub. (8) (d), upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible. The department of revenue may impose a fee of $1,000 on a city to determine or redetermine the tax incremental base of a tax incremental district under this subsection, except that if the redetermination is based on a single amendment to a project plan that both adds and subtracts territory, the department may impose a fee of $2,000.

(b) Upon application in writing by the city clerk, in a form prescribed by the department of revenue, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property and, except as provided in par. (bm), of the city−owned property in the tax incremental district. The application shall state the percentage of territory within the tax incremental district which the local legislative body estimates will be devoted to retail business at the end of the maximum expenditure period specified in sub. (6) (am) 1. if that estimate is at least 35%. Subject to sub. (8) (d), the department shall certify this aggregate valuation to the city clerk, and the aggregate valuation constitutes the tax incremental base of the tax incremental district. The city clerk shall complete these forms, including forms for the amendment of a project plan, and submit the completed application or amendment forms on or before October 31 of the year the tax incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an amendment, on or before October 31 of the year in which the changes to the project plan take effect.

(be) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in September 1994 files with the department of revenue, not later than March 30, 1996, the forms and application that were originally due on or before December 31, 1994, the tax incremental base of the district shall be calculated by the department of revenue as if

the forms and application had been filed on or before December 31, 1994, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1994, except that the department may not certify a value increment under par. (b) before 1996.

(bf) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in July 1997 files with the department of revenue, not later than May 31, 1999, the forms and application that were originally due on or before December 31, 1997, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1997, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1997, except that the department may not certify a value increment under par. (b) before 1999.

(bg) Notwithstanding the time limits in par. (b), if the city clerk of a city that created a tax incremental district in February 1999 files with the department of revenue, not later than May 31, 2000, the forms and application that were originally due on or before December 31, 1999, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 1999, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 1999, except that the department may not certify a value increment under par. (b) before 2001.

(bh) Notwithstanding the time limits in subs. (4) (e) and (4m) (b) 2., if the village clerk of a village that created, or attempted to create, a tax incremental district before June 2000 and amended or tried to amend the district's boundaries in September 2000 files with the department of revenue, not later than November 30, 2000, the forms and application that were originally due on or before December 31, 2000, the tax incremental base of the district shall be calculated by the department of revenue as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the time limits described in subs. (4) (e) and (4m) (b) 2. had been strictly complied with and as if the district were created on January 1, 2000, except that the department of revenue may not certify a value increment under par. (b) before 2002.

(bi) Notwithstanding the time limits in par. (b), if the village clerk of a village that created, or attempted to create, a tax incremental district on January 1, 2005, based on actions taken by the village board in October 2004, files with the department of revenue, not later than December 31, 2006, the forms and application that were originally due on or before December 31, 2005, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 2005, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2005, except that the department of revenue may not certify a value increment under par. (b) before 2007.

(bj) Notwithstanding the requirements in sub. (4) (a), (c), and (e), if a city that created, or attempted to create, a tax incremental district in October 1999 and in September 2000 and published the notices required under sub. (4) (a), (c), and (e), and was in substantial compliance with the notice requirements although such notices contained technical deficiencies regarding the time, place, or subject of the required hearings, the department of revenue shall determine the tax incremental bases of the districts, allocate tax increments, and treat the districts in all other respects as if the requirements under sub. (4) (a), (c), and (e) had been strictly complied with and as if the districts were created on January 1, 2000.

(bk) Notwithstanding the requirements in sub. (4) (a), (c), and (e), if the village of Kimberly created, or attempted to create, a tax incremental district on January 1, 2005, based on a resolution described under sub. (4) (gm) 2. that was adopted in April 2005, and attempted to publish, but did not actually publish, the notices required under sub. (4) (a), (c), and (e), but was otherwise in substantial compliance as specified in sub. (15), the department of revenue shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements under sub. (4) (a), (c), and (e) had been strictly complied with and as if the district was created on January 1, 2005.

(bL) The requirement under s. 66.1105 (4m) (b) 2., 2001 stats., that a vote by the board take place not less than 10 days nor more than 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the resolution related to tax incremental district number 3 in the city of Altoona. The department of revenue shall approve the boundary amendment, allocate tax increments, redetermine the tax incremental base of the district using the January 1, 2003, values, and treat the district in all other respects as if the provisions of s. 66.1105 (4m) (b) 2., 2001 stats., had been complied with, except that the department of revenue may not certify a value increment under par. (b) before 2007.

(bm) The value of real property owned by a city and used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right−of−way, parking facilities and utilities shall not be included in the tax incremental base established under par. (b).

(bn) Notwithstanding the requirement that the total equalized value not exceed 12 percent, as described in sub. (4) (gm) 4. c., if the village of Union Grove created, or attempted to create, tax incremental district number 4 on January 1, 2006, based on actions taken by the village board on February 27, 2006, the tax incremental base of the district shall be calculated by the department of revenue as if the tax incremental district had been created on January 1, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2008.

(bo) Notwithstanding the requirement that the total equalized value not exceed 12 percent, as described in sub. (4) (gm) 4. c., if the village of Elmwood created, or attempted to create, tax incremental district number 4 on January 1, 2006, based on actions taken by the village board on May 8, 2006, the tax incremental base of the district shall be calculated by the department of revenue as if the tax incremental district had been created on January 1, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(bp) Notwithstanding the time limits in par. (b), if the city clerk of a city that amended, or attempted to amend, the project plan of a tax incremental district on January 1, 2006, based on actions taken by the common council in April 2006, files with the department of revenue, not later than December 31, 2007, the forms and application that were originally due on or before December 31, 2006, the tax incremental base of the district shall be redetermined by the department of revenue as if the forms and application had been filed on or before December 31, 2006, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before Decem-

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ber 31, 2006, except that the department of revenue may not certify a value increment under par. (b) before 2008.

(bq) Notwithstanding the time limits in par. (b), if the city clerk of a city that amended, or attempted to amend, the project plan of a tax incremental district on January 1, 2007, based on actions taken by the common council in November 2006, files with the department of revenue, not later than December 31, 2009, the forms and application that were originally due on or before December 31, 2007, the tax incremental base of the district shall be redetermined by the department of revenue as if the forms and application had been filed on or before December 31, 2007, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2007, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(br) Notwithstanding the requirement that the findings under sub. (4) (gm) 4. a. specify the type of district that is being created as blighted, in need of rehabilitation or conservation work, suitable for industrial sites, or suitable for mixed−use development, if the city of Waukesha created, or attempted to create, Tax Incremental District Number 18 on January 1, 2008, based on actions taken by the common council on July 16, 2008, the department of revenue shall certify the tax incremental base of the district as if the tax incremental district had been created on January 1, 2008, as a blighted area district and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the district had been created on January 1, 2008, except that the department of revenue may not certify a value increment under par. (b) before 2010.

(bs) Notwithstanding the time limits in par. (b), if the city clerk of a city that created, or attempted to create, a tax incremental district on January 1, 2009, based on actions taken by the common council in December 2008, files with the department of revenue, not later than May 31, 2010, the forms and application that were originally due on or before December 31, 2009, the tax incremental base of the district shall be calculated by the department of revenue as if the forms and application had been filed on or before December 31, 2009, and, until the tax incremental district terminates, the department of revenue shall allocate tax increments and treat the district in all other respects as if the forms and application had been filed on or before December 31, 2009, except that the department of revenue may not certify a value increment under par. (b) before 2011.

(bt) If the city of New Lisbon amends, or attempts to amend, the project plan of Tax Incremental District Number 12 on January 1, 2012, based on actions taken by the common council between July 1, 2011, and December 31, 2011, the tax incremental base of the district shall be redetermined by the department of revenue as if the district's project plan had been amended on January 1, 2012, except that the department of revenue may not certify a value increment under par. (b), that reflects the amendment to the district's plan, before 2012. In addition, the time limits specified for the city clerk in par. (b), and the provisions relating to the 12 percent limit findings requirement under sub. (4) (gm) 4. c., do not apply to an amendment to the project plan of Tax Incremental District Number 12 in the city of New Lisbon.

(c) If the city adopts an amendment to the original project plan for any district which subtracts territory from the district or which includes additional project costs at least part of which will be incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the district shall be redetermined, if sub. (4) (h) 2., 4., or 5. applies to the amended project plan, either by subtracting from the tax incremental base the value of the taxable property and the value of real property owned by the city, other than property described under par. (bm), that is subtracted from the existing district or by adding to the tax incremental base the value of the taxable property and the value of real property owned by the city, other than property described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 4., or 5. or, if sub. (4) (h) 2., 4., or 5. does not apply to the amended project plan, under par. (b), as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. With regard to a district to which territory has been added, the tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

(ce) If the city adopts an amendment, to which sub. (4) (h) 2., 4., or 5. applies, the tax incremental base for the district shall be redetermined, either by subtracting from the tax incremental base the value of the taxable property and the value of real property owned by the city, other than property described under par. (bm), that is subtracted from the existing district or by adding to the tax incremental base the value of the taxable property and the value of real property owned by the city, other than property described in par. (bm), that is added to the existing district under sub. (4) (h) 2., 4., or 5., as of the January 1 next preceding the effective date of the amendment if the amendment becomes effective between January 2 and September 30, as of the next subsequent January 1 if the amendment becomes effective between October 1 and December 31 and if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. With regard to a district to which territory has been added, the tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

(cf) If the city adopts an amendment to a plan, to which sub. (4m) (b) 2m. applies, the tax incremental base for the district shall be redetermined by adding to the tax incremental base the value, as of January 1, 1998, of the taxable property that is added to the existing district under sub. (4) (h) 1.

(cm) The city clerk shall annually, after May 1 but before May 21, by written notice, inform the department of revenue of any amendment to the project plan which has been adopted. The city clerk shall also give written notice of the adoption of an amendment to the department of revenue within 60 days after its adoption. The department of revenue may prescribe forms to be used by the city clerk when giving notice as required by this paragraph.

(d) Subject to pars. (de) and (dm), the department of revenue may not certify the tax incremental base as provided in par. (b) until it determines that each of the procedures and documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given. The facts supporting any document adopted or action taken to comply with sub. (4) (a), (b), (gm) or (h) are not subject to review by the department of revenue under this paragraph, except that the department may not certify the tax incremental base as provided in par. (b) until it reviews and approves of the findings that are described in sub. (4) (gm) 4. c.

(de) With regard to a mixed−use development tax incremental district, the department of revenue may not certify the tax incremental base of such a district if the department determines that any of the following apply:

1. The lands proposed for newly platted residential use exceed the percentage specified in sub. (2) (cm).

2. Tax increments received by the city are used to subsidize residential development and none of the conditions specified in sub. (2) (f) 3. a. to c. apply.

(dm) If the department of revenue certifies the tax incremental base of a mixed−use development tax incremental district and then determines that any of the conditions listed in the par. (de) apply, the department may not certify the tax incremental base of any other tax incremental district in that city until the department certifies that the mixed−use development district complies with

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the percentage specified in sub. (2) (cm) and that at least one of the conditions specified in sub. (2) (f) 3. a. to c. applies.

(e) It is a rebuttable presumption that any property within a tax incremental district acquired or leased as lessee by the city, or any agency or instrumentality of the city, within the one year immediately preceding the date of the creation of the district was acquired or leased in contemplation of the creation of the district. The presumption may be rebutted by the city with proof that the property was leased or acquired primarily for a purpose other than to reduce the tax incremental base. If the presumption is not rebutted, in determining the tax incremental base of the district, but for no other purpose, the taxable status of the property shall be determined as if the lease or acquisition had not occurred.

(f) The city assessor shall identify upon the assessment roll returned and examined under s. 70.45 those parcels of property which are within each existing tax incremental district, specifying the name of each district. A similar notation shall appear on the tax roll made by the city clerk under s. 70.65.

(g) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of the property and the equalized value of the tax increment base. The notice shall also explain that the tax increment allocated to a city shall be paid to the city as provided under sub. (6) (b) from the taxes collected.

(6) ALLOCATION OF POSITIVE TAX INCREMENTS. (a) If the joint review board approves the creation of the tax incremental district under sub. (4m), and subject to pars. (ae) and (ag), positive tax increments with respect to a tax incremental district are allocated to the city which created the district or, in the case of a city or village that annexes or attaches a district created under sub. (16), to the annexing or attaching city or village, for each year commencing after the date when a project plan is adopted under sub. (4) (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the city that each of the procedures and documents required under sub. (4) (d) to (f) has been completed and all related notices given in a timely manner. The department of revenue may authorize allocation of tax increments for any tax incremental district only if the city clerk and assessor annually submit to the department all required information on or before the 2nd Monday in June. The facts supporting any document adopted or action taken to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized, the department of revenue shall annually authorize allocation of the tax increment to the city that created the district until the soonest of the following events:

NOTE: Par. (a) (intro.) is shown as affected by 2011 Wis. Acts 32 and 77 and as merged by the legislative reference bureau under s. 13.92 (2) (i) effective 10−1−12. Prior to 10−1−12 it reads:

(a) If the joint review board approves the creation of the tax incremental district under sub. (4m), and subject to par. (ae), positive tax increments with respect to a tax incremental district are allocated to the city which created the district or, in the case of a city or village that annexes or attaches a district created under sub. (16), to the annexing or attaching city or village, for each year commencing after the date when a project plan is adopted under sub. (4) (g). The department of revenue may not authorize allocation of tax increments until it determines from timely evidence submitted by the city that each of the procedures and documents required under sub. (4) (d) to (f) has been completed and all related notices given in a timely manner. The department of revenue may authorize allocation of tax increments for any tax incremental district only if the city clerk and assessor annually submit to the department all required information on or before the 2nd Monday in June. The facts supporting any document adopted or action taken to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue under this paragraph. After the allocation of tax increments is authorized, the department of revenue shall annually authorize allocation of the tax increment to the city that created the district until the soonest of the following events:

1. The department of revenue receives a notice under sub. (8) and the notice has taken effect under sub. (8) (b).

2. Twenty−seven years after the tax incremental district is created if the district is created before October 1, 1995.

4. Twenty−seven years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004, and if the district is a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, except that if the life of the district is extended under sub. (7) (am) 1., an allocation under this subdivision may be made 31 years after such a district is created.

4m. Twenty−three years after the tax incremental district is created if the district is created after September 30, 1995, and before October 1, 2004, and if the district is a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites.

5. Thirty−one years after the tax incremental district is created if the district is created before October 1, 1995, and the expenditure period is specified in par. (am) 2. c.

6. Forty−two years after the tax incremental district is created if the district is created before October 1, 1995, and if the district is located in a city to which par. (d) applies.

7. Twenty years after the tax incremental district is created if the district is created on or after October 1, 2004, and if the district is at least predominantly suitable for mixed−use development or industrial sites under sub. (4) (gm) 6., except that if the life of the district is extended under sub. (7) (am) 2. an allocation under this subdivision may be made 23 years after such a district is created.

8. Twenty−seven years after the tax incremental district is created if the district is created on or after October 1, 2004, and if the district is a district specified under sub. (4) (gm) 6. other than a district specified under subd. 7., except that if the life of the district is extended under sub. (7) (am) 3. an allocation under this subdivision may be made 30 years after such a district is created.

9. Thirty−seven years after the tax incremental district is created if the district is created before October 1, 1983, and the expenditure period is specified in par. (am) 2. d.

10. Thirty−seven years after the tax incremental district is created if the district is Tax Incremental District Number 3 in the city of Middleton.

(ae) With regard to each district for which the department of revenue authorizes the allocation of a tax increment under par. (a), the department shall charge the city that created the district an annual administrative fee of $150 that the city shall pay to the department no later than May 15. If the city does not pay the fee that is required under this paragraph, by May 15, the department may not authorize the allocation of a tax increment under par. (a) for that city.

(ag) With regard to a multijurisdictional tax incremental district, the department of revenue may allocate positive tax increments to each participating city only to the extent that a city's component of the district has generated a positive value increment.

NOTE: Par. (ag) is created eff. 10−1−12 by 2011 Wis. Act 77.

(am) 1. Except as otherwise provided in this paragraph, no expenditure may be made later than 5 years before the unextended termination date of a tax incremental district under sub. (7) (ak) or (am).

2. The limitations on the period during which expenditures may be made under subd. 1. do not apply to:

a. Expenditures to pay project costs incurred under ch. 32.

b. Expenditures authorized by the adoption of an amendment to the project plan under sub. (5) (c) or (ce).

c. Expenditures for project costs for Tax Incremental District Number 6 in a city with a population of at least 45,000 that is located in a county that was created in 1836 and that is adjacent to one of the Great Lakes. Such expenditures may be made no later than 26 years after the tax incremental district is created, and may be made through December 31, 2017.

d. Expenditures for project costs for Tax Incremental District Number 2 in the city of Racine. Such expenditures may be made

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no later than 32 years after the district is created and may be made through 2015.

e. Expenditures for project costs for Tax Incremental District Number 1 in the village of Denmark. Such expenditures may be made through 2014.

em. Expenditures for project costs for Tax Incremental District Number 3 in the city of Middleton. Such expenditures may be made no later than 32 years after the district is created and may be made through 2025.

NOTE: Subd. 2. em. was created as subd. 2. e. by 2011 Wis. Act 139 and renumbered to subd. 2. em. by the legislative reference bureau under s. 13.92 (1) (bm) 2.

3. For tax incremental districts for which the resolution under sub. (4) (gm) is adopted on or after July 31, 1981, no expenditure may be made before the date the project plan is approved, except for costs directly related to planning the tax incremental district. In this subdivision "expenditure" means the exchange of money for the delivery of goods or services.

4. For purposes of this paragraph, the date of creation of a tax incremental district is:

a. The May 1 date set under s. 66.46 (4) (c) 2., 1975 stats., if the local legislative body adopts a resolution to create the tax incremental district on or before May 1, 1978.

b. The January 1 date set under sub. (4) (gm) 2., if the local legislative body adopts a resolution to create the tax incremental district after May 1, 1978, and prior to July 31, 1981.

c. The date the local legislative body adopts the resolution under sub. (4) (gm), if the local legislative body adopts a resolution to create the tax incremental district on or after July 31, 1981.

5. No expenditure may be made later than 5 years before the termination date of a tax incremental district to which par. (d) applies.

(b) Notwithstanding any other provision of law, every officer charged by law to collect and pay over or retain local general property taxes shall, on the settlement dates provided by law, pay over to the city treasurer out of all the taxes which the officer has collected the proportion of the tax increment due the city that the general property taxes collected in the city bears to the total general property taxes levied by the city for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes and state special charges.

(c) Except for tax increments allocated under par. (d), (dm), (e), (f), or (g) all tax increments received with respect to a tax incremental district shall, upon receipt by the city treasurer, be deposited into a special fund for that district. The city treasurer may deposit additional moneys into such fund pursuant to an appropriation by the common council. No moneys may be paid out of such fund except to pay project costs with respect to that district, to reimburse the city for such payments, to pay project costs of a district under par. (d), (dm), (e), (f), or (g) or to satisfy claims of holders of bonds or notes issued with respect to such district. Subject to par. (d), (dm), (e), (f), or (g), moneys paid out of the fund to pay project costs with respect to a district may be paid out before or after the district is terminated under sub. (7). Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other city funds if any investment earnings are applied to reduce project costs. After all project costs and all bonds and notes with respect to the district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in the fund any moneys that are not allocated under par. (d), (dm), (e), (f), or (g), they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the city in the amounts that belong to each respectively, having due regard for that portion of the moneys, if any, that represents tax increments not allocated to the city and that portion, if any, that represents voluntary deposits of the city into the fund.

(d) 1. Subject to subd. 1m., after the date on which a tax incremental district pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

1m. After December 31, 2016, subd. 1. applies only to Tax Incremental District Number One, Tax Incremental District Number Four, and Tax Incremental District Number Five in the City of Kenosha, and no increments may be allocated under that subdivision, after December 31, 2016, unless the allocation is approved by the joint review board.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 35 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus the total number of years during which tax increments are allocated under this paragraph exceed 42 years.

3. This paragraph applies only in a city with a population of at least 80,000 that was incorporated in 1850 and that is in a county with a population of less than 175,000 which is adjacent to one of the Great Lakes.

4. This paragraph does not apply after August 1, 2031.

5. This paragraph does not apply to a tax incremental district that is created after January 1, 2004.

(dm) 1. After the date on which a tax incremental district that is located in a city that is described in subd. 3. a. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

1m. Either before, after or on the date on which a tax incremental district that is located in a city that is described in subd. 3. b. pays off the aggregate of all of its project costs under its project plan, but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) 1. the project plan of such a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission in which soil affected by environmental pollution exists to the extent that development has not been able to proceed according to the project plan because of the environmental pollution.

2. Except as provided in subd. 2m., no tax increments may be allocated under this paragraph later than 16 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made.

2m. No tax increments may be allocated under this paragraph later than 20 years after the last expenditure identified in the project plan of the tax incremental district, the positive tax increments of which are to be allocated, is made if the district is created before October 1, 1995, except that in no case may the total number of years during which expenditures are made under par. (am) 1. plus

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the total number of years during which tax increments are allocated under this paragraph exceed 27 years.

3. This paragraph applies only to the following cities:

a. A city with a population of at least 10,000 that was incorporated in 1950 and that is in a county with a population of more than 500,000 which is adjacent to one of the Great Lakes.

b. A city with a population of at least 50,000 that was incorporated in 1853 and that is in a county which has a population of at least 140,000 and that contains a portion of the Fox River and Lake Winnebago.

4. This paragraph, with regard to a city that is described in subd. 3. a., does not apply after January 1, 2002.

5. This paragraph, with regard to a city that is described in subd. 3. b., does not apply after January 1, 2016.

(e) 1. Before the date on which a tax incremental district terminates under sub. (7) (a), but not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of the tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

a. The donor tax incremental district, the positive tax increments of which are to be allocated, and the recipient tax incremental district have the same overlying taxing jurisdictions.

b. Except as provided in subd. 1. c. and e., the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1995.

c. With respect to a tax incremental district that has been created by a 1st class city, the donor tax incremental district and the recipient tax incremental district have been created before October 1, 1996.

d. The donor tax incremental district is able to demonstrate, based on the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for that district and sufficient surplus revenues to pay for some of the eligible costs of the recipient tax incremental district.

e. With respect to a tax incremental district that has been created by a 4th class city incorporated in 1882 that is located in the Pecatonica River watershed, the recipient tax incremental district has been created before October 1, 1996, and the donor tax incremental district has been created before October 1, 2003.

3. A project plan that is amended under sub. (4) (h) to authorize the allocation of positive tax increments under subd. 1. may authorize the allocation for a period not to exceed 5 years, except that if the planning commission determines that the allocation may be needed for a period longer than 5 years, the planning commission may authorize the allocation for up to an additional 5 years if the project plan is amended under sub. (4) (h) during the 4th year of the allocation. In no case may positive tax increments under subd. 1. be allocated from one donor tax incremental district for a period longer than 10 years.

(f) 1. Not later than the date on which a tax incremental district terminates under sub. (7) (am), a planning commission may amend under sub. (4) (h) the project plan of a tax incremental district to allocate positive tax increments generated by that tax incremental district to another tax incremental district created by that planning commission if all of the following conditions are met:

a. The donor tax incremental district, the positive tax increments of which are to be allocated, and the recipient tax incremental district have the same overlying taxing jurisdictions.

b. The allocation of tax increments under this paragraph is approved by the joint review board.

2. An allocation of tax increments under this paragraph may be used by the recipient district only if one of the following applies:

a. The project costs in the recipient district are used to create, provide, or rehabilitate low−cost housing or to remediate environmental contamination.

b. The recipient district was created upon a finding that not less than 50 percent, by area, of the real property within the district is blighted or in need of rehabilitation.

c. The recipient district is a mixed−use or industrial−use district that has been designated as a distressed, or severely distressed, district under sub. (4e).

3. The allocation of positive tax increments from a donor district to one or more recipient districts cannot be made unless the donor district has first satisfied all of its current−year debt service and project cost obligations.

4. No city may request or receive under sub. (7) (am) 2. an extension for the life of a donor tax incremental district.

(g) 1. After the date on which a tax incremental district created by a city pays off the aggregate of all of its project costs, and notwithstanding the time at which such a district would otherwise be required to terminate under sub. (7), a city may extend the life of the district for one year if the city does all of the following:

a. The city adopts a resolution extending the life of the district for a specified number of months. The resolution shall specify how the city intends to improve its housing stock, as required in subd. 3.

b. The city forwards a copy of the resolution to the department of revenue, notifying the department that it must continue to authorize the allocation of tax increments to the district under par. (a).

2. If the department of revenue receives a notice described under subd. 1. b., it shall continue authorizing the allocation of tax increments to the district under par. (a) during the district's life, as extended by the city, as if the district's costs had not been paid off and without regard to whether any of the time periods specified in par. (a) 2. to 8. would otherwise require terminating the allocation of such increments.

3. If a city receives tax increments as described in subd. 2., the city shall use at least 75 percent of the increments received to benefit affordable housing in the city. The remaining portion of the increments shall be used by the city to improve the city's housing stock.

(6c) NOTIFICATION OF POSITION OPENINGS. (a) Any person who operates for profit and is paid project costs under sub. (2) (f) 1. a., d., j. and k. in connection with the project plan for a tax incremental district shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any positions to be filled in the county in which the city which created the tax incremental district is located during the period commencing with the date the person first performs work on the project and ending one year after receipt of its final payment of project costs. The person shall provide this notice at least 2 weeks prior to advertising the position.

(b) Any person who operates for profit and buys or leases property in a tax incremental district from a city for which the city incurs real property assembly costs under sub. (2) (f) 1. c. shall notify the department of workforce development and the local workforce development board established under 29 USC 2832, of any position to be filled in the county in which the city creating the tax incremental district is located within one year after the sale or commencement of the lease. The person shall provide this notice at least 2 weeks prior to advertising the position.

(6m) REVIEW. (a) The city shall cause a certified public accountant to conduct audits of each tax incremental district to determine if all financial transactions are made in a legal and proper manner and to determine if the tax incremental district is complying with its project plan and with this section. Any city that creates a tax incremental district under this section and has an annual general audit may include the audits required under this subsection as part of the annual general audit.

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(b) Audits shall be conducted no later than:

1. Twelve months after 30% of the project expenditures are made;

2. Twelve months after the end of the expenditure period specified in sub. (6) (am) 1.; and

3. Twelve months after the termination of the tax incremental district under sub. (7).

(c) The city shall prepare and make available to the public updated annual reports describing the status of each existing tax incremental district, including expenditures and revenues. The city shall send a copy of the report to each overlying district by May 1 annually.

(7) TERMINATION OF TAX INCREMENTAL DISTRICTS. A tax incremental district terminates when the earlier of the following occurs:

(a) That time when the city has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all project costs under the project plan and any amendments to the project plan for the district, except that this paragraph does not apply to a district whose positive tax increments have been allocated under sub. (6) (d), (dm), (e), or (f) until the district to which the allocation is made has paid off the aggregate of all of its project costs under its project plan.

(ak) 1. Except as provided in par. (am) 1., for a district about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or an area in need of rehabilitation or conservation work, and if the district to which the plan relates is created after September 30, 1995, and before October 1, 2004, 27 years after the district is created.

2. For a district that is created after September 30, 1995, and before October 1, 2004, and that is not subject to subd. 1., 23 years after the district was created, and, except as provided in subd. 3., for a district that is created before October 1, 1995, 27 years after the district is created.

3. For Tax Incremental District Number 2 in the city of Racine, 37 years after the district is created.

(am) 1. For a district described under par. (ak) 1., the time period specified in that subdivision, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 4 years. Along with its request for a 4−year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 27 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 4 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 4 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

2. For a district that is created after September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is suitable for industrial sites or mixed−use development, 20 years after the district is created, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 3 years. Along with its request for a 3−year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 20 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 3 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 3 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

3. For a district that is created after September 30, 2004, about which a finding is made under sub. (4) (gm) 4. a. that not less than 50 percent, by area, of the real property within the district is a blighted area or in need of rehabilitation, 27 years after the district is created, except that the city that created the district may, subject to sub. (8) (e), request that the joint review board extend the life of the district for an additional 3 years. Along with its request for a 3−year extension, the city may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 27 years after the district is created. The joint review board may deny or approve a request to extend the life of the district for 3 years if the request does not include the independent audit, and the board shall approve a request to extend the life of the district for 3 years if the request includes the audit. If the joint review board extends the district's life, the district shall terminate at the earlier of the end of the extended period or the period specified in par. (a).

(ar) Notwithstanding par. (am), 35 years after the district is created if it was created before October 1, 1995, and if the project plan is amended under sub. (4) (h) 4.

(as) Notwithstanding par. (am), 35 years after the last expenditure identified in the project plan is made if the district to which the plan relates is created before October 1, 1995, and sub. (6) (d) applies to the district.

(at) Notwithstanding par. (am), 31 years after the district is created if the district is created before October 1, 1995, and the expenditure period is specified in sub. (6) (am) 2. c.

(au) With regard to a distressed, or severely distressed, tax incremental district under sub. (4e), the time period specified in sub. (4e) (d) 2.

(b) The local legislative body, by resolution, dissolves the district at which time the city becomes liable for all unpaid project costs actually incurred which are not paid from the special fund under sub. (6) (c), except this paragraph does not make the city liable for any tax incremental bonds or notes issued.

(8) NOTICE OF DISTRICT TERMINATION, REPORTING REQUIREMENTS. (a) A city which creates a tax incremental district under this section shall give the department of revenue written notice within 60 days of the termination of the tax incremental district under sub. (7).

(b) If the department of revenue receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department of revenue receives the notice.

(c) After a city transmits to the department of revenue the notice required under par. (a), the city and the department shall agree on a date by which the city shall send to the department, on a form prescribed by the department, all of the following information that relates to the terminated tax incremental district:

1. A final accounting of all expenditures made by the city.

2. The total amount of project costs incurred by the city.

3. The total amount of positive tax increments received by a city.

4. The total amount of project costs, if any, not paid for with tax increments that became obligations of the city after the district was terminated.

(d) If a city does not send to the department of revenue the form specified in par. (c) within the time limit agreed to by the city and the department under par. (c), the department may not certify the tax incremental base of a tax incremental district under sub. (5) (a) and (b) until the form is sent to the department.

(e) A city shall notify the department of revenue at least one year before the date on which a tax incremental district is required to terminate under sub. (7) (am) if a joint review board approves a request to extend the life of the district under sub. (7) (am). If a city does not notify the department of revenue by that date, the department may deny the extension.

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(9) FINANCING OF PROJECT COSTS. (a) Payment of project costs may be made by any one or more of the following methods:

1. Payment by the city from the special fund of the tax incremental district;

2. Payment out of its general funds;

3. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;

4. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619;

5. Payment as provided under s. 66.0713 (2) and (4) or 67.16;

6. Payment out of the proceeds of revenue bonds or notes issued by it under s. 66.0621;

7. Payment out of the proceeds of revenue bonds issued by it under s. 66.0913;

8. Payment out of the proceeds of the sale of tax incremental bonds or notes issued by it under this subsection; or

9. Payment out of the proceeds of revenue bonds issued by the city as provided by s. 66.1103, for a purpose specified in that section.

(b) 1. For the purpose of paying project costs or of refunding municipal obligations issued under ch. 67 or this subsection for the purpose of paying project costs, the local legislative body may issue tax incremental bonds or notes payable out of positive tax increments. Each bond or note and accompanying interest coupon, if any, is a negotiable instrument. The bonds and notes shall not be included in the computation of the constitutional debt limitation of the city. Bonds and notes issued under this subsection, together with their interest and income, shall be taxed in the same manner as are municipal obligations issued under s. 67.04.

2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but a referendum or election may be held, through the procedures provided in s. 66.1103 (10) (d). The resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by the bond or notes. The resolution may prescribe the terms, form and content of the bonds or notes and any other matters that the local legislative body deems useful.

3. Tax incremental bonds or notes may not be issued in an amount exceeding the aggregate project costs. The bonds or notes shall mature over a period not exceeding 23 years from the date of issuance or a period terminating with the date of termination of the tax incremental district, whichever period terminates earlier. The bonds or notes may contain a provision authorizing the redemption of the bonds or notes, in whole or in part, at stipulated prices, at the option of the city, on any interest payment date and shall provide the method of selecting the bonds or notes to be redeemed. The principal and interest on the bonds and notes may be payable at any time and at any place. The bonds or notes may be payable to bearer or may be registered as to the principal or principal and interest. The bonds or notes may be in any denominations. The bonds or notes may be sold at public or private sale. To the extent consistent with this subsection, the provisions of ch. 67 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes apply to bonds or notes issued under this subsection.

4. Tax incremental bonds or notes are payable only out of the special fund created under sub. (6) (c). Each bond or note shall contain the recitals necessary to show that it is only so payable and that it does not constitute an indebtedness of the city or a charge against its general taxing power. The local legislative body shall irrevocably pledge all or a part of the special fund to the payment of the bonds or notes. The special fund or the designated part of the fund may then be used only for the payment of the bonds or notes and interest on the bonds or notes until the bonds or notes have been fully paid; and a holder of the bonds or notes or of any coupons appertaining to the bonds or notes has a lien against the special fund for payment of the bonds or notes and interest on the bonds or notes and may either at law or in equity protect and enforce the lien.

5. To increase the security and marketability of tax incremental bonds or notes, the city may:

a. Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds or notes or the revenues from the bonds or notes; or

b. Make covenants and do any acts, not inconsistent with the Wisconsin constitution, necessary or convenient or desirable in order to additionally secure the bonds or notes or tend to make the bonds or notes more marketable according to the best judgment of the local legislative body.

(10) OVERLAPPING TAX INCREMENTAL DISTRICTS. (a) Subject to any agreement with bondholders, and except as provided in par. (d), a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

NOTE: Par. (a) is shown as amended eff. 10−1−12 by 2011 Wis. Act 77. Prior to 10−1−12 it reads:

(a) Subject to any agreement with bondholders, a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

(b) If the boundaries of 2 or more tax incremental districts overlap, in determining how positive tax increments generated by that area which is within 2 or more districts are allocated among the overlapping districts, but for no other purpose, the aggregate value of the taxable property in the area as equalized by the department of revenue in any year as to each earlier created district is that portion of the tax incremental base of the district next created which is attributable to the overlapped area.

(c) The department of revenue shall exclude any parcel in a newly created tax incremental district that is located in an existing district when determining compliance with the 12 percent limit described in sub. (4) (gm) 4. c.

(d) A proposed tax incremental district, the boundaries of which would overlap an existing multijurisdictional tax incremental district, may be created only if all of the following apply:

1. The creation is approved by a resolution adopted by the governing body of each of the multijurisdictional district's participating cities.

2. The creation is approved by a resolution adopted by the multijurisdictional district's joint review board.

NOTE: Par. (d) is created eff. 10−1−12 by 2011 Wis. Act 77.

(11) EQUALIZED VALUATION FOR APPORTIONMENT OF PROPERTY TAXES. (a) With respect to the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, if the allocation of positive tax increments has been authorized by the department of revenue under sub. (6) (a), the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.

(12) EQUALIZED VALUATION; THE 12 PERCENT LIMIT. If the department of revenue notifies a local legislative body that is not in compliance with the 12 percent limit described in sub. (4) (gm) 4. c., the local legislative body shall do one of the following:

(a) Rescind its approval of the project plan resolution described under sub. (4) (g).

(b) Remove parcels from the district's, or proposed district's, boundaries so that the district, or proposed district, complies with the 12 percent limit. Such a removal of parcels may not substantially alter the project plan as approved under sub. (4) (g), or the resolution adopted under sub. (4) (gm) and approved by the joint review board under sub. (4m) (b) 2. Not later than 30 days after receiving the department's notice of noncompliance under sub. (4) (gm) 4. c., the city clerk shall submit, or resubmit, to the department the application described under sub. (5) (b), and the application shall reflect the removal of parcels under this paragraph.

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(14) USE OF TAX INCREMENTAL FINANCING FOR INLAND LAKE PROTECTION AND REHABILITATION PROHIBITED. Notwithstanding sub. (9), no tax incremental financing project plan may be approved and no payment of project costs may be made for an inland lake protection and rehabilitation district or a county acting under s. 59.70 (8).

(15) SUBSTANTIAL COMPLIANCE. Substantial compliance with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) by a city that creates, or attempts to create, a tax incremental district is sufficient to give effect to any proceedings conducted under this section if, in the opinion of the department of revenue, any error, irregularity, or informality that exists in the city's attempts to comply with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) does not affect substantial justice. If the department of revenue determines that a city has substantially complied with subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b), the department of revenue shall determine the tax incremental base of the district, allocate tax increments, and treat the district in all other respects as if the requirements under subs. (3), (4) (a), (b), (c), (d), (e), (f), and (h), (4m), and (5) (b) had been strictly complied with based on the date that the resolution described under sub. (4) (gm) 2. is adopted.

(16) TAX INCREMENTAL DISTRICTS IN TOWNS. (a) A town may create a tax incremental district under this section if all of the following apply:

1. The town enters into a cooperative plan with a city or village, under s. 66.0307, under which part or all of the town will be annexed or attached by the city or village in the future.

2. The city or village into which the town territory will be annexed or attached adopts a resolution approving the creation of the tax incremental district.

3. The tax incremental district is located solely within territory that is to be annexed or attached by a city or village as described under subd. 1.

(b) Along with the application that is filed under sub. (5) (b), a town shall include a copy of the cooperative plan to which it is a party.

(c) If a district created under this subsection is annexed or attached by a city or village it shall be administered by that city or village, and all of the following apply to the district as if it were created by that city or village:

1. The lifespan of the district and the allocation of tax increments under sub. (6).

2. Except as provided in par. (e), the date on which the district terminates under sub. (7).

3. The creation date of the district by the town.

4. The project plan of the district.

5. The procedures to amend the district's project plan under sub. (4) (h).

6. The procedures to extend the life of the district under sub. (7) (am).

(d) The department of revenue may not include the equalized value of taxable property of a district created under this subsection when applying the 12 percent limit findings requirement under sub. (4) (gm) 4. c. to a city or village which annexes or attaches such a district.

(e) If a city or village annexes or attaches a district created under this subsection before the last day on which the cooperative plan entered into under s. 66.0307 allows a boundary change, the district shall remain in existence at least through December 31 of the last calendar year of the period during which a boundary change could have occurred, notwithstanding sub. (7). The annexing or attaching city or village is responsible for all contracts, agreements, and obligations of the town related to the district.

(f) 1. Except as provided in subd. 2., if a city or village is in the process of annexing or attaching a district created under this subsection, but has not completed the process, the city or village may enter into a contract or agreement related to the district, with any person, or may assume an obligation of the district, and the town would continue to receive any tax increments for which it is eligible until the annexation or attachment process is complete.

2. A contract, agreement, or obligation, as described under subd. 1., does not apply and may not be enforced until the annexation or attachment process is complete and the city or village begins to receive tax increments associated with the district.

(17) EXCEPTIONS TO THE 12 PERCENT LIMIT. (a) *Subtraction of territory, creation of new district.* Subject to par. (b), a city may simultaneously create a tax incremental district under this section and adopt an amendment to a project plan to subtract territory from an existing district without adopting a resolution containing the 12−percent−limit findings specified in sub. (4) (gm) 4. c. if all of the following occur:

1. The city includes with its application described under sub. (5) (b) a copy of its amendment to a project plan that subtracts territory from an existing district, as described in sub. (4) (h) 2.

2. The city provides the department of revenue with 2 appraisals from certified appraisers, as defined in s. 458.01 (7), which demonstrate all of the following:

a. The current fair market value of the taxable property within the district that the city proposes to create.

b. The current fair market value of the taxable property that the city proposes to subtract from an existing district.

3. Both appraisals under subd. 2. demonstrate that the value of the taxable property that is subtracted from an existing district equals or exceeds the amount that the department of revenue believes is necessary to ensure that, when the proposed district is created, the 12−percent limit specified in sub. (4) (gm) 4. c. is met.

4. The city certifies to the department of revenue that no other district created under this paragraph currently exists in the city.

(b) *Limits on creation of new district.* A city may not act under par. (a) if a tax incremental district that has been created under par. (a) currently exists in the city.

(c) *Village of Pleasant Prairie exception.* With regard to the 12 percent limit described under sub. (4) (gm) 4. c., the following limit applies to the village of Pleasant Prairie:

1. If the village would like to create a new district, the sum of the following amounts may not exceed 12 percent of the total equalized value of taxable property within the village: the equalized value of taxable property of the district; the value increment of all existing districts in the village, other than Tax Incremental District Number 2; and 1.33 times the tax incremental base of Tax Incremental District Number 2.

2. If the village would like to amend the project plan of an existing district to add territory to that district, the sum of the following amounts may not exceed 12 percent of the total equalized value of taxable property within the village: the equalized value of the taxable property to be added to the district; the value increment of all existing districts in the village, other than Tax Incremental District Number 2; and 1.33 times the tax incremental base of Tax Incremental District Number 2.

(18) MULTIJURISDICTIONAL DISTRICTS. (a) *Requirements.* Two or more cities may enter into an intergovernmental cooperation agreement under s. 66.0301 to jointly create a multijurisdictional tax incremental district under this section if all of the following apply:

1. The district's borders contain territory in all of the cities that are a party to the agreement.

2. The district is contiguous.

3. At least one parcel in each participating city touches at least one parcel in at least one of the other cities.

(b) *Contents of an agreement.* The agreement described under par. (a) shall contain provisions that specify at least all of the fol-

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lowing with regard to the proposed multijurisdictional tax incremental district:

1. A detailed description of how all of the participating cities will be able to exercise the powers authorized under sub. (3) and meet the requirements under sub. (4).

2. A detailed description of how determinations will be made that relate to incurring debt, expending funds for project costs, and distributing positive tax increments allocated by the department of revenue.

3. The extent to which one of the cities will be authorized by all of the other participating cities to act on behalf of all of the participating cities on some or all matters relating to the district.

4. A binding dispute resolution procedure to be used by the cities to resolve in a timely fashion any disputes between the participating cities related to the agreement or to the district. The dispute resolution procedure shall include a dissolution provision that allows all of the participating cities to agree to jointly dissolve the district at any time before a dispute is settled by the binding dispute resolution procedure and before the district would otherwise terminate under sub. (7). The dissolution provision shall describe in detail how and under what circumstances the district may be dissolved before it would otherwise terminate under sub. (7) and shall specify how the district's assets, liabilities, and any other outstanding obligations will be distributed among the participating cities.

5. A detailed description of the proposed membership of the joint review board.

6. A detailed description of the responsibilities of each city's planning commission, the membership and authority of the planning commission for the district, and the operating procedures to be followed by the district's planning commission.

7. A detailed description of the responsibilities of each city's clerk, treasurer, assessor, and any other officer or official to carry out the requirements of this section, and a detailed description of which clerk, treasurer, assessor, officer, or official will be responsible for each task specified in this section.

8. Which city will be the lead city for purposes of completing any documents or tasks that this section or the department of revenue require to be completed, which city will be responsible for submitting the district's creation documents, and which city will be responsible for submitting the district's project plan amendment documents.

9. That all of the participating cities agree that the district's application will be submitted in its entirety as one complete application by the lead city, as determined by the department of revenue.

10. Consistent with the requirements of sub. (7), a statement that the entire district will terminate at one time as a single entity and that the lead city shall submit to the department of revenue all necessary notices and reports relating to the termination of the district.

11. A detailed description of the procedures the participating cities will follow to determine all of the following:

a. Whether the district's life may be extended under sub. (6) (g) 1. or (7) (am) 2. or 3.

b. How the project plan or boundaries of the district may be amended under sub. (4) (h) 1. or 2.

12. A description of how any annexation costs incurred by a participating city under s. 66.0219 (10) (a) 1. will be shared among all of the participating cities if the annexed territory is part of the district.

(c) *Limitations.* 1. Notwithstanding the provisions under sub. (6) (d), (dm), (e), or (f), a multijurisdictional tax incremental district may not become a donor district, or receive tax increments from a donor district.

2. Notwithstanding the provisions under sub. (2) (f) 1. k., m., and n., a multijurisdictional tax incremental district may not incur project costs for any area that is outside of the district's boundaries.

3. The 12 percent limit findings requirement under sub. (4) (gm) 4. c. apply on an aggregate basis to all cities that are part of a multijurisdictional district except, for one or more of the participating cities in the multijurisdictional district, the part of the district that is in an individual city may cause that city to exceed the 12 percent limit if the governing bodies of all the taxation districts that overlay that city adopt a resolution approving the creation of the district even though that city exceeds the 12 percent limit.

4. No town may be part of a multijurisdictional tax incremental district.

(d) *Role of the department of revenue.* The department of revenue may require each participating city to submit any forms prescribed by the department without regard to whether a particular city is the lead city as described under par. (b) 8. and without regard to the responsibility of each participating city as specified in the agreement described under par. (a).

(e) *Miscellaneous provisions.* 1. A copy of the agreement described under par. (a), as signed by all of the participating cities, shall be forwarded to the department of revenue by the lead city as described under par. (b) 8.

2. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one fee under sub. (5) (a) for each action taken by the department under that paragraph for such a district. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for any fees imposed by the department under sub. (5) (a).

3. Without regard to the number of participating cities in the multijurisdictional tax incremental district, the department of revenue may impose only one annual administrative fee described in sub. (6) (ae) in the amount specified in that paragraph. Unless the agreement under par. (a) provides otherwise, the lead city, as described under par. (b) 8., is responsible for the annual fee and shall submit it to the department.

NOTE: Sub. (18) is created eff. 10−1−12 by 2011 Wis. Act 77.

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 336; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5, 11, 16, 104; 2003 a. 34, 46, 126, 127, 194, 320, 326; 2005 a. 6, 13, 46, 328, 331, 385; 2007 a. 2, 10, 21, 41, 43, 57, 73, 96; 2009 a. 5, 28, 67, 170, 176, 310, 312; 2011 a. 10, 12, 32, 40, 41, 77, 137, 139; 2011 a. 260 s. 81; s. 13.92 (1) (bm) 2., (2) (i).

The tax increment law constitutionally authorizes financing of described public improvements, but does not authorize acquisition of private property by condemnation. Sigma Tau Gamma Fraternity House v. Menomonie, 93 Wis. 2d 392, 288 N.W.2d 85 (1980).

TIF bonds that a city proposed to issue under this section constituted debt under Art. XI, s. 3 and are subject to its debt limits. City of Hartford v. Kirley, 172 Wis. 2d 191, 493 N.W.2d 45 (1992).

Whether the city appropriately determined the project costs under sub. (2) (f) 1. is not a relevant consideration for the joint review board under sub. (4m) (c) 1. The joint review board generally considers the benefits and costs of the TIF district. A failure to consider whether the project plan should include the cost of improving areas outside the TIF district is not grounds for invalidating the board's decision. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−0201.

While sub. (4m) (c) 1. directs the joint review board to consider whether the development expected in the TIF district would occur without the use of tax incremental financing, it does not follow that the joint review board is barred from approving a TIF district if there is any land within the district that would have otherwise been developed. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−0201.

TIF districts can be created or amended without notice to or input from towns that adjoin the creating municipality. Although property taxpayers in adjoining towns that lie within the same overlying taxing districts are arguably affected when TIF districts are created or amended, the towns themselves are not, and lack legally protected interests at stake in the amendment of the TIF district. Consequently, towns lack standing to challenge the creation of a TIF district by an adjoining municipality. Town of Baraboo v. Village of West Baraboo, 2005 WI App 96, 283 Wis. 2d 479, 699 N.W.2d 610, 04−0980.

A city may lawfully agree to cooperate with a business venture in an effort to create a TIF district as long as it is clear from the agreement that all applicable laws and procedures are to be followed. The city is not bound until the common council votes to approve the agreement. Town of Brockway v. City of Black River Falls, 2005 WI App 174, 285 Wis. 2d 708, 702 N.W.2d 418, 04−2916.

Tax increment law appears constitutional on its face. 65 Atty. Gen. 194.

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A joint review board created under sub. (4m) may conclude that an amendment to a tax incremental district (TID) to provide for payment of already−scheduled street paving work is appropriate for inclusion as proposed project costs. The board could also approve actual street paving expenditures incurred outside of a TID and within a one−half mile radius of the TID's boundaries, if the expenditures are in accordance with the approved project plan. OAG 6−11.

A Modest Proposal: Eliminating Blight, Abolishing But−For, and Putting New Purpose in Wisconsin's Tax Increment Finance Law. Farwell. 89 MLR 407 (2005).

Developer−Funded Tax Incremental Financing: Promoting Development Without Breaking the Bank. Ishikawa. Wis. Law. May 2006.

66.1106 Environmental remediation tax incremental financing. (1) DEFINITIONS. In this section:

(a) "Chief executive officer" means the mayor or city manager of a city, the village president of a village, the town board chairperson of a town or the county executive of a county or, if the county does not have a county executive, the chairperson of the county board of supervisors.

(b) "Department" means the department of revenue.

(be) "District" means an environmental remediation tax incremental district created under this section that consists of the parcels of property described in a written proposal developed under sub. (2) (a) that is approved by a joint review board under sub. (3).

(c) "Eligible costs" means capital costs, financing costs, and administrative and professional service costs, incurred or estimated to be incurred by a political subdivision, for the investigation, removal, containment, or monitoring of, or the restoration of soil, air, surface water, sediments, or groundwater affected by, environmental pollution, including monitoring costs, cancellation of delinquent taxes if the political subdivision demonstrates that it has not already recovered such costs by any other means, property acquisition costs, demolition costs including asbestos removal, and removing and disposing of underground storage tanks or abandoned containers, as defined in s. 292.41 (1). For any parcel of land "eligible costs" shall be reduced by any amounts received from persons responsible for the discharge, as defined in s. 292.01 (3), of a hazardous substance on the property to pay for the costs of remediating environmental pollution on the property, by any amounts received, or reasonably expected by the political subdivision to be received, from a local, state, or federal program for the remediation of contamination in the district that do not require reimbursement or repayment, and by the amount of net gain from the sale of the property by the political subdivision. "Eligible costs" associated with groundwater affected by environmental pollution include investigation and remediation costs for groundwater that is located in, and extends beyond, the property that is being remediated.

(d) "Environmental pollution" has the meaning given in s. 292.01 (4), except that "environmental pollution" does not include any damage caused by runoff from land under agricultural use.

(e) "Environmental remediation tax increment" means that amount obtained by multiplying the total city, county, school, and other local general property taxes levied on taxable property in a year by a fraction having as a numerator the environmental remediation value increment for that year in such district and as a denominator that year's equalized value of that taxable property. In any year, an environmental remediation tax increment is "positive" if the environmental remediation value increment is positive; it is "negative" if the environmental remediation value increment is negative.

(f) "Environmental remediation tax incremental base" means the aggregate value, as equalized by the department, of taxable property that is certified under this section as of the January 1 preceding the date on which the environmental remediation tax incremental district is created, as determined under sub. (1m) (b).

(fm) "Environmental remediation tax incremental district" means a contiguous geographic area within a political subdivision defined and created by resolution of the governing body of the political subdivision consisting solely of whole units of property as are assessed for general property tax purposes, other than railroad rights−of−way, rivers, or highways. Railroad rights−of−way, rivers, or highways may be included in an environmental remediation tax incremental district only if they are continuously bounded on either side, or on both sides, by whole units of property as are assessed for general property tax purposes which are in the environmental remediation tax incremental district. "Environmental remediation tax incremental district" does not include any area identified as a wetland on a map under s. 23.32.

(g) "Environmental remediation value increment" means the equalized value of taxable property that is certified under this section minus the environmental remediation tax incremental base. In any year, the environmental remediation value increment is "positive" if the environmental remediation tax incremental base of the taxable property is less than the aggregate value of the taxable property as equalized by the department; it is "negative" if that base exceeds that aggregate value.

(h) "Hazardous substance" has the meaning given in s. 292.01 (5).

(i) "Period of certification" means a period of not more than 23 years beginning after the department certifies the environmental remediation tax incremental base under sub. (4), a period before all eligible costs have been paid, or a period before all eligible costs of a recipient district designated under sub. (2) (c) have been paid, whichever occurs first.

(j) "Political subdivision" means a city, village, town or county.

(je) "Project expenditures" means eligible costs and other costs incurred by a political subdivision to create and operate an environmental remediation tax incremental district.

(k) "Taxable property" means all real and personal taxable property located in an environmental remediation tax incremental district.

(1m) CREATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL DISTRICTS. In order to implement the provisions of this section, the governing body of the political subdivision shall adopt a resolution which does all of the following:

(a) Describes the boundaries of an environmental remediation tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included within the district.

(b) Creates the district as of January 1 of the same calendar year for a resolution adopted before October 1 or as of January 1 of the next subsequent calendar year for a resolution adopted after September 30.

(2) USE OF ENVIRONMENTAL REMEDIATION TAX INCREMENTS. (a) A political subdivision that develops, and whose governing body approves, a written proposal to remediate environmental pollution may use an environmental remediation tax increment to pay the eligible costs of remediating environmental pollution on contiguous parcels of property that are located in an environmental remediation tax incremental district within the political subdivision and that are not part of a tax incremental district created under s. 66.1105, as provided in this section, except that a political subdivision may use an environmental remediation tax increment to pay the cost of remediating environmental pollution of groundwater without regard to whether the property above the groundwater is owned by the political subdivision. No political subdivision may submit an application to the department under sub. (4) until the joint review board approves the political subdivision's written proposal under sub. (3).

(b) No expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by the department under sub. (4).

(c) Notwithstanding par. (a) or (b), or sub. (7) (d) 1. or (11) (a), if the governing body of a political subdivision determines that all eligible costs of an environmental remediation tax incremental district that it created will be paid before the date specified in sub. (11) (b), the governing body of that political subdivision may adopt a resolution requesting that the department allocate positive

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environmental remediation tax increments generated by that donor environmental remediation tax incremental district to pay the eligible costs of another environmental remediation tax incremental district created by that governing body. A resolution under this paragraph must be adopted before the expiration of the period of certification.

(3) JOINT REVIEW BOARD. (a) Any political subdivision that seeks to use an environmental remediation tax increment under sub. (2) shall convene a joint review board to review the proposal. The board shall consist of one representative chosen by the school district that has power to levy taxes on the property that is remediated, one representative chosen by the technical college district that has power to levy taxes on the property, one representative chosen by the county that has power to levy taxes on the property that is remediated, one representative chosen by the city, village or town that has power to levy taxes on the property that is remediated and one public member. If more than one city, village or town, more than one school district, more than one technical college district or more than one county has the power to levy taxes on the property that is remediated, the unit in which is located property that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members at the board's first meeting. All board members shall be appointed and the first board meeting held within 14 days after the political subdivision's governing body approves the written proposal under sub. (2). Additional meetings of the board shall be held upon the call of any member. The political subdivision that seeks to act under sub. (2) shall provide administrative support for the board. By majority vote, the board may disband following approval or rejection of the proposal.

(b) 1. The board shall review the written proposal and the statement described under sub. (4) (a). As part of its deliberations the board may hold additional hearings on the proposal.

2. No written application may be submitted under sub. (4) unless the board approves the written proposal under sub. (2) by a majority vote not less than 10 days nor more than 30 days after receiving the proposal.

3. The board shall submit its decision to the political subdivision no later than 7 days after the board acts on and reviews the written proposal.

(c) 1. The board shall base its decision to approve or deny a proposal on the following criteria:

a. Whether the development expected in the remediated property would occur without the use of environmental remediation tax incremental financing.

b. Whether the economic benefits of the remediated property, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.

c. Whether the benefits of the proposal outweigh the anticipated environmental remediation tax increments to be paid by the owners of property in the overlying taxing districts.

2. The board shall issue a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(d) If a joint review board convened by a city or village under s. 66.1105 (4m) is in existence when a city or village seeks to act under this section, the city or village may require the joint review board convened under s. 66.1105 (4m) to exercise the functions of a joint review board that could be convened under this subsection.

(4) CERTIFICATION. Upon written application to the department of revenue by the clerk of a political subdivision on or before December 31 of the same calendar year for an environmental remediation tax incremental district created before October, as determined under sub. (1m) (b), or December 31 of the subsequent calendar year for an environmental remediation tax incremental district created after September 30, the department of revenue shall certify to the clerk of the political subdivision the environmental remediation tax incremental base if all of the following apply:

(a) The political subdivision submits a statement that it has incurred some eligible costs, and includes with the statement a detailed proposed remedial action plan approved by the department of natural resources that contains cost estimates for anticipated eligible costs and a schedule for the design, implementation and construction that is needed to complete the remediation, with respect to the parcel or contiguous parcels of property and the statement details the purpose and amount of the expenditures already made and includes a dated certificate issued by the department of natural resources that certifies that the department of natural resources has approved the site investigation report that relates to the parcel or contiguous parcels in accordance with rules promulgated by the department of natural resources.

(b) The political subdivision submits a statement that all taxing jurisdictions with the authority to levy general property taxes on the parcel or contiguous parcels of property have been notified that the political subdivision intends to recover the costs of remediating environmental pollution on the property and have been provided a statement of the estimated costs to be recovered.

(c) The political subdivision submits a statement, signed by its chief executive officer, that the political subdivision has attempted to recover the cost of remediating environmental pollution on the property from the person who caused the environmental pollution.

(d) The political subdivision completes and submits all forms required by the department that relate to the determination of the environmental remediation tax incremental base.

(5) DESIGNATION ON ASSESSMENT AND TAX ROLLS. The assessor of a taxation district shall identify on the assessment roll returned and examined under s. 70.45 those parcels of property that have been certified under sub. (4) during the period of certification. The clerk of a taxation district shall make a similar notation on the tax roll under s. 70.65.

(6) NOTICE TO TAXING JURISDICTIONS. During the period of certification, the department shall annually give notice to the designated finance officer of all taxing jurisdictions having the power to levy general taxes on property that is certified under sub. (4) of the equalized value of that property and the environmental remediation tax incremental base of that property. The notice shall explain that the environmental remediation tax increment shall be paid to the political subdivision as provided under sub. (8) from the taxes collected.

(7) ENVIRONMENTAL REMEDIATION TAX INCREMENTS AUTHORIZED. (a) Subject to pars. (am), (b), (c), (d), and (e), the department shall annually authorize the positive environmental remediation tax increment with respect to a parcel or contiguous parcels of property during the period of certification to the political subdivision that incurred the costs to remediate environmental pollution on the property, except that an authorization granted under this paragraph does not apply after the department receives the notice described under sub. (10) (b).

(am) With regard to each district for which the department authorizes the allocation of a tax increment under par. (a), the department shall charge the political subdivision that created the district an annual administrative fee of $150 that the political subdivision shall pay to the department no later than May 15. If the political subdivision does not pay the fee that is required under this paragraph, by May 15, the department may not authorize the allocation of a tax increment under par. (a) for that political subdivision.

(b) The department may authorize a positive environmental remediation tax increment under par. (a) only if the political subdivision submits to the department all information required by the department on or before the 2nd Monday in June of the year to which the authorization relates.

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(c) If the department receives the notice described under sub. (10) (b) during the period from January 1 to May 15, the effective date of the notice is the date on which the notice is received. If the department receives the notice described under sub. (10) (b) during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the date on which the notice is received.

(d) 1. The department may not authorize a positive environmental remediation tax increment under par. (a) to pay otherwise eligible costs that are incurred by the political subdivision after the department of natural resources certifies to the department of revenue that environmental pollution on the parcel or contiguous parcels of property has been remediated unless the costs are associated with activities, as determined by the department of natural resources, that are necessary to close the site described in the site investigation report.

2. The department of natural resources shall certify to the department of revenue the completion of the remediation of environmental pollution at the site described in the site investigation report.

(e) Notwithstanding par. (d), if the governing body of a political subdivision adopts a resolution described in sub. (2) (c), it shall provide a copy of the resolution to the department. The department shall authorize a positive environmental remediation tax increment generated by a donor district, as described in sub. (2) (c), to the political subdivision that incurred eligible costs to remediate environmental pollution in another district within that political subdivision, as described in sub. (2) (c), until the earlier of the following occurs:

1. The political subdivision has received aggregate environmental remediation tax increments with respect to the recipient district in an amount equal to the aggregate of all of the eligible costs for that district.

2. The donor district terminates under sub. (11) (b).

(8) SETTLEMENT FOR ENVIRONMENTAL REMEDIATION TAX INCREMENTS. Every officer charged by law to collect and settle general property taxes shall, on the settlement dates provided by law, pay to the treasurer of a political subdivision from all general property taxes collected by the officer the proportion of the environmental remediation tax increment due the political subdivision that the general property taxes collected bears to the total general property taxes levied, exclusive of levies for state trust fund loans, state taxes and state special charges.

(9) SEPARATE ACCOUNTING REQUIRED. An environmental remediation tax increment received with respect to a parcel or contiguous parcels of land that is subject to this section shall be deposited in a separate fund by the treasurer of the political subdivision. No money may be paid out of the fund except to pay eligible costs for a parcel or contiguous parcels of land or to reimburse the political subdivision for such costs. If an environmental remediation tax increment that has been collected with respect to a parcel of land remains in the fund after the period of certification has expired, it shall be paid to the treasurers of the taxing jurisdictions in which the parcel is located in proportion to the relative share of those taxing jurisdictions in the most recent levy of general property taxes on the parcel.

(10) REPORTING REQUIREMENTS; NOTICE OF DISTRICT TERMINATION. A political subdivision that uses an environmental remediation tax increment to pay eligible costs of remediating environmental pollution under this section shall do all of the following:

(a) Prepare and make available to the public updated annual reports describing the status of all projects to remediate environmental pollution funded under this section, including revenues and expenditures. A copy of the report shall be sent to all taxing jurisdictions with authority to levy general property taxes on the parcel or contiguous parcels of property by May 1 annually.

(b) Notify the department within 10 days after the period of certification for a parcel or contiguous parcels of property has expired.

(c) With regard to an environmental remediation tax incremental district, not later than 12 months after the last expenditure is made or not later than 12 months after an expenditure may be made under sub. (2) (b), whichever comes first, prepare and make available to the public a report that is similar to the report required under par. (a), except that the report required under this paragraph shall also include an independent certified audit of the project to determine if all financial transactions were made in a legal manner and to determine if the environmental remediation tax incremental district complied with this section. A copy of the report shall be sent out to all taxing jurisdictions which received the reports under par. (a).

(d) Not later than 180 days after an environmental remediation tax incremental district terminates under sub. (11), provide the department with all of the following on a form that is prescribed by the department:

1. A final accounting of project expenditures that are made for the environmental remediation tax incremental district.

2. The final amount of eligible costs that have been paid for the environmental remediation tax incremental district.

3. The total amount of environmental remediation tax increments that have been paid to the political subdivision.

(e) If a political subdivision does not send to the department of revenue the form specified in par. (d) within the time limit specified in par. (d), the department may not certify the environmental remediation tax incremental base of a district under sub. (4) until the form is sent to the department.

(11) TERMINATION OF ENVIRONMENTAL REMEDIATION TAX INCREMENTAL DISTRICTS. An environmental remediation tax incremental district terminates when the earliest of the following occurs:

(a) Except as provided in sub. (2) (c), the political subdivision has received aggregate environmental remediation tax increments with respect to the district in an amount equal to the aggregate of all eligible costs.

(b) Twenty−three years after the department certifies the environmental remediation tax incremental base of a parcel or contiguous parcels of property under sub. (4).

(c) The political subdivision's legislative body, by resolution, dissolves the district. Upon dissolving the district, the political subdivision becomes liable for all unpaid eligible costs actually incurred which are not paid from the separate fund under sub. (9).

(12) (a) NOTICE OF DISTRICT TERMINATION. A political subdivision that creates an environmental remediation tax incremental district under this section shall give the department written notice within 10 days of the termination of the environmental remediation tax incremental district under sub. (11).

(b) If the department receives a notice under par. (a) during the period from January 1 to May 15, the effective date of the notice is the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice is the first January 1 after the department receives the notice.

(13) PAYMENT OF ELIGIBLE COSTS FOR ANNEXED TERRITORY, REDETERMINATION OF TAX INCREMENTAL BASE; FEES. (a) If a city or village annexes territory from a town and if the town is using an environmental remediation tax increment to remediate environmental pollution on all or part of the territory that is annexed, the city or village shall pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, shall negotiate an agreement on the amount that must be paid under this subsection. The department shall redetermine the environmental remediation tax incremental base of any parcel of real property for which the environmental remediation tax incremental base was determined under sub. (4) if part of that parcel is annexed under this subsection.

(b) The department may impose a fee of $1,000 on a political subdivision to determine or redetermine the environmental reme-

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diation tax incremental base of an environmental remediation tax incremental district under this subsection or sub. (4).

(14) SUBTRACTING TERRITORY FROM A DISTRICT. (a) If the department has certified before January 2, 2001, the environmental remediation tax incremental base of a district that is created by a town, the town may modify the district's boundaries, not more than once during the period of certification, by subtracting territory from the district, if all of the following apply:

1. Before October 2, 2006, the town adopts an amendment to the proposal adopted under sub. (2) (a), which modifies the district's boundaries. The amendment shall specify the parcel that is to be subtracted from the district.

2. The parcels in the district, after subtracting the parcel described in subd. 1., remain contiguous.

3. A joint review board, following the procedures in sub. (3), approves the amendment.

(b) If a town subtracts territory from a district by acting under par. (a) and submits a written application to the department under sub. (4), the department shall redetermine the environmental remediation tax incremental base of the district as of January 1, 2006.

History: 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 473 to 478; Stats. 1999 s. 66.1106; 1999 a. 185 s. 59; 2003 a. 126; 2005 a. 246, 418; 2009 a. 28, 66, 312; 2011 a. 260.

66.1107 Reinvestment neighborhoods. (1) DEFINITIONS. In this section:

(a) An "area in need of rehabilitation" is a neighborhood or area in which buildings, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; in which these conditions impair the economic value of the neighborhood or area, infecting it with economic blight, and which is characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; in which the existence of these conditions and the failure to rehabilitate the buildings results in a loss of population from the neighborhood or area and further deterioration, accompanied by added costs for creation of new public facilities and services elsewhere; in which it is difficult and uneconomic for individual owners independently to undertake to remedy the conditions; in which it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the rehabilitation of the buildings; and in which the presence of these buildings and conditions has resulted, among other consequences, in a severe shortage of financial resources available to finance the purchase and rehabilitation of housing and an inability or unwillingness on the part of private lenders to make loans for and an inability or unwillingness on the part of present and prospective owners of housing to invest in the purchase and rehabilitation of housing in the neighborhood or area.

(b) "Local legislative body" means the common council, village board of trustees or town board of supervisors.

(c) "Municipality" means a city, village or town.

(d) "Planning commission" means a plan commission created under s. 62.23 or a plan committee of the local legislative body.

(e) "Reinvestment neighborhood or area" means a geographic area within any municipality not less than one−half of which, by area, meets 3 of the 5 following conditions:

1. It is an area in need of rehabilitation as defined in par. (a).

2. It has a rate of owner−occupancy of residential buildings substantially below the average rate for the municipality as a whole.

3. It is an area within which the market value of residential property, as measured by the rate of change during the preceding 5 years in the average sale price of residential property, has decreased or has increased at a rate substantially less than the rate of increase in average sale price of residential property in the municipality as a whole.

4. It is an area within which the number of persons residing has decreased during the past 5 years, or in which the number of persons residing has increased during that period at a rate substantially less than the rate of population increase in the municipality as a whole.

5. It is an area within which the effect of existing detrimental conditions is to discourage private lenders from making loans for and present or prospective property owners from investing in the purchase and rehabilitation of housing.

(2) DESIGNATION OF REINVESTMENT NEIGHBORHOODS OR AREAS. A municipality may designate reinvestment neighborhoods or areas after complying with the following steps:

(a) Holding of a public hearing by the planning commission or by the local governing body at which interested parties are afforded a reasonable opportunity to express their views on the proposed designation and boundaries of a reinvestment neighborhood or area. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Before publication, a copy of the notice shall be sent by 1st class mail to the Wisconsin Housing and Economic Development Authority, and a copy shall be posted in each school building and in at least 3 other places of public assembly within the reinvestment neighborhood or area proposed to be designated.

(b) Designation by the planning commission of the boundaries of a reinvestment neighborhood or area recommended by it to be designated and submission of the recommendation to the local legislative body.

(c) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries of a reinvestment neighborhood or area with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the neighborhood or area. The boundaries may, but need not, be the same as those recommended by the planning commission.

2. Designates the reinvestment neighborhood or area as of a date provided in the resolution.

3. Contains findings that the area to be designated constitutes a reinvestment neighborhood or area.

History: 1977 c. 418; 1979 c. 361 s. 112; 1985 a. 29 s. 3200 (14); 1999 a. 150 s. 479; Stats. 1999 s. 66.1107; 2001 a. 104.

66.1109 Business improvement districts. (1) In this section:

(a) "Board" means a business improvement district board appointed under sub. (3) (a).

(b) "Business improvement district" means an area within a municipality consisting of contiguous parcels and may include railroad rights−of−way, rivers, or highways continuously bounded by the parcels on at least one side, and shall include parcels that are contiguous to the district but that were not included in the original or amended boundaries of the district because the parcels were tax−exempt when the boundaries were determined and such parcels became taxable after the original or amended boundaries of the district were determined.

(c) "Chief executive officer" means a mayor, city manager, village president or town chairperson.

(d) "Local legislative body" means a common council, village board of trustees or town board of supervisors.

(e) "Municipality" means a city, village or town.

(f) "Operating plan" means a plan adopted or amended under this section for the development, redevelopment, maintenance, operation and promotion of a business improvement district, including all of the following:

1. The special assessment method applicable to the business improvement district.

1m. Whether real property used exclusively for manufacturing purposes will be specially assessed.

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2. The kind, number and location of all proposed expenditures within the business improvement district.

3. A description of the methods of financing all estimated expenditures and the time when related costs will be incurred.

4. A description of how the creation of the business improvement district promotes the orderly development of the municipality, including its relationship to any municipal master plan.

5. A legal opinion that subds. 1. to 4. have been complied with.

(g) "Planning commission" means a plan commission under s. 62.23, or if none a board of public land commissioners, or if none a planning committee of the local legislative body.

(2) A municipality may create a business improvement district and adopt its operating plan if all of the following are met:

(a) An owner of real property used for commercial purposes and located in the proposed business improvement district designated under par. (b) has petitioned the municipality for creation of a business improvement district.

(b) The planning commission has designated a proposed business improvement district and adopted its proposed initial operating plan.

(c) At least 30 days before creation of the business improvement district and adoption of its initial operating plan by the municipality, the planning commission has held a public hearing on its proposed business improvement district and initial operating plan. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication, a copy of the notice together with a copy of the proposed initial operating plan and a copy of a detail map showing the boundaries of the proposed business improvement district shall be sent by certified mail to all owners of real property within the proposed business improvement district. The notice shall state the boundaries of the proposed business improvement district and shall indicate that copies of the proposed initial operating plan are available from the planning commission on request.

(d) Within 30 days after the hearing under par. (c), the owners of property to be assessed under the proposed initial operating plan having a valuation equal to more than 40% of the valuation of all property to be assessed under the proposed initial operating plan, using the method of valuation specified in the proposed initial operating plan, or the owners of property to be assessed under the proposed initial operating plan having an assessed valuation equal to more than 40% of the assessed valuation of all property to be assessed under the proposed initial operating plan, have not filed a petition with the planning commission protesting the proposed business improvement district or its proposed initial operating plan.

(e) The local legislative body has voted to adopt the proposed initial operating plan for the municipality.

(3) (a) The chief executive officer shall appoint members to a business improvement district board to implement the operating plan. Board members shall be confirmed by the local legislative body and shall serve staggered terms designated by the local legislative body. The board shall have at least 5 members. A majority of board members shall own or occupy real property in the business improvement district.

(b) The board shall annually consider and may make changes to the operating plan, which may include termination of the plan, for its business improvement district. The board shall then submit the operating plan to the local legislative body for its approval. If the local legislative body disapproves the operating plan, the board shall consider and may make changes to the operating plan and may continue to resubmit the operating plan until local legislative body approval is obtained. Any change to the special assessment method applicable to the business improvement district shall be approved by the local legislative body.

(c) The board shall prepare and make available to the public annual reports describing the current status of the business improvement district, including expenditures and revenues. The report shall include an independent certified audit of the implementation of the operating plan obtained by the municipality. The municipality shall obtain an additional independent certified audit upon termination of the business improvement district.

(d) Either the board or the municipality, as specified in the operating plan as adopted, or amended and approved under this section, has all powers necessary or convenient to implement the operating plan, including the power to contract.

(4) All special assessments received from a business improvement district and all other appropriations by the municipality or other moneys received for the benefit of the business improvement district shall be placed in a segregated account in the municipal treasury. No disbursements from the account may be made except to reimburse the municipality for appropriations other than special assessments, to pay the costs of audits required under sub. (3) (c) or on order of the board for the purpose of implementing the operating plan. On termination of the business improvement district by the municipality, all moneys collected by special assessment remaining in the account shall be disbursed to the owners of specially assessed property in the business improvement district, in the same proportion as the last collected special assessment.

(4m) A municipality shall terminate a business improvement district if the owners of property assessed under the operating plan having a valuation equal to more than 50% of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, or the owners of property assessed under the operating plan having an assessed valuation equal to more than 50% of the assessed valuation of all property assessed under the operating plan, file a petition with the planning commission requesting termination of the business improvement district, subject to all of the following conditions:

(a) A petition may not be filed under this subsection earlier than one year after the date the municipality first adopts the operating plan for the business improvement district.

(b) On and after the date a petition is filed under this subsection, neither the board nor the municipality may enter into any new obligations by contract or otherwise to implement the operating plan until the expiration of 30 days after the date of hearing under par. (c) and unless the business improvement district is not terminated under par. (e).

(c) Within 30 days after the filing of a petition under this subsection, the planning commission shall hold a public hearing on the proposed termination. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication, a copy of the notice together with a copy of the operating plan and a copy of a detail map showing the boundaries of the business improvement district shall be sent by certified mail to all owners of real property within the business improvement district. The notice shall state the boundaries of the business improvement district and shall indicate that copies of the operating plan are available from the planning commission on request.

(d) Within 30 days after the date of hearing under par. (c), every owner of property assessed under the operating plan may send written notice to the planning commission indicating, if the owner signed a petition under this subsection, that the owner retracts the owner's request to terminate the business improvement district, or, if the owner did not sign the petition, that the owner requests termination of the business improvement district.

(e) If after the expiration of 30 days after the date of hearing under par. (c), by petition under this subsection or subsequent notification under par. (d), and after subtracting any retractions under par. (d), the owners of property assessed under the operating plan having a valuation equal to more than 50% of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, or the owners of property assessed under the operating plan having an assessed valuation equal to more than 50% of the assessed valuation of all property assessed under the operating plan, have requested the

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termination of the business improvement district, the municipality shall terminate the business improvement district on the date that the obligation with the latest completion date entered into to implement the operating plan expires.

(5) (a) Real property used exclusively for residential purposes and real property that is exempted from general property taxes under s. 70.11 may not be specially assessed for purposes of this section.

(b) A municipality may terminate a business improvement district at any time.

(c) This section does not limit the power of a municipality under other law to regulate the use of or specially assess real property.

History: 1983 a. 184; 1989 a. 56 s. 258; 1999 a. 150 s. 539; Stats. 1999 s. 66.1109; 2001 a. 85.

66.1110 Neighborhood improvement districts. (1) In this section:

(a) "Board" means a neighborhood improvement district board elected under sub. (4) (a).

(b) "Chief executive officer" means a mayor, city manager, village president, or town chairperson.

(c) "Local legislative body" means a common council, village board of trustees, or town board of supervisors.

(d) "Municipality" means a city, village, or town.

(e) "Neighborhood improvement district" means an area within a municipality consisting of nearby but not necessarily contiguous parcels, at least some of which are used for residential purposes and are subject to general real estate taxes, and property that is acquired and owned by the board if the local legislative body approved acquisition of the property under sub. (4) (d) as part of its approval of the initial operating plan under sub. (3) (e).

(f) "Operating plan" means a plan adopted or amended under this section for the development, redevelopment, maintenance, operation, and promotion of a neighborhood improvement district.

(g) "Owner" means the owner of real property that is located within the boundaries, or the proposed boundaries, of a neighborhood improvement district.

(h) "Planning commission" means a plan commission under s. 62.23 or, if none exists, a board of public land commissioners or, if none exists, a planning committee of the local legislative body.

(2) An operating plan shall include at least all of the following elements:

(a) The special assessment method applicable to the neighborhood improvement district.

(b) The kind, number, and location of all proposed expenditures within the neighborhood improvement district.

(c) A description of the methods of financing all estimated expenditures and the time when related costs will be incurred.

(d) A description of how the creation of the neighborhood improvement district promotes the orderly development of the municipality, including its relationship to any municipal master plan.

(e) A statement as to whether the local legislative body authorizes the board to own real property and, if so, a description of the real property to be owned, the purpose of the ownership, and a statement of to whom the real property will be transferred if the neighborhood improvement district is terminated.

(f) A legal opinion that pars. (a) to (e) have been complied with.

(3) A municipality may create a neighborhood improvement district and adopt its operating plan if all of the following conditions are met:

(a) An owner of real property subject to general real estate taxes and located in the proposed neighborhood improvement district designated under par. (b) has petitioned the municipality for creation of a neighborhood improvement district.

(b) The planning commission has designated a proposed neighborhood improvement district and adopted its proposed initial operating plan.

(c) At least 30 days before creation of the neighborhood improvement district and adoption of its initial operating plan by the municipality, the planning commission has held a public hearing on its proposed neighborhood improvement district and initial operating plan. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication, a copy of the notice, together with a copy of the proposed initial operating plan and a copy of a detail map showing the boundaries of the proposed neighborhood improvement district, shall be sent by certified mail to all owners of real property within the proposed neighborhood improvement district. The notice shall state the boundaries of the proposed neighborhood improvement district and shall indicate that copies of the proposed initial operating plan are available from the planning commission on request.

(d) Within 30 days after the hearing under par. (c), one of the following has not filed a petition with the planning commission protesting the proposed neighborhood improvement district or its proposed initial operating plan:

1. The owners of property to be assessed under the proposed initial operating plan having a valuation equal to more than 40 percent of the valuation of all property to be assessed under the proposed initial operating plan, using the method of valuation specified in the proposed initial operating plan.

2. The owners of property to be assessed under the proposed initial operating plan having an assessed valuation equal to more than 40 percent of the assessed valuation of all property to be assessed under the proposed initial operating plan.

(e) The local legislative body has voted to adopt the proposed initial operating plan for the neighborhood improvement district. The local legislative body shall publish a class 2 notice under ch. 985 regarding the meeting at which the local legislative body will vote on whether to adopt the proposed initial operating plan for the neighborhood improvement district. Before publication, a copy of the notice shall be sent by certified mail to all owners of real property within the proposed neighborhood improvement district.

(4) (a) 1. If the local legislative body adopts the proposed initial operating plan under sub. (3) (e), it shall determine the size of board, which shall consist of at least 5 members, all of whom shall own or occupy real property in the neighborhood improvement district.

2. The number of board members who represent commercial and residential property, respectively, shall be set by the local legislative body, as closely as possible, in the same proportion as is the aggregate valuation of commercial property in the neighborhood improvement district to the total assessed value of all property in the district, and the aggregate valuation of residential property in the district to the total assessed value of all property in the district.

3. The local legislative body shall set the time and place for a meeting at which members of the board will be elected, and shall publish a class 2 notice under ch. 985 that contains this information. The notice shall specify that all individuals who either own or occupy real property within the neighborhood improvement district are eligible to serve on the board and vote at the election.

4. At the meeting, the individuals who own or occupy real property shall be divided into 2 groups. One group shall consist of those individuals who own or occupy commercial property, and one group shall consist of those individuals who own or occupy residential property. Each group shall elect from among its members the number of board members set to represent its group by the local legislative body under subd. 2.

5. Board members elected under subd. 4. shall serve a one year term, and may be reelected. Annually, the number of board members who represent commercial and residential properties,

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based on the calculation described in subd. 2., may be reallocated by the local legislative body to the greatest extent possible to be consistent with the proportion described under subd. 2.

6. Annually, board members shall be elected under the procedures contained in this paragraph. If a vacancy occurs during the term of a board member, an individual shall be elected to fill the unexpired term of the member under the procedures contained in this paragraph.

(b) The board shall annually consider and may make changes to the operating plan, which may include termination of the plan, for the neighborhood improvement district. The board shall then submit the operating plan to the local legislative body for its approval. If the local legislative body disapproves the operating plan, the board shall consider and may make changes to the operating plan and may continue to resubmit the operating plan until local legislative body approval is obtained. Any change to the special assessment method applicable to the neighborhood improvement district shall be approved by the local legislative body.

(c) The board shall prepare and make available to the public annual reports describing the current status of the neighborhood improvement district, including expenditures and revenues. The report shall include an independent certified audit of the implementation of the operating plan obtained by the municipality. The municipality shall obtain an additional independent certified audit upon termination of the neighborhood improvement district.

(d) Either the board or the municipality, as specified in the operating plan as adopted, or amended and approved under this section, has all of the powers necessary or convenient to implement the operating plan, including the power to contract.

(5) All special assessments received from a neighborhood improvement district and all other appropriations by the municipality or other moneys received for the benefit of the neighborhood improvement district shall be placed in a segregated account in the municipal treasury. No disbursements from the account may be made except to reimburse the municipality for appropriations other than special assessments, to pay the costs of audits required under sub. (4) (c) or on order of the board for the purpose of implementing the operating plan. On termination of the neighborhood improvement district by the municipality, all moneys collected by special assessment remaining in the account shall be disbursed to the owners of specially assessed property in the neighborhood improvement district, in the same proportion as the last collected special assessment.

(6) (a) Subject to pars. (b) and (c), a municipality shall terminate a neighborhood improvement district if one of the following occurs:

1. The owners of property assessed under the operating plan having a valuation equal to more than 50 percent of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, file a petition with the planning commission requesting termination of the neighborhood improvement district.

2. The owners of property assessed under the operating plan having an assessed valuation equal to more than 50 percent of the assessed valuation of all property assessed under the operating plan, file a petition with the planning commission requesting termination of the neighborhood improvement district.

3. The owners of property assessed under the operating plan having a valuation equal to more than 50 percent of the valuation of all property assessed under the operating plan fail to file a petition with the planning commission to continue the neighborhood improvement district within one year of the date on which the membership of the board changes from a majority which represents commercial properties to a majority that represents residential properties, or vice versa, as described under sub. (4) (a) 3.

(b) 1. A petition may not be filed under this subsection earlier than one year after the date on which the municipality first adopts the operating plan for the neighborhood improvement district.

2. On and after the date on which a petition is filed under par. (a) 1. or 2., or on and after the date on which a petition must be filed under par. (a) 3., neither the board nor the municipality may enter into any new obligations by contract or otherwise to implement the operating plan until the expiration of 30 days after the date of the hearing under subd. 3. and unless the neighborhood improvement district is not terminated under par. (c).

3. Within 30 days after the filing of a petition under par. (a) 1. or 2., the planning commission shall hold a public hearing on the proposed termination. Within 30 days after the deadline for filing a petition under par. (a) 3. passes, the planning commission shall hold a public hearing on the proposed termination. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication, a copy of the notice, together with a copy of a detail map showing the boundaries of the neighborhood improvement district, shall be sent by certified mail to all owners of real property within the neighborhood improvement district. The notice shall state the boundaries of the neighborhood improvement district and shall indicate that copies of the operating plan are available from the planning commission on request and are posted in the building in which the municipality's governing body regularly holds its meetings.

4. Within 30 days after the date of the hearing under subd. 3., every owner of property assessed under the operating plan may send written notice to the planning commission indicating, if the owner signed a petition under par. (a) 1. or 2., that the owner retracts the owner's request to terminate the neighborhood improvement district, or, if the owner did not file or sign a petition under par. (a) 1. or 2., that the owner requests termination of the neighborhood improvement district under par. (a) 1. or 2.

5. Within 30 days after the date of the hearing under subd. 3., every owner of property assessed under the operating plan may send written notice to the planning commission indicating, if the owner signed a petition under par. (a) 3., that the owner retracts the owner's request to continue the neighborhood improvement district, or, if the owner did not file or sign a petition under par. (a) 3., that the owner requests continuation of the neighborhood improvement district under subd. 3.

(c) After the expiration of 30 days after the date of the hearing under par. (b) 3., and after adding any additions and subtracting any retractions under par. (b) 4. and 5., the municipality shall terminate the neighborhood improvement district on the date on which the obligation with the latest completion date entered into to implement the operating plan expires if the owners who have signed the petition requesting the termination of the neighborhood improvement district under par. (a) 1. or 2. constitute the required groups specified in par. (a) 1. or 2., or if an insufficient representation of owners, as described under par. (a) 3., petition to continue the neighborhood improvement district under par. (a) 3.

(7) (a) 1. Except as provided in subd. 2., any parcel of real property used exclusively for less than 8 residential dwelling units and real property that is exempted from general property taxes under s. 70.11 may not be specially assessed for purposes of this section.

2. In a 1st class city, real property that is exempted from general property taxes under s. 70.11 may not be specially assessed for purposes of this section.

(b) A municipality may terminate a neighborhood improvement district at any time.

(c) This section does not limit the power of a municipality under other law to regulate the use of or specially assess real property.

History: 2005 a. 186; 2009 a. 147.

66.1111 Historic properties. (1) DEFINITIONS. In this section:

(a) "Historic property" has the meaning given under s. 44.31 (3).

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(b) "Political subdivision" means a city, village, town or county.

(2) ACQUISITION OF PROPERTY. A political subdivision may acquire by gift, purchase or condemnation any property right in historic property, whether the property is real or personal.

(3) OWNERSHIP, USE AND DISPOSITION OF PROPERTY. (a) A political subdivision may preserve or rehabilitate any historic property which it owns, construct buildings on that property, own and maintain that property for public purposes or lease or convey that property.

(b) If a political subdivision leases to another person historic property, the political subdivision shall include provisions in the lease which protect the historic character and qualities of that property. If the political subdivision conveys historic property, the political subdivision shall obtain a conservation easement under s. 700.40 to protect the historic character and qualities of the property.

(4) CONSIDERATION OF EFFECTS ON HISTORIC PROPERTIES. (a) In the earliest stage of planning any action related to the following, a political subdivision shall determine if its proposed action will affect any historic property which is a listed property, as defined under s. 44.31 (4), or which is on the list of locally designated historic places under s. 44.45:

1. Long−range planning for facilities development.
2. Any action under sub. (3).
3. Razing any historic property which it owns.

(b) A political subdivision shall notify the state historic preservation officer of any proposed action which it determines under par. (a) would affect any historic property.

(5) GRANTS. A political subdivision may make grants of funds to any public or private entity for the purpose of preserving or rehabilitating historic property.

History: 1987 a. 395; 1989 a. 31; 1999 a. 150 s. 88; Stats. 1999 s. 66.1111.

66.1113 Premier resort areas. (1) DEFINITIONS. In this section:

(a) "Infrastructure expenses" means the costs of purchasing, constructing, or improving parking lots; access ways; transportation facilities, including roads and bridges; sewer and water facilities; exposition center facilities used primarily for conventions, expositions, trade shows, musical or dramatic events, or other events involving educational, cultural, recreational, sporting, or commercial activities; parks, boat ramps, beaches, and other recreational facilities; fire fighting equipment; police vehicles; ambulances; and other equipment or materials dedicated to public safety or public works.

(b) "Political subdivision" means a city, village, town or county.

(c) "Premier resort area" means a political subdivision whose governing body enacts an ordinance or adopts a resolution under sub. (2) (a).

(d) "Tourism−related retailers" means retailers classified in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget under the following industry numbers:

1. 5331 — Variety stores.
2. 5399 — Miscellaneous general merchandise stores.
3. 5441 — Candy, nut and confectionary stores.
4. 5451 — Dairy product stores.
5. 5461 — Retail bakeries.
6. 5541 — Gasoline service stations.
7. 5812 — Eating places.
8. 5813 — Drinking places.
9. 5912 — Drug stores and proprietary stores.
10. 5921 — Liquor stores.
11. 5941 — Sporting goods stores and bicycle shops.
12. 5946 — Camera and photographic supply stores.
13. 5947 — Gift, novelty and souvenir shops.
14. 7011 — Hotels and motels.
15. 7032 — Sporting and recreational camps.
16. 7033 — Recreational vehicle parks and campsites.
17. 7948 — Racing, including track operation.
18. 7992 — Public golf courses.
19. 7993 — Coin−operated amusement devices.
20. 7996 — Amusement parks.
21. 7999 — Amusement and recreational services, not elsewhere classified.

(2) PREMIER RESORT AREA CREATION. (a) The governing body of a political subdivision, by a two−thirds vote of the members of the governing body who are present when the vote is taken, may enact an ordinance or adopt a resolution declaring itself to be a premier resort area if, except as provided in pars. (e), (f), (g), and (h), at least 40% of the equalized assessed value of the taxable property within such political subdivision is used by tourism−related retailers.

(b) Subject to pars. (g) and (h), a political subdivision that is a premier resort area may impose the tax under s. 77.994.

(c) If 2 or more contiguous political subdivisions that are premier resort areas each impose the tax under s. 77.994, they may enter into a contract under s. 66.0301 to cooperate in paying for infrastructure expenses, in addition to any other authority they have to act under s. 66.0301.

(d) The proceeds from a tax that is imposed under s. 77.994 and this subsection may be used only to pay for infrastructure expenses within the jurisdiction of a premier resort area.

(e) 1. The legislature finds the following with respect to the city of Eagle River:

a. That it has an atypical percentage of tax−exempt land within its boundaries that is used for tourism−related purposes.

b. That it is the site of national recreational competitions that draw tourism business to the entire northern region of this state.

2. The city of Eagle River may enact an ordinance or adopt a resolution declaring itself to be a premier resort area under par. (a) even if less than 40% of the equalized assessed value of the taxable property within Eagle River is used by tourism−related retailers.

(f) The city of Bayfield may enact an ordinance or adopt a resolution declaring itself to be a premier resort area under par. (a) even if less than 40% of the equalized assessed value of the taxable property within Bayfield is used by tourism−related retailers.

(g) The village of Sister Bay may enact an ordinance or adopt a resolution declaring itself to be a premier resort area under par. (a) even if less than 40 percent of the equalized assessed value of the taxable property within Sister Bay is used by tourism−related retailers. The village may not impose the tax authorized under par. (b) unless the village board adopts a resolution proclaiming its intent to impose the tax and the resolution is approved by a majority of the electors in the village voting on the resolution at a referendum, to be held at the first spring primary or election or partisan primary or general election following by at least 70 days the date of adoption of the resolution.

(h) The village of Ephraim may enact an ordinance or adopt a resolution declaring itself to be a premier resort area under par. (a) even if less than 40 percent of the equalized assessed value of the taxable property within Ephraim is used by tourism−related retailers. The village may not impose the tax authorized under par. (b) unless the village board adopts a resolution proclaiming its intent to impose the tax and the resolution is approved by a majority of the electors in the village voting on the resolution at a referendum, to be held at the first spring primary or election or partisan primary or general election following by at least 70 days the date of adoption of the resolution.

(3) JURISDICTION. The jurisdiction of a premier resort area is coterminous with the boundaries of a political subdivision whose governing body enacts an ordinance or adopts a resolution under

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sub. (2) (a) or with the boundaries of 2 or more political subdivisions that enter into a contract under sub. (2) (c).

History: 1997 a. 27; 1999 a. 150 s. 364; Stats. 1999 s. 66.1113; 2001 a. 16, 109; 2005 a. 440; 2009 a. 28; 2011 a. 75, 115.

SUBCHAPTER XII

HOUSING AUTHORITIES

66.1201 Housing authorities. (1) SHORT TITLE. Sections 66.1201 to 66.1211 may be referred to as the "Housing Authorities Law".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that there exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that these persons are forced to occupy overcrowded and congested dwelling accommodations; that the conditions described in this subsection cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; that these slum areas cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income would, therefore, not be competitive with private enterprise; that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; that it is in the public interest that work on these projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions of this section, is declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

(3) DEFINITIONS. In ss. 66.1201 to 66.1211, unless a different meaning clearly appears from the context:

(a) "Area of operation" includes the city for which a housing authority is created, the area within 5 miles of the territorial boundaries of the city but not beyond the county limits of the county in which the city is located and the area within the limits of the city unless the city annexes the area of operation. "Area of operation" does not include any area which lies within the territorial boundaries of any city for which another housing authority is created by this section.

(b) "Authority" or "housing authority" means any of the public corporations established pursuant to sub. (4).

(c) "Bonds" means any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to ss. 66.1201 to 66.1211.

(cm) "City clerk" and "mayor" mean the clerk and mayor, respectively, of the city or the officers of the city charged with the duties customarily imposed on the clerk and mayor, respectively.

(d) "Commissioner" means one of the members of an authority appointed in accordance with ss. 66.1201 to 66.1211.

(e) "Community facilities" includes real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(f) "Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(g) "Council" means the common council or other body charged with governing a city.

(h) "Federal government" includes the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(i) "Government" includes the state and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(j) "Housing projects" includes all real and personal property, building and improvements, and community facilities acquired or constructed pursuant to a single plan either to demolish, clear, remove, alter or repair insanitary or unsafe housing or to provide safe and sanitary dwelling accommodations for persons of low income, or both. "Housing projects" includes the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other related work.

(k) "Mortgage" includes deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale of the real property or personal property.

(L) "Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee of the lessor's interest or any part of the lessor's interest, and the federal government, when it is a party to any contract with the authority.

(m) "Persons of low income" means persons or families who lack the amount of income necessary, as determined by the authority undertaking the housing project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(n) "Real property" includes lands, lands under water, structures, and any easements, franchises and incorporeal hereditaments and every estate and right in an estate, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(o) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(p) "State public body" means any city, town, village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(q) "Trust indenture" includes instruments pledging the revenues of real or personal properties.

(4) CREATION OF HOUSING AUTHORITIES. (a) When a council declares by resolution that there is need for an authority to function in the city, a public body corporate and politic then exists in the city and shall be known as the "housing authority" of the city. The authority may then transact business and exercise any powers granted to it under this section.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if the council finds that insanitary or unsafe inhabited dwelling accommodations exist in the city or that there is a shortage of safe or sanitary dwelling

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accommodations in the city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary the council may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of the dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in the buildings which endanger life or property by fire or other causes.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers under this section upon proof of the adoption of a resolution by the council declaring the need for the authority. The resolution is sufficient if it declares that there is a need for an authority and finds that either or both of the conditions described in par. (b) exist in the city. A copy of the resolution duly certified by the city clerk is admissible evidence in any suit, action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the council adopts a resolution under sub. (4), it shall promptly notify the mayor. Upon receiving the notice, the mayor shall, with the confirmation of the council, appoint 5 persons as commissioners of the authority, except that the mayor of a 1st class city that has created a housing authority before May 5, 1994, shall appoint 7 commissioners, at least 2 of whom shall be residents of a housing project acquired or constructed by the authority. No commissioner may be connected in any official capacity with any political party nor may more than 2 be officers of the city in which the authority is created. The powers of each authority shall be vested in the commissioners of the authority.

(b) The first 5 commissioners who are first appointed shall be designated by the mayor to serve for terms of 1, 2, 3, 4 and 5 years respectively from the date of their appointment and the 2 additional commissioners appointed by the mayor of a 1st class city under par. (a) shall be first appointed to terms of 3 and 5 years respectively. Thereafter, the term of office shall be 5 years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term in the same manner as other appointments. Three commissioners constitute a quorum, except that in an authority with 7 commissioners, 4 commissioners constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and the certificate is conclusive evidence of the proper appointment of that commissioner if that commissioner has been confirmed under this paragraph and has taken and filed the official oath before entering office. The council of a city may pay commissioners a per diem and mileage and other necessary expenses incurred in the discharge of their duties at rates established by the council.

(c) When the office of the first chairperson of the authority becomes vacant, the authority shall select a chairperson from among its members. An authority shall select from among its members a vice chairperson, and it may employ a secretary, who shall be executive director, technical experts and other officers, agents and employees, permanent and temporary and shall determine their qualifications, duties and compensation. An authority may call upon the city attorney or chief law officer of the city for legal services. An authority may delegate to one or more of its agents or employees powers or duties of the authority.

(6) DUTY OF THE AUTHORITY AND ITS COMMISSIONERS. The authority and its commissioners shall comply or cause compliance strictly with all provisions of ss. 66.1201 to 66.1211, with the laws of the state and with any contract of the authority.

(7) INTERESTED COMMISSIONERS OR EMPLOYEES. No commissioner or employee of an authority may acquire any direct or indirect interest in any housing project or in any property included in any project or have any direct or indirect interest in any contract for insurance, materials or services to be furnished or used in connection with any housing project. If a commissioner or employee of an authority owns or controls a direct or indirect interest in any property included in any housing project, that person shall immediately disclose the interest in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to so disclose the interest constitutes misconduct in office.

(8) REMOVAL OF COMMISSIONERS. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor, but a commissioner may be removed only after having been given a copy of the charges at least 10 days before the hearing on the charges and an opportunity to be heard in person or by counsel. If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the city clerk. To the extent applicable, the provisions of s. 17.16 relating to removal for cause apply to any removal.

(9) POWERS OF AUTHORITY. An authority is a public body and a body corporate and politic, exercising public powers, and has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ss. 66.1201 to 66.1211, including the following powers in addition to others granted in this section:

(a) Within its area of operation to prepare, carry out, acquire, lease and operate housing projects approved by the council; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part of a housing project.

(b) To take over by purchase, lease or otherwise any housing project undertaken by any government and located within the area of operation of the authority when approved by the council; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property or any interest in the real or personal property.

(c) To act as agent for any government in connection with the acquisition, construction, operation or management of a housing project or any part of a housing project.

(d) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants of a housing project.

(e) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this section, to establish and revise the rents or charges for the housing project.

(f) Within its area of operation to investigate into living, dwelling and housing conditions and into the means and methods of improving those conditions; and to engage in research and studies on the subject of housing.

(h) To acquire by eminent domain any real property, including improvements and fixtures on the real property.

(i) To own, hold, clear and improve property, to insure or provide for the insurance of the property or operations of the authority against any risks, to procure insurance or guarantees from the federal government of the payment of any debts or parts of debts secured by mortgages made or held by the authority on any property included in any housing project.

(j) To contract for the sale of, and to sell, any part or all of the interest in real estate acquired and to execute contracts of sale and conveyances as the authority considers desirable.

(k) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part of a housing project.

(L) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by ss. 66.1201 to 66.1211.

(m) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(n) To sue and be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, to make and execute con-

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tracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(o) To make and amend and repeal bylaws, rules and regulations not inconsistent with ss. 66.1201 to 66.1211, to carry into effect the powers and purposes of the authority.

(p) To exercise all or any part or combination of powers granted in this section. No provisions of law with respect to the acquisition or disposition of property by other public bodies are applicable to an authority unless otherwise provided.

(q) To execute bonds, notes, debentures or other evidences of indebtedness which, when executed by a housing authority, are not a debt or charge against any city, county, state or any other governmental authority, other than against the authority itself and its available property, income or other assets in accordance with the terms of an evidence of indebtedness and of this section, and no individual liability exists for any official act done by any member of the authority. No authority may levy any tax or assessment.

(r) To provide by all means available under ss. 66.1201 to 66.1211 housing projects for veterans and their families regardless of their income. The projects are not subject to the limitations of s. 66.1205.

(s) Notwithstanding the provisions of any law, to acquire sites; to prepare, carry out, acquire, lease, construct and operate housing projects to provide temporary dwelling accommodations for families regardless of income who are displaced under ss. 66.1201 to 66.1331; to further slum clearance, urban redevelopment and blight elimination; and to provide temporary dwelling accommodations for families displaced by reason of any street widening, expressway or other public works project causing the demolition of dwellings.

(t) To participate in an employee retirement or pension system of the city which has declared the need for the authority and to expend funds of the authority for this purpose.

(u) To join or cooperate with one or more authorities in the exercise, either jointly or otherwise, of any of their powers for the purpose of financing, including the issuance of bonds, notes or other obligations and giving security for these obligations, planning, undertaking, owning, constructing, operating or contracting with respect to a housing project located within the area of operation of any one or more of the authorities. For this purpose an authority may by resolution prescribe and authorize any other housing authority, joining or cooperating with it, to act on its behalf with respect to any powers, as its agent or otherwise, in the name of the authority joining or cooperating or in its own name.

(v) To establish a procedure for preserving records of the authority by the use of microfilm, another reproductive device, optical imaging or electronic formatting if authorized under s. 19.21 (4) (c). The procedure shall assure that copies of records that are open to public inspection continue to be available to members of the public requesting them. A photographic reproduction of a record or copy of a record generated from optical disk or electronic storage is deemed the same as an original record for all purposes if it meets the applicable standards established in ss. 16.61 and 16.612.

(w) To exercise any powers of a redevelopment authority operating under s. 66.1333 if done in concert with a redevelopment authority under a contract under s. 66.0301.

(x) To, within its area of operation, either by itself or with the department of veterans affairs, undertake and carry out studies and analyses of veterans housing needs and meeting those needs and make the study results available to the public, including the building, housing and supply industries.

(10) EMINENT DOMAIN. (a) The authority may acquire by eminent domain any real property, including fixtures and improvements, which it deems necessary to carry out the purposes of ss. 66.1201 to 66.1211 after the adoption by it of a resolution declaring that the acquisition of the property described in the resolution is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to ch. 32 or pursuant to any other applicable statutory provisions.

(b) At any time at or after the filing for condemnation, and before the entry of final judgment, the authority may file with the clerk of the court in which the petition is filed a declaration of taking signed by the duly authorized officer or agent of the authority declaring that all or any part of the property described in the petition is to be taken for the use of the authority. The declaration of taking is sufficient if it sets forth all of the following:

1. A description of the property.

2. A statement of the estate or interest in the property being taken.

3. A statement of the sum of money estimated by the authority to be just compensation for the property taken, which sum shall be not less than the last assessed valuation for tax purposes of the estate or interest in the property to be taken.

(c) From the filing of the declaration of taking under par. (b) and the deposit in court of the amount of the estimated compensation stated in the declaration, title to the property specified in the declaration vests in the authority and the property is condemned and taken for the use of the authority and the right to just compensation for the property vests in the persons entitled to the compensation. Upon the filing of the declaration of taking the court shall designate a day not exceeding 30 days after the filing, except upon good cause shown, on which the person in possession shall surrender possession to the authority.

(d) The ultimate amount of compensation vests in the manner provided by law. If the amount vested exceeds the amount deposited in court by the authority, the court shall enter judgment against the authority in the amount of the deficiency together with interest at the rate of 6% per year on the deficiency from the date of the vesting of title to the date of the entry of the final judgment subject to abatement for use, income, rents or profits derived from the property by the owner subsequent to the vesting of title in the authority. The court shall order the authority to deposit the amount of the deficiency in court.

(e) At any time before the vesting of title of property in the authority the authority may withdraw or dismiss its petition with respect to any of the property described in the petition.

(f) Upon vesting of title to any property in the authority, all the right, title and interest of all persons having an interest in, or lien upon, the property are divested immediately and these persons are entitled only to receive compensation for the property.

(g) Except as provided in this subsection with reference to the declaration of taking, the proceedings shall be as provided by law for condemnation, and the deposit in court of the amount estimated by the authority upon a declaration of taking shall be disbursed as provided by law for an award in condemnation proceedings.

(h) Property already devoted to a public use may be acquired, provided that no property belonging to any municipality or to any government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the public service commission or other officer or tribunal, if any, having regulatory power over the public utility corporation.

(11) ACQUISITION OF LAND FOR GOVERNMENT. The authority may acquire, by purchase or by the exercise of its power of eminent domain under sub. (10), any property, real or personal, for any housing project being constructed or operated by a government. The authority upon such terms and conditions, with or without consideration, as it shall determine, may convey title or deliver possession of property so acquired or purchased to the government for use in connection with a housing project.

(12) ZONING AND BUILDING LAWS. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

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(13) TYPES OF BONDS. (a) 1. An authority may issue any bonds for its corporate purposes, including bonds on which the principal and interest are payable by any of the following methods:

a. Exclusively from the income and revenues of the housing project financed with the proceeds of the bonds, or with those proceeds together with a grant from the federal government in aid of the project.

b. Exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of the bonds.

c. From its revenues generally.

2. Any of the bonds under subd. 1. may be additionally secured by a pledge of any revenues or, subject to the limitations imposed under pars. (b) and (c), a mortgage of any housing project, projects or other property of the authority.

(b) Neither the commissioners of the authority nor any person executing the bonds is liable personally on the bonds by reason of their issuance.

(c) The bonds and other obligations of the authority are not a debt of any municipality located within its boundaries or of the state and this fact shall be stated on their face. Neither the state nor any municipality is liable for the bonds or other obligations, nor are they payable out of any funds or properties other than those of the authority.

(14) FORM AND SALE OF BONDS. (a) Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear any date, mature at any time, bear interest at any rate, be in any denomination, be in the form of coupon bonds or of bonds registered under s. 67.09, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any medium of payment, at any place, and be subject to any terms of redemption, with or without premium, that the resolution, its trust indenture or mortgage may provide. Any bond reciting in substance that it has been issued by an authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed, in any suit, action or proceeding involving the validity or enforceability of the bond or the security for the bond, to have been issued for such a housing project. Bonds of an authority are issued for an essential public and governmental purpose and are public instrumentalities and, together with interest and income, are exempt from taxes.

(b) The bonds may be sold at public or private sale as the authority provides. The bonds may be sold at any price determined by the authority.

(c) The bonds shall be executed as provided in s. 67.08 (1).

(d) The authority may purchase, out of available funds, any bonds issued by it at a price not more than the principal amount of the bonds and the accrued interest. Bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any revenues available for that purpose. All bonds so purchased shall be canceled. This paragraph does not apply to the redemption of bonds.

(e) Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to ss. 66.1201 to 66.1211 are fully negotiable.

(15) PROVISIONS OF BONDS, TRUST INDENTURES, AND MORTGAGES. In connection with the issuance of bonds or the incurring of any obligation under a lease and in order to secure the payment of bonds or obligations, the authority may:

(a) Pledge by resolution, trust indenture, mortgage, subject to the limitations in this subsection, or other contract any of its rents, fees, or revenues.

(b) Covenant against mortgaging any of its property or against permitting any lien on its property.

(c) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part of a housing project, or with respect to limitations on its right to undertake additional housing projects.

(d) Covenant against pledging any of its rents, fees and revenues or against permitting any lien on its rents, fees and revenues.

(e) Provide for the release of property, rents, fees and revenues from any pledge or mortgage, and reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(f) Covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of bonds in escrow or otherwise, and as to the use and disposition of the proceeds of the bonds.

(g) Provide for the terms, form, registration, exchange, execution and authentication of bonds.

(h) Provide for the replacement of lost, destroyed or mutilated bonds.

(i) Covenant that the authority warrants the title to the premises.

(j) Covenant as to the rents and fees to be charged, the amount to be raised each year or other period of time by rents, fees and other revenues and as to the use and disposition to be made of the revenues.

(k) Covenant as to the use of any of its property.

(L) Create special funds which segregate all of the following:

1. The proceeds of any loan or grant or both.

2. The rents, fees and revenues of a housing project.

3. Any moneys held for the payment of the costs of operations and maintenance of any housing projects or as a reserve for the meeting of contingencies in the operation and maintenance of housing projects.

4. Any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for the payments.

5. Any moneys held for any other reserves or contingencies.

(Lm) Covenant as to the use and disposal of the moneys held in funds created under par. (L).

(m) Redeem the bonds, covenant for their redemption and provide the terms and conditions of the bonds.

(n) Covenant against extending the time for the payment of its bonds or interest on the bonds by any means.

(o) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to a contract amendment or abrogation and the manner in which consent may be given.

(p) Covenant as to property maintenance, replacement and insurance and the use and disposition of insurance moneys.

(q) Vest in an obligee of the authority, if the authority fails to observe or perform any covenant on its part to be kept or performed, the right to cure any default and to advance any moneys necessary for that purpose. The moneys advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority.

(r) Covenant and prescribe as to the events of default and terms and conditions upon which any of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which the declaration and its consequences may be waived.

(s) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(t) Covenant to surrender possession of all or any part of any housing project upon the happening of a default, as defined in the contract, and to vest in an obligee the right to take possession and to use, operate, manage and control housing projects, and to collect and receive all rents, fees and revenues arising from the housing projects in the same manner as the authority itself might do and

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to dispose of the moneys collected in accordance with the agreement of the authority with the obligee.

(u) Vest in a trust the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of a trustee, to limit liabilities of a trustee and to provide the terms and conditions upon which the trustee or the bondholders or any proportion of them may enforce any covenant.

(v) Make covenants other than the covenants that are authorized in this subsection.

(w) Execute all instruments that are necessary or convenient in the exercise of its powers or in the performance of its covenants or duties.

(x) Make covenants and do any act necessary or convenient in order to secure its bonds, or, in the absolute discretion of the authority, that tend to make the bonds more marketable. An authority may not mortgage any of its property except as provided in sub. (16).

(16) POWER TO MORTGAGE WHEN PROJECT FINANCED WITH AID OF GOVERNMENT. (a) In this subsection, "government" includes the Wisconsin Housing and Economic Development Authority.

(b) In connection with any project financed in whole or in part, or otherwise aided by a government, whether through a donation of money or property, a loan, the insurance or guarantee of a loan, or otherwise, the authority may do any of the following:

1. Mortgage its property.

2. Grant security interests in its property.

3. Issue its note or other obligation as may be required by the government.

(17) REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the authority, subject to its contract, may do any of the following:

(a) By mandamus, suit, action or proceeding, all of which may be joined in one action, compel the authority and its commissioners, officers, agents or employees to perform every term, provision and covenant contained in any contract of the authority, and require the carrying out of any covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by ss. 66.1201 to 66.1211.

(b) By suit, action or proceeding enjoin any unlawful acts or things, or the violation of any of the rights of the obligee of the authority.

(c) By suit, action or proceeding cause possession of any housing project or any part of a housing project to be surrendered to any obligee having the right to possession pursuant to any contract of the authority.

(18) ADDITIONAL REMEDIES CONFERRABLE BY MORTGAGE OR TRUST INDENTURE. Any authority may by its trust indenture, mortgage, lease or other contract confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations, the right upon the happening of an "event of default" as defined in the instrument:

(a) By suit, action or proceeding obtain the appointment of a receiver of any housing project of the authority or any part of a housing project. Upon appointment, a receiver may enter and take possession of the housing project or any part of the housing project and operate and maintain it, and collect and receive all fees, rents, revenues or other charges arising in the same manner as the authority itself might do. The receiver shall keep the moneys in a separate account or accounts and apply the moneys in accordance with the obligations of the authority as a court directs.

(b) By suit, action or proceeding require the authority and its commissioners to account as if it and they were the trustees of an express trust.

(19) REMEDIES CUMULATIVE. All the rights and remedies in this section are in addition to all other rights and remedies that may be conferred upon an obligee of the authority by law or by any contract with the authority.

(20) SUBORDINATION OF MORTGAGE TO AGREEMENT WITH GOVERNMENT. The authority may agree in any mortgage made by it that the mortgage is subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements on the mortgaged property. A purchaser at a sale of the property of an authority pursuant to a foreclosure of a mortgage or any other remedy in connection with the foreclosure shall obtain title subject to the contract.

(21) CONTRACTS WITH FEDERAL GOVERNMENT. In addition to the powers conferred upon the authority by other provisions of ss. 66.1201 to 66.1211, the authority may borrow money or accept grants from the federal government for any housing project that the authority may undertake, take over any land acquired by the federal government for the construction or operation of a housing project, take over or lease or manage any housing project constructed or owned by the federal government, and to these ends, enter into any contracts, mortgages, trust indentures, leases or other agreements that the federal government may require including agreements that the federal government may supervise and approve the construction, maintenance and operation of the housing project. A council may take any action necessary to secure the financial aid and the cooperation of the federal government in the undertaking, construction, maintenance and operation of any housing project which the authority may undertake.

(22) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. The property of an authority is public property used for essential public and governmental purposes and the property and an authority are exempt from all taxes of the state or any state public body, except that the city in which a project or projects are located may fix a sum to be paid annually in lieu of taxes by the authority for the services, improvements or facilities furnished to the property of the authority by the city. The amount paid in lieu of taxes may not exceed the amount that would be levied as the annual tax of the city upon the project.

(23) REPORTS. The authority shall at least once a year file with the mayor of the city a report of its activities for the preceding year.

(24) BIDS. (a) When a housing authority has the approval of the council for any project authorized under sub. (9) (a) or (b), the authority shall complete and approve plans, specifications and conditions for carrying out the project, and shall advertise by publishing a class 2 notice, under ch. 985, for bids for all work which the authority must do by contract. The authority is not required to submit for bidding any contract in an amount of $25,000 or less, but if the estimated cost of the contract is between $10,000 and $25,000, the authority shall give a class 2 notice, under ch. 985, of the proposed work before the contract is entered into. A contract subject to bidding shall be awarded to the lowest qualified and competent bidder. Section 66.0901 applies to the bidding.

(ag) As an alternative to the advertising and bidding procedure under par. (a), an authority may contract under any purchase procedure authorized for the authority by the federal government.

(am) The authority may reject any bid required under par. (a).

(b) An authority may contract for the acquisition of a housing project without submitting the contract for bids as required by par. (a) if all of the following apply:

1. The contract provides for undertaking of the housing project on land not owned at the time of the contract by the authority except the contract may provide for undertaking of the housing project on land acquired and owned by a community development authority for the purpose of ss. 66.1105, 66.1301 to 66.1329, 66.1331 or 66.1333 if the community development authority is proceeding under this paragraph as provided by s. 66.1335 (4).

2. The contract provides for conveyance or lease of the project to the authority after completion of the project.

3. The authority invites developers to submit proposals to provide a completed project and evaluates proposals according to site, cost, design, the developer's experience and other criteria specified by the authority.

(25) LIQUIDATION AND DISPOSAL OF HOUSING PROJECTS. (a) In any city or village the council or village board by resolution or

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ordinance, or the electors by referendum under s. 9.20, may require the authority to liquidate and dispose of a project held and operated under ss. 66.1201 to 66.1211 or 66.1331.

(b) If liquidation and disposal of a project is provided for under par. (a) the housing authority or other designated agency shall sell the project to the highest bidder after public advertisement, or transfer it to any state public body authorized by law to acquire the project. No project may be sold for less than its fair market value as determined by a board of 3 licensed appraisers appointed by the council or village board.

(c) The arrangements for the liquidation and disposal of a project shall provide for the payment and retirement of all outstanding obligations in connection with the project, together with interest on the obligations and any premiums prescribed for the redemption of any bonds, notes or other obligations before maturity.

(d) Any proceeds remaining after payment of the obligations under par. (c) shall be distributed in accordance with the federal law applicable at the time of the liquidation and disposal of the project. If no federal law is applicable to the liquidation and disposal of the project all remaining proceeds shall be paid to the city or village.

(e) If the highest bid received is insufficient for the payment of all obligations set forth in par. (c) the project shall not be sold unless the city or village provides sufficient additional funds to discharge the obligations.

(f) In order to carry out this subsection an authority or other designated agency shall exercise any option available to it for the payment and redemption of outstanding obligations set forth in par. (c) before maturity, if the city or village provides funds for payment and redemption.

(g) No actions taken under this subsection shall affect or diminish the rights of any bondholders or other obligees of the authority.

(h) In this subsection, "outstanding obligations" or "obligations" includes bonds, notes or evidences of indebtedness, as well as aids, grants, contributions or loans made by or received from any federal, state or local political government or agency.

(26) DISSOLUTION OF HOUSING AUTHORITY. Any housing authority may be dissolved upon adoption of an ordinance or resolution by the council or village board concerned declaring that the need for the authority no longer exists, that all projects under the authority's jurisdiction have been disposed of, that there are no outstanding obligations or contracts and that no further business remains to be transacted by the authority.

History: 1973 c. 172; 1975 c. 94, 221, 350; 1977 c. 418; 1979 c. 89; 1979 c. 110 s. 60 (13); 1979 c. 221; 1981 c. 112, 190, 232; 1983 a. 24; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 189, 444; 1987 a. 27, 163; 1991 a. 316; 1993 a. 172, 184, 268, 379; 1995 a. 27, 225; 1997 a. 35; 1999 a. 150 ss. 285, 383, 384, 386, 388; Stats. 1999 s. 66.1201; 2001 a. 103, 104; 2005 a. 22; 2009 a. 95.

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.

66.1203 Housing authorities; operation not for profit. (1) It is declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any project for profit, or as a source of revenue to the city.

(2) An authority shall fix the rentals for dwellings in its projects at no higher rates than it finds necessary in order to produce revenues which, together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived, will be sufficient to accomplish all of the following:

(a) Pay, as the rentals become due, the principal and interest on the bonds of the authority.

(b) Meet the cost of, and provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the authority.

(c) Create, during not less than the 6 years immediately succeeding its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments which will be due on the bonds in any one year after the creation of the reserve and maintain the reserve.

History: 1999 a. 150 s. 389; Stats. 1999 s. 66.1203.

66.1205 Housing authorities; rentals and tenant selection. (1) In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations in a housing project only to persons of low income and at rentals within the financial reach of persons of low income.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, that it considers necessary to provide safe and sanitary accommodations to the proposed occupants, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of 5 times the annual rental of the quarters to be furnished the person or persons, except that in the case of families with minor dependents the aggregate annual income of the person or persons who would occupy the dwelling accommodations may exceed 5 times the annual rental of the quarters to be furnished by $100 for each minor dependent or by an amount equal to the annual income of the minor dependents. In computing the rental for the purpose of selecting tenants, the authority shall determine and include in the rental the average annual cost to the occupants, of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

(2) Sections 66.1201 to 66.1211 do not limit the power of an authority to do any of the following:

(a) Invest in an obligee the right, if the authority defaults, to take possession of a housing project or cause the appointment of a receiver of the housing project, free from all the restrictions imposed under ss. 66.1201 to 66.1211, with respect to rentals, tenant selection, manner of operation, or otherwise.

(b) Pursuant to s. 66.1201 (16) vest in obligees the right, if the authority defaults, to acquire title to a housing project or the property mortgaged by the housing authority, free from all of the restrictions imposed by s. 66.1203 and this section.

(3) Subsection (1) (a) and (c) does not apply in the case of housing projects to the financing of which the Wisconsin Housing and Economic Development Authority is a party, as to which ch. 234 shall be controlling.

History: 1971 c. 213 s. 5; 1975 c. 221; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1995 a. 225; 1999 a. 150 s. 390; Stats. 1999 s. 66.1205; 2001 a. 103, 104.

66.1207 Penalties; evidence. (1) (a) Any person who secures or assists in securing dwelling accommodations under s. 66.1205 by intentionally making false representations in order to receive more than $1,000 but less than $2,500 in financial assistance for which the person would not otherwise be entitled shall be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(b) Any person who secures or assists in securing dwelling accommodations under s. 66.1205 by intentionally making false representations in order to receive at least $2,500 but not more than $25,000 in financial assistance for which the person would not otherwise be entitled is guilty of a Class I felony.

(c) Any person who secures or assists in securing dwelling accommodations under s. 66.1205 by intentionally making false representations in order to receive more than $25,000 in financial assistance for which the person would not otherwise be entitled is guilty of a Class H felony.

(2) Any administrator or employee of an authority under s. 66.1205 who receives or solicits any commission or derives or

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seeks to obtain any personal financial gain through any contract for the rental or lease of dwelling accommodations under s. 66.1205 shall be punished under s. 946.13.

(3) Any person who receives assistance for dwelling accommodations under s. 66.1205, who has been notified by the authority of the obligation to report an increase in income or assets that would reduce the amount of that assistance and who intentionally fails to notify the authority of the receipt of income or assets is subject to one of the following:

(a) The penalty under sub. (1) (a) if the failure to report results in the receipt of more than $1,000 and less than $2,500 in financial assistance for which the person would not otherwise be entitled.

(b) The penalty under sub. (1) (b) if the failure to report results in the receipt of at least $2,500 but not more than $25,000 in financial assistance for which the person would not otherwise be entitled.

(c) The penalty under sub. (1) (c) if the failure to report results in the receipt of more than $25,000 in financial assistance for which the person would not otherwise be entitled.

History: 1987 a. 173, 403; 1995 a. 225; 1997 a. 283; 1999 a. 150 ss. 391 to 393; Stats. 1999 s. 66.1207; 2001 a. 109.

66.1209 Housing authorities; cooperation in housing projects. (1) For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it may act, any state public body may do any of the following:

(a) Dedicate, sell, convey or lease any of its property to a housing authority or the federal government.

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it may undertake, to be furnished adjacent to or in connection with housing projects.

(c) Cause services to be furnished to the authority of the character which it otherwise may furnish.

(d) Subject to the approval of the council, furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it may undertake.

(e) Enter into agreements with a housing authority or the federal government respecting action to be taken by the state public body pursuant to any of the powers granted by ss. 66.1201 to 66.1211. The agreements may extend over any period, notwithstanding any provision or rule of law to the contrary.

(f) Any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects.

(g) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of the bonds.

(2) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body may require any changes to be made in the housing project or the manner of its construction or take any other action relating to the construction.

(3) In connection with any public improvements made by a state public body in exercising the powers granted in ss. 66.1201 to 66.1211, the state public body may incur the entire expense of the public improvements. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in ss. 66.1201 to 66.1211 may be made by a state public body without appraisal, public notice, advertisement or public bidding.

History: 1995 a. 225; 1999 a. 150 ss. 394 to 396; Stats. 1999 s. 66.1209.

66.1211 Housing authorities; contracts with city; assistance to counties and municipalities. (1) CONTRACTS BETWEEN AUTHORITY AND CITY. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any city may agree with an authority or government that a certain sum, subject to the limitations imposed by s. 66.1201 (22), or no sum shall be paid by the authority in lieu of taxes for any year or period of years.

(2) ADVANCES TO HOUSING AUTHORITY. When any housing authority created for any city is authorized to transact business and exercise its powers, the governing body of the city may immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the housing authority during the first year after the creation of the housing authority, and may appropriate the amount to the authority out of any moneys in the city treasury not appropriated to some other purposes. The moneys appropriated may be paid to the authority as a donation. Any city, town, or village located in whole or in part within the area of operation of a housing authority may lend or donate money to the authority. The housing authority, when it has money available to repay loans made under this subsection, shall make reimbursements for all loans made to it.

(3) PROJECT SUBMITTED TO PLANNING COMMISSION. Before any housing project of the character designated in s. 66.1201 (9) (a) is determined by the authority, or any real estate acquired or agreed to be acquired for the project or the construction of any of the buildings begins or any application made for federal loan or grant for the project, the extent of the project and the general features of the proposed layout indicating in a general way the proposed location of buildings and open spaces shall be submitted to the planning commission, if any, of the city or political subdivision in which the proposed project is located, for the advice of the planning commission on the proposed location, extent, and general features of the layout.

(4) COOPERATION WITH CITIES, VILLAGES AND COUNTIES. For the purpose of cooperating with and assisting cities, villages and counties, a housing authority may exercise its powers in that territory within the boundaries of any city, village or county not included in the area in which that housing authority is then authorized to function, or in any designated portion of that territory, after the governing body of the city, village or county adopts a resolution declaring that there is a need for the authority to function in the additional territory. If a housing authority has previously been authorized to exercise its powers in the additional territory or designated portion, a resolution shall not be adopted unless the housing authority finds that ultimate economy would be promoted, and the housing authority shall not initiate any housing project in the additional territory or designated portion before the adoption of the resolution.

(6) CONTROLLING STATUTES. Insofar as ss. 66.1201 to 66.1211 are inconsistent with any other law, the provisions of ss. 66.1201 to 66.1211 control.

(7) SUPPLEMENTAL NATURE OF STATUTE. The powers conferred by ss. 66.1201 to 66.1211 are in addition to the powers conferred by any other law.

History: 1995 a. 225; 1999 a. 150 s. 397; Stats. 1999 s. 66.1211; 2001 a. 107.

66.1213 Housing authorities for elderly persons. (1) SHORT TITLE. This section may be referred to as the "housing authority for elderly persons law".

(2) DECLARATION OF NECESSITY. It is declared that the lack of housing facilities for elderly persons provided by private enterprise in certain areas creates a public necessity to establish safe and sanitary facilities for which public moneys may be spent and private property acquired. The legislature declares that to provide public housing for elderly persons is the performance of a governmental function of state concern.

(3) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

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(4) DEFINITIONS. As used in this section unless the text clearly indicates otherwise:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to sub. (5).

(b) "Bonds" mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to this section.

(e) "Commissioner" means one of the members of an authority appointed in accordance with this section.

(f) "Community facilities" include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(h) "Council" means the common council of a city.

(i) "Elderly person" means a person who is 62 years of age or older on the date on which the person intends to occupy the premises, or a family, the head of which, or that person's spouse, is a person who is 62 years of age or older on the date of the intent to occupy the premises.

(j) "Federal government" includes the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(k) "Government" includes the state and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(L) 1. "Housing projects" includes all real property and personal property, building and improvements, and community facilities acquired or constructed pursuant to a single plan or undertaking to do any of the following:

a. Demolish, clear, remove, alter or repair insanitary or unsafe housing for elderly persons.

b. Provide safe and sanitary dwelling accommodations for elderly persons.

c. Fulfill a combination of the purposes under subd. 1. a. and b.

2. "Housing project" includes the planning of buildings and improvements, the acquisition of property, the demolition of existing structures and the construction, reconstruction, alteration and repair of the improvements for the purpose of providing safe and sanitary housing for elderly persons and all other work in connection with housing for elderly persons. A project shall not be considered housing for the elderly unless it contains at least 8 new or rehabilitated living units which are specifically designed for the use and occupancy of persons 62 years of age or over.

(m) "Mortgage" includes deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale of the real property or personal property.

(n) "Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee of the lessor's interest or any part of the lessor's interest, and the United States of America, when it is a party to any contract with the authority.

(o) "Real property" includes lands, lands under water, structures, and any easements, franchises and incorporeal hereditaments and every estate and right in an estate, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(p) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(q) "State public body" means any city, town, village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(r) "Trust indenture" includes instruments pledging the revenues of real or personal properties.

(5) CREATION OF HOUSING AUTHORITIES. (a) When the council declares by resolution that there is need for an authority to function in the city, a public body corporate and politic shall then exist in the city and be known as the "housing authority" of the city. The authority may transact business and exercise any powers granted to it under this section.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if it finds that there is a shortage of dwelling accommodations in the city available to elderly persons.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers under this section upon proof of the adoption of a resolution by the council declaring the need for the authority. The resolution is sufficient if it declares the need for an authority and finds that the condition described in par. (b) exists in the city. A copy of the resolution duly certified by the city clerk is admissible evidence in any suit, action or proceeding.

(6) SECTION 66.1201 APPLIES. The provisions of s. 66.1201 (5) to (24) (ag), (25) and (26) apply to housing authorities and providing housing for elderly persons under this section without reference to the income of those persons.

(7) SECTIONS 66.1203 TO 66.1211 APPLY. The provisions of ss. 66.1203 to 66.1211 apply to housing authorities and providing housing for elderly persons under this section without reference to the income of those persons, except as follows:

(a) As set down by the federal housing authority in the case of housing projects to the financing or subsidizing of which it is a party.

(b) As set down by the Wisconsin Housing and Economic Development Authority in accordance with ch. 234 in the case of housing projects to the financing of which it is a party.

(8) NOT APPLICABLE TO LOW−RENTAL HOUSING PROJECTS. This section does not apply to projects required to provide low−rental housing only.

History: 1975 c. 94, 221; 1977 c. 418 s. 929 (55); 1981 c. 112; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 189; 1983 a. 444 s. 3; 1991 a. 316; 1993 a. 213, 246; 1999 a. 150 ss. 380, 382; Stats. 1999 s. 66.1213; 2001 a. 30 s. 44; 2001 a. 104; 2009 a. 95.

SUBCHAPTER XIII

URBAN REDEVELOPMENT AND RENEWAL

66.1301 Urban redevelopment. (1) SHORT TITLE. Sections 66.1301 to 66.1329 may be referred to as the "Urban Redevelopment Law".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land coverage, lack of proper light, air and open space, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both. These conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings prevail. These conditions impair the economic value of large areas, infecting them with economic blight, and these areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes. These conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for

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purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly. The existence of these conditions and the failure to clear, replan, rehabilitate or reconstruct these areas results in a loss of population by the areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere. It is difficult and uneconomic for individual owners independently to undertake to remedy these conditions. It is desirable to encourage owners of property or holders of claims on property in these areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation and reconstruction of these areas by joint action. It is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation and reconstruction of these areas. These conditions require the employment of capital on an investment rather than a speculative basis, allowing however the widest latitude in the amortization of any indebtedness created. These conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of the areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of the areas under proper supervision with appropriate planning, land use and construction policies. The clearance, replanning, rehabilitation and reconstruction of these areas on a large scale basis are necessary for the public welfare. The clearance, replanning, reconstruction and rehabilitation of these areas are public uses and purposes for which private property may be acquired. Substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state. These conditions require the aid of redevelopment corporations for the purpose of attaining the ends recited in this subsection. The protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern. Sections 66.1301 to 66.1329 are in the public interest.

(2m) DISCRIMINATION. Persons entitled to any right, benefit, facility, or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

(3) DEFINITIONS. In ss. 66.1301 to 66.1329, unless a different intent clearly appears from the context:

(a) "Area" means a portion of a city which its planning commission finds to be substandard or insanitary, so that the clearance, replanning, rehabilitation or reconstruction of that portion is necessary or advisable to effectuate the public purposes declared in sub. (2). "Area" includes buildings or improvements not in themselves substandard or insanitary, and real property, whether improved or unimproved, the inclusion of which is considered necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which the buildings, improvements or real property form a part and includes vacant land which is in such proximity to other land or structures that the economic value of the other land or structures is impaired.

(d) "Development" means a specific work, repair or improvement to put into effect a development plan and includes the real property, buildings and improvements owned, constructed, managed or operated by a redevelopment corporation.

(e) "Development area" means that portion of an area to which a development plan is applicable.

(f) "Development cost" means the amount determined by the planning commission to be the actual cost of the development or of the part of the development for which the determination is made. "Development cost" includes, among other costs, all of the following:

1. The reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, architectural and engineering services and legal and incorporation expense.

2. The actual cost, if any, of alleviating hardship to families occupying dwelling accommodations in the development area where hardship results from the execution of the development plan.

3. The reasonable costs of financing the development, including carrying charges during construction.

4. Working capital in an amount not exceeding 5% of development cost.

5. The actual cost of the real property included in the development, of demolition of existing structures and of utilities, landscaping and roadways.

6. The amount of special assessments subsequently paid.

7. The actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering and builder's fees.

8. The actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements.

9. Reasonable management costs until the development is ready for use.

10. The actual cost of improving that portion of the development area which is to remain as open space, together with additions to development cost that equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments to the development plan.

(g) "Development plan" means a plan for the redevelopment of all or any part of an area, and includes any amendments that are approved in accordance with the requirements of s. 66.1305 (1).

(h) "Local governing body" means a common council, council, commission or other board or body vested by the charter of a city or other law with jurisdiction to adopt or enact ordinances or local laws.

(n) "Mortgage" means a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

(o) "Neighborhood unit" means a primarily residential district having the facilities necessary for well−rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

(p) "Planning commission" means the official bureau, board, commission or agency of a city that is authorized to prepare, adopt, amend or modify a master plan for the development of the city.

(q) "Real property" includes lands, buildings, improvements, land under water, waterfront property, and any easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right in or appurtenant to the real property, legal or equitable, including rights−of−way, terms for years and liens, charges, or encumbrances by mortgage, judgment or otherwise.

(r) "Redevelopment" means the clearance, replanning, reconstruction or rehabilitation of an area or part of an area, and the provision of industrial, commercial, residential or public structures or spaces as may be appropriate, including recreational and other facilities incidental or appurtenant to the structures or spaces.

(s) "Redevelopment corporation" means a corporation carrying out a redevelopment plan under ss. 66.1301 to 66.1329.

History: 1975 c. 94; 1981 c. 112; 1989 a. 31; 1993 a. 184; 1995 a. 225; 1999 a. 150 ss. 398 to 401; Stats. 1999 66.1301; 2009 a. 95.

66.1303 Urban redevelopment; plans, approval. (1) A development plan shall contain the information that the planning commission requires, including all of the following:

(a) A metes and bounds description of the development area.

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(b) A statement of the real property in the development area fee title to which the city proposes to acquire and a statement of the interests to be acquired in any other real property by the city.

(c) A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken, and the time limit for the completion of each stage, together with a metes and bounds description of the real property to be included in each stage.

(d) A statement of the existing buildings or improvements in the development area, to be demolished immediately.

(e) A statement of the existing buildings or improvements, in the development area not to be demolished immediately and the approximate period of time during which the demolition of each building or improvement is to take place.

(f) A statement of the proposed improvements to each building not to be demolished immediately, any proposed repairs or alterations to the building, and the approximate period of time during which improvements, repairs or alterations are to be made.

(g) A statement of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made and a statement of the maximum limitations upon the bulk of buildings or improvements to be permitted at various stages of the development plan.

(h) A statement of those portions of the development area which may be permitted or will be required to be left as open space, the use to which each open space is to be put, the period of time each open space will be required to remain an open space and the manner in which it will be improved and maintained.

(i) A statement of the proposed changes in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences.

(j) A statement of the proposed changes in streets or street levels and of proposed street closings.

(k) A statement of the character of the existing dwelling accommodations in the development area, the approximate number of families residing in the development area, together with a schedule of the rentals being paid by them, and a schedule of the vacancies in the accommodations, together with the rental demanded for the vacant accommodations.

(L) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations to be furnished during construction and upon completion of the development.

(m) A statement of the proposed method of financing the development, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development.

(n) A statement of persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan.

(o) Other statements or material that are considered relevant by the applicant, including suggestions for the clearance, replanning, reconstruction or rehabilitation of one or more areas which may be larger than the development area but which include it, and any other provisions for redevelopment.

(2) No development may be initiated until the adoption of a resolution of approval of the development plan by both the planning commission and the local governing body.

(3) The planning commission may approve a development plan after a public hearing, and shall determine all of the following:

(a) That the area within which the development area is included is substandard or insanitary and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in s. 66.1301 (2); if the area is comprised of vacant land it shall be established that the vacant land impairs the economic value of surrounding areas in accordance with the general purposes expressed in s. 66.1301 (2).

(b) That the development plan is in accord with the master plan of the city.

(c) That the development area is not less than 100,000 square feet in area, except that it may be smaller in area when undertaken in connection with a public improvement if it is of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner and to contribute substantially to the improvement of the area in which the development is located. If the local governing body makes a finding to the effect that an area is in urgent need of development, and that development will contribute to the progress and expansion of an area whose economic growth is vital to the community, the development area may not be less than 25,000 square feet subject to the requirements of par. (d).

(d) That the various stages by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest and where the area to be developed consists either of vacant land or of substandard or insanitary buildings or structures as provided in s. 66.1301 (3) (a), and the area is less than 100,000 square feet but more than 25,000 square feet as provided in par. (c) then the new structures to be constructed on the vacant land may not be less than 1,000,000 cubic feet.

(e) That the public facilities, based on whether the development is residential, industrial or commercial, are adequate or will be adequate at the time that the development is ready for use to serve the development area.

(f) That the proposed changes in the city map, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city.

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families then occupying dwelling accommodations in the development area legal accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that implementing the development plan will not cause undue hardship to those families. The notice of the public hearing to be held by the planning commission prior to its approval of the development plan shall contain separate statements to the effect that before the development plan is approved, the planning commission must make the determination required in this paragraph, and that if the development plan is approved, real property in the development area is subject to condemnation.

(3m) A determination made under sub. (3) is conclusive evidence of the facts so determined except upon proof of fraud or willful misfeasance. In arriving at the determination, the planning commission shall consider only those elements of the development plan relevant to the determination under sub. (3) and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint, if the development plan provides that the development area is to be primarily residential.

(4) The local governing body, by a two−thirds vote of the members−elect, may approve a development plan, but no resolution of approval may be adopted by it unless the planning commission has first approved the development plan and the plan and planning commission determination have been filed with the local governing body and unless the local governing body determines all of the following:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development.

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan have sufficient ability and experience to

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cause the development to be undertaken, consummated and managed in a satisfactory manner.

(4m) A determination under sub. (4) is conclusive evidence of the facts determined except upon proof of fraud or willful misfeasance. In considering whether a resolution of approval of the development plan will be adopted, the local governing body shall consider those elements of the development plan relevant to the determination under sub. (4).

(5) The planning commission and the local governing body, by a two−thirds vote of the members−elect, may approve an amendment to a development plan, if an application for the amendment has been filed with the planning commission by the redevelopment corporation containing that part of the material required by sub. (1) which is relevant to the proposed amendment and if the planning commission and the local governing body make the determinations required by sub. (3) or (4) which are relevant to the proposed amendment.

(6) The planning commission and the local governing body may, for the guidance of prospective proponents of development plans, fix general standards to which a development plan shall conform. Variations from the standards may be allowed for the accomplishment of the purposes of ss. 66.1301 to 66.1329. The standards may contain provisions more restrictive than those imposed by applicable planning, zoning, sanitary and building laws, ordinances and regulations.

(7) Local housing authorities organized under ss. 66.1201 to 66.1211, redevelopment authorities organized under s. 66.1333, and community development authorities organized under s. 66.1335 may render advisory services in connection with the preliminary surveys, studies and preparation of a development plan as requested by the city planning commission or the local governing body and charge fees for advisory services based on their actual cost.

(8) Notwithstanding any other provision of law, the local legislative body may designate, by ordinance or resolution, the local housing authority, the local redevelopment authority, or both jointly, or the local community development authority, to perform all acts, except the development of the general plan of the city, which are otherwise performed by the planning commission under ss. 66.1301 to 66.1329.

History: 1975 c. 311; 1999 a. 150 ss. 402 to 407; Stats. 1999 s. 66.1303.

66.1305 Redevelopment corporations; limitations; incubator. (1) No redevelopment corporation may do any of the following:

(a) Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the approvals required by s. 66.1303 have been made.

(b) Amend the development plan until the planning commission and the local governing body have approved that portion of the amendment relevant to the determination required to be made by it as set forth in s. 66.1303.

(c) After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the local governing body. Consent may be withheld only if the sale, transfer or assignment is made for the purpose of evading the provisions of ss. 66.1301 to 66.1329.

(d) Pay compensation to its officers or employees in an amount greater than the limit contained in the development plan, or if a default of the development plan occurs, then in an amount greater than the reasonable value of the services performed by the officers or employees.

(e) Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the local governing body which may be withheld only if the lease is being made for the purpose of evading the provisions of ss. 66.1301 to 66.1329.

(f) Mortgage any of its real property without obtaining the approval of the local governing body.

(g) Make any guarantee without obtaining the approval of the local governing body.

(h) Dissolve without obtaining the approval of the local governing body, which may be given upon conditions deemed necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property as to any property or work turned into the development by the city. The approval shall be endorsed on the certificate of dissolution and the certificate may not be filed in the office of the secretary of state in the absence of the endorsement.

(i) Reorganize without obtaining the approval of the local governing body.

(2) (a) In this subsection:

1. "Arts incubator" has the meaning given in s. 41.60 (1) (a).

2. "Technology−based incubator" means a facility that provides a new or expanding technically−oriented business with all of the following:

a. Office and laboratory space.

b. Shared clerical and other support service.

c. Managerial and technical assistance.

(b) A redevelopment corporation may do all of the following:

1. Study the feasibility and initial design for an arts incubator in the development area where the redevelopment corporation operates.

2. Develop and operate an arts incubator in the development area where the redevelopment corporation operates.

3. Apply for a grant or loan under s. 41.60 in connection with an arts incubator.

(c) A redevelopment corporation may, if consistent with a development plan, do all of the following:

1. Study the feasibility and initial design for a technology−based incubator in the development area where the redevelopment corporation operates.

2. Develop and operate a technology−based incubator in the development area where the redevelopment corporation operates.

History: 1981 c. 314; 1989 a. 31; 1993 a. 16; 1999 a. 150 s. 408; Stats. 1999 s. 66.1305; 2009 a. 28; 2011 a. 32.

66.1307 Urban redevelopment; regulation of corporations. (1) APPLICATION OF OTHER CORPORATION LAWS TO REDEVELOPMENT CORPORATIONS. The provisions of the general corporation law apply to redevelopment corporations, unless the provisions are in conflict with the provisions of ss. 66.1301 to 66.1329.

(2) CONSIDERATION FOR ISSUANCE OF STOCK, BONDS OR INCOME DEBENTURES. (a) No redevelopment corporation may issue stocks, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

(b) A redevelopment corporation may pay interest on its income debentures or dividends on its stock during any dividend year, unless, at the time of an intended payment, a default exists under any amortization requirements with respect to its indebtedness.

(3) DETERMINATION OF DEVELOPMENT COST. (a) Upon the completion of a development a redevelopment corporation shall, or upon the completion of a principal part of a development a redevelopment corporation may, file with the planning commission an audited statement of the development cost. Within a reasonable time after the filing of the statement, the planning commission shall determine the development cost applicable to the development or portion of the development and shall issue to the redevelopment corporation a certificate stating the amount of the development cost so determined.

(b) A redevelopment corporation may, whether prior or subsequent to the undertaking of any contract or expense, apply to the planning commission for a ruling as to whether any particular item and amount of cost may be included in development cost when finally determined by the planning commission. The planning

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commission shall, within a reasonable time after the application, render a ruling, and if it is ruled that any item of cost may be included in development cost, the amount of the cost shall be included in development cost when finally determined.

(4) REGULATION OF REDEVELOPMENT CORPORATIONS. A redevelopment corporation shall do all of the following:

(a) Furnish to the planning commission financial information, statements, audited reports or other material that the commission requires, each of which shall conform to such standards of accounting and financial procedure that the planning commission by general regulation prescribes, except that the planning commission may not require a regular report more often than once every 6 months.

(b) Establish and maintain depreciation and other reserves, surplus and other accounts that the planning commission reasonably requires.

History: 1999 a. 150 ss. 409, 410, 412.

66.1309 Urban redevelopment; transfer of land. (1) In this section:

(a) "Bank" means a corporation organized under or subject to the provisions of the banking law.

(b) "Conservator" means any of the following:

1. The division of banking as conservator, liquidator, or rehabilitator of any person, partnership, or corporation, and persons, partnerships, and corporations organized under or subject to the provisions of the banking law.

2. The commissioner of insurance as conservator, liquidator, or rehabilitator of any person, partnership, or corporation.

(c) "Fiduciary" means a personal representative, trustee, guardian, or other person holding trust funds or acting in a fiduciary capacity.

(d) "Governmental unit" means the state, its subdivisions, cities, all other public bodies, and all public officers.

(2) Notwithstanding any other law or the absence of direct provision for transfer of land in the instrument under which a fiduciary is acting, every fiduciary, unless the instrument under which the fiduciary is acting expressly forbids, and every governmental unit, bank, or conservator that owns or holds any real property within a development area may do all of the following:

(a) Grant, sell, lease or otherwise transfer any real property to a redevelopment corporation.

(b) Receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged for the transfer by the redevelopment corporation.

(c) Execute instruments and do acts that are considered necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

History: 1995 a. 27; 1999 a. 150 s. 414; Stats. 1999 s. 66.1309; 2001 a. 102.

66.1311 Urban redevelopment; acquisition of land. (1) A redevelopment corporation may acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

(2) A city may, upon request by a redevelopment corporation, acquire, or obligate itself to acquire, for the redevelopment corporation real property included in a certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any law applicable to the acquisition of real property by the city. Real property acquired by a city for a redevelopment corporation shall be conveyed by the city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of the real property, or leased by the city to the redevelopment corporation, upon terms agreed upon between the city and the redevelopment corporation to carry out the purposes of ss. 66.1301 to 66.1329.

(3) The provisions of ss. 66.1301 to 66.1329 with respect to the condemnation of real property by a city for a redevelopment corporation prevail over the provisions of any other law.

History: 1999 a. 150 s. 415; Stats. 1999 s. 66.1311.

66.1313 Urban redevelopment; condemnation for. (1) Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. The petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting the petition shall require that the redevelopment corporation pay the city all sums expended or required to be expended by the city in the acquisition of the real property, or for any real property to be conveyed to the corporation by the city in connection with the plan, and the time of payment and manner of securing payment, and may require that the city receive, before proceeding with the acquisition of the real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city deems advisable. Upon the passage of a resolution by the local governing body granting the petition, the redevelopment corporation shall make 3 copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the city attorney of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of copies of surveys or maps constitutes acceptance by the redevelopment corporation of the terms and conditions contained in the resolution. The city may conduct condemnation proceedings either under ch. 32 or under other laws applicable to the city. When title to real property vests in the city, it shall convey or lease the real property, with any other real property to be conveyed or leased to the redevelopment corporation by the city in connection with the redevelopment plan, to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition.

(2) The following provisions apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) For the purpose of ss. 66.1301 to 66.1329, the award of compensation may not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of ss. 66.1301 to 66.1329, of the real property in the development area. No allowance may be made for improvements begun on real property after notice to the owner of the property of the institution of the proceedings to condemn the property.

(b) Evidence is admissible that is relevant to the insanitary, unsafe or substandard condition of the premises, or of their illegal use, or the enhancement of rentals from illegal use, and the evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate the conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in the department, it constitutes prima facie evidence of the existence of the condition specified in the order.

(c) If real property in the development area which is to be acquired by condemnation has, before acquisition, been devoted to another public use, it may be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality of the city or other governmental body, corporate or otherwise, may be acquired without its consent. No real property belonging to a public utility corporation may be acquired without the approval of the public service commission or other officer or tribunal having regulatory power over the corporation.

(d) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal

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made or given by any owner or prior owner of the premises taken, or by any person on the owner's or prior owner's behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, is relevant, material and competent upon the issue of value of damage and is admissible on direct examination.

(e) In this section, "owner" includes a person having an estate, interest or easement in the real property to be acquired or a lien, charge or encumbrance on the real property.

History: 1991 a. 316; 1995 a. 225; 1999 a. 150 s. 416; Stats. 1999 s. 66.1313.

66.1315 Urban redevelopment; continued use of land by prior owner. (1) When title to real property has vested in a redevelopment corporation or city, the redevelopment corporation or city may agree with the previous owners of the property, any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use the property, that the former owner, tenant or other persons may occupy or use the property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. The occupation or use may not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city for the termination of occupation or use or the right to occupation or use. Immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city is entitled to possession of the real property and may maintain summary proceedings or obtain a writ of assistance, and is entitled to any other remedy provided by law for obtaining immediate possession. A former owner, tenant or other person occupying or using real property may not be required to give notice to the redevelopment corporation or city at the expiration of the term for which that person has made payment for occupation or use, as a condition to that person's cessation of occupation or use and termination of liability.

(2) If a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for this purpose, and credit the redevelopment corporation with, the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, less the cost and expense incurred by the city for the maintenance and operation of the real property.

History: 1991 a. 316; 1999 a. 150 s. 417; Stats. 1999 s. 66.1315.

66.1317 Urban redevelopment; borrowing; mortgages. (1) A redevelopment corporation may borrow funds and secure the repayment of the funds by mortgage. Every mortgage shall contain reasonable amortization provisions and may be a lien upon no other real property except that forming the whole or a part of a single development area.

(2) (a) Certificates, bonds and notes, or part interests in, or any part of an issue of, these instruments, which are issued by a redevelopment corporation and secured by a first mortgage on all or part of the real property of the redevelopment corporation are securities in which all of the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control:

1. Every personal representative, trustee, guardian, committee, or other person or corporation holding trust funds or acting in a fiduciary capacity.

2. The state, its subdivisions, cities, all other public bodies and all public officers.

3. Persons, partnerships and corporations organized under or subject to the provisions of the banking law, including savings banks, savings and loan associations, trust companies, bankers and private banking corporations.

4. The division of banking as conservator, liquidator or rehabilitator of any person, partnership or corporation and persons, partnerships or corporations organized under or subject to chs. 600 to 646.

5. The commissioner of insurance as conservator, liquidator or rehabilitator of any person, partnership or corporation.

(b) The principal amount of the securities described in par. (a) may not exceed the limits, if any, imposed by law for investments by the person, partnership, corporation, public body or public officer making the investment.

(3) A mortgage on the real property in a development area may create a first lien, or a 2nd or other junior lien, upon the real property.

(4) The limits as to principal amount secured by mortgage referred to in sub. (2) do not apply to certificates, bonds and notes, or part interests in, or any part of an issue of, these instruments, which are secured by first mortgage on real property in a development area, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. A person, partnership, corporation, public body or public officer described in sub. (2) may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on all or part of real property in the development area.

History: 1977 c. 339 s. 43; 1979 c. 89; 1995 a. 27, 225; 1999 a. 150 ss. 418, 419; Stats. 1999 s. 66.1317; 2001 a. 102.

66.1319 Urban redevelopment; sale or lease of land. (1) A local governing body may by resolution determine that real property, title to which is held by the city, specified and described in the resolution, is not required for use by the city and may authorize the city to sell or lease the real property to a redevelopment corporation, if the title of the city to the real property is not inalienable.

(2) Notwithstanding the provisions of any law or ordinance, a sale or lease authorized under sub. (1) may be made without appraisal, public notice or public bidding for a price or rental amount and upon terms agreed upon between the city and the redevelopment corporation to carry out the purposes of ss. 66.1301 to 66.1329. The term of the lease may not exceed 60 years with a right of renewal upon the same terms.

(3) Before any sale or lease to a redevelopment corporation is authorized, a public hearing shall be held by the local governing body to consider the proposed sale or lease.

(4) Notice of such hearing shall be published as a class 2 notice, under ch. 985.

(5) The deed or lease of real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property if the redevelopment corporation violates of any of the provisions of ss. 66.1301 to 66.1329 relating to the redevelopment corporation or violates the conditions or provisions of the deed or lease.

(6) A redevelopment corporation purchasing or leasing real property from a city may not, without the written approval of the city, use the real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property only for the purposes of its development subject to the restrictions of ss. 66.1301 to 66.1329, for breach of which the city may reenter and repossess itself of the real property.

History: 1995 a. 225; 1999 a. 150 ss. 420, 421; Stats. 1999 s. 66.1319.

66.1321 Urban redevelopment; city lease to, terms. If real property of a city is leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor.

(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of the real property and enable the rede-

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velopment corporation to give as security for its notes or bonds a first lien upon the land and improvements.

(3) The execution of a lease does not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the leased land. The lessor may not, by executing the lease, incur any obligation or liability with respect to the leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, does not assume, and the consent may not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage.

(4) The lease may reserve any easements or other rights in connection with the real property that are considered necessary or desirable for the future planning and development of the city and the extension of public facilities in the city, including the construction of subways and conduits and the widening and changing of grade of streets. The lease may contain any other provisions for the protection of the parties that are not inconsistent with the provisions of ss. 66.1301 to 66.1329.

History: 1995 a. 225; 1999 a. 150 s. 422; Stats. 1999 s. 66.1321.

66.1323 Urban redevelopment; aids and appropriations. (1) A local governing body may appropriate moneys for the purpose of, and may borrow or accept grants from the federal or state governments or any of their agencies, for the acquisition of lands required to carry out the plan or the purposes mentioned in s. 66.1325. The local governing body may enter into contracts, mortgages, trust indentures or other agreements as the federal government requires.

(2) A city may appropriate moneys for the purpose of making plans and surveys to carry out redevelopment and for any purpose required to carry out the intention of ss. 66.1301 to 66.1329.

History: 1999 a. 150 ss. 423, 424, 427.

66.1325 Urban redevelopment; city improvements. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of any redevelopment plan located within the area in which it is authorized to act, a local governing body may, upon terms, with or without consideration, that it determines, do all of the following:

(1) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects.

(2) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

History: 1999 a. 150 s. 425; Stats. 1999 s. 66.1325.

66.1327 Urban redevelopment; construction of statute; conflict of laws; supplemental powers. (1) Sections 66.1301 to 66.1329 shall be construed liberally to effectuate the purposes of urban redevelopment, and the enumeration of specific powers does not operate to restrict the meaning of any general grant of power contained in ss. 66.1301 to 66.1329 or to exclude other powers comprehended in the general grant.

(2) If ss. 66.1301 to 66.1329 are inconsistent with any other law, the provisions of these sections are controlling.

(3) The powers conferred by ss. 66.1301 to 66.1329 are in addition and supplemental to the powers conferred by any other law.

History: 1999 a. 150 ss. 428, 429, 431, 433.

66.1329 Urban redevelopment; enforcement of duties. If a redevelopment corporation fails to substantially comply with the development plan within the time limits for the completion of each stage, reasonable delays caused by unforeseen difficulties excepted, or violates or is about to violate ss. 66.1301 to 66.1329, the failure to comply or actual or possible violation may be certified by the planning commission to the city attorney of the city. The city attorney may commence a proceeding in the circuit court of the county in which the city is in whole or in part situated in the name of the city for the purpose of seeking appropriate relief. The court shall, immediately after a default in answering or after answer, inquire into the facts and circumstances in the manner that the court directs without other or formal proceedings, and without respect to any technical requirements. The court may join as parties any other persons it deems necessary or proper in order to make its order or judgment effective. The final judgment or order in the action or proceeding shall dismiss the action or proceeding or grant appropriate relief.

History: 1997 a. 187; 1999 a. 150 s. 413; Stats. 1999 s. 66.1329.

66.1331 Blighted area law. (1) SHORT TITLE. This section shall be known and may be cited and referred to as the "blighted area law."

(2) FINDINGS AND DECLARATION OF NECESSITY. It is found and declared that there have existed and continue to exist in cities within the state, substandard, insanitary, deteriorated, slum and blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state. The existence of these areas contributes substantially and increasingly to the spread of disease and crime (necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection, and other public services and facilities), constitutes an economic and social liability, substantially impairs or arrests the sound growth of cities, and retards the provision of housing accommodations. This menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in this section. The acquisition of property for the purpose of eliminating substandard, insanitary, deteriorated, slum or blighted conditions or preventing recurrence of these conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to these activities, and any assistance which may be given by cities or any other public bodies, are public uses and purposes for which public money may be expended and the power of eminent domain exercised. The necessity in the public interest for the provisions of this section is declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

(3) DEFINITIONS. In this section, unless a different intent clearly appears from the context:

(a) "Blighted area" means any area, including a slum area, in which a majority of the structures are residential or in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

(c) "Housing" includes housing, dwelling, habitation and residence.

(d) "Land" includes bare or vacant land, the land under buildings, structures or other improvements, and water and land under water. When employed in connection with "use", for instance,

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"use of land" or "land use", "land" includes buildings, structures and improvements existing or to be placed on land.

(e) "Lessee" includes the successors or assigns and successors in title of the lessee.

(f) "Local legislative body" means the board of alderpersons, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to enact ordinances or local laws.

(g) "Planning commission" means the board, commission or agency of the city authorized to prepare, adopt or amend or modify a master plan of the city.

(h) "Project area" means a blighted area or portion of a blighted area of such extent and location as adopted by the planning commission and approved by the local legislative body as an appropriate unit of redevelopment planning for a redevelopment project, separate from the redevelopment projects in other parts of the city. In the provisions of this section relating to leasing or sale by the city, for abbreviation "project area" is used for the remainder of the project area after taking out those pieces of property which have been or are to be transferred for public uses.

(i) "Public body" means the state or any city, county, town, village, board, commission, authority, district or any other subdivision or public body of the state.

(j) "Purchaser" includes the successors or assigns and successors in title of the purchaser.

(k) "Real property" includes land; land together with the buildings, structures, fixtures and other improvements on the land; liens, estates, easements and other interests in the land; and restrictions or limitations upon the use of land, buildings or structures, other than those imposed by exercise of the police power.

(L) "Redevelopment company" means a private or public corporation or body corporate, including a public housing authority, carrying out a plan under this section.

(Lm) "Redevelopment plan" means a plan for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

(m) "Redevelopment project" means any work or undertaking to acquire blighted areas or portions of blighted areas, and lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance or redevelopment of the areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight in the areas; to clear blighted areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements; to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; or to sell, lease or otherwise make available land in blighted areas for residential, recreational, commercial, industrial or other use or for public use, or to retain the land for public use, in accordance with a redevelopment plan. "Redevelopment project" includes the preparation of a redevelopment plan, the planning, surveying, and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project.

(n) "Rentals" means rents specified in a lease to be paid by the lessee to the city.

(4) POWER OF CITIES. (a) A city may exercise all powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including all of the following:

1. Prepare redevelopment plans and undertake and carry out redevelopment projects within its corporate limits.

2. Enter into any contracts determined by the local legislative body to be necessary to effectuate the purposes of this section.

3. Within its boundaries, acquire by purchase, eminent domain or otherwise, any real or personal property or any interest in that property, together with any improvements, necessary or incidental to a redevelopment project; hold, improve, clear or prepare for redevelopment any such property; sell, lease, subdivide, retain for its own use, mortgage, or otherwise encumber or dispose of any such property or any interest in that property; enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of the property in accordance with a redevelopment plan and other covenants, restrictions and conditions that it deems necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; and make any covenants, restrictions, conditions or covenants running with the land and provide appropriate remedies for their breach.

4. Borrow money and issue bonds, and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal, state or county government, or other public body or from any sources, for the purpose of this section; and give security as may be required and enter into and carry out contracts in connection with the security.

(b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32 or any other laws applicable to the city.

(c) Notwithstanding any other provision of law, the local legislative body may designate, by ordinance or resolution, any local housing authority existing under ss. 66.1201 to 66.1211, any local redevelopment authority existing under s. 66.1333, or both jointly, or any local community development authority existing under s. 66.1335, as the agent of the city to perform any act, except the development of the general plan of the city, which may otherwise be performed by the planning commission under this section.

(5) GENERAL AND PROJECT AREA REDEVELOPMENT PLANS. (a) The planning commission shall make and develop a comprehensive or general plan of the city, including the appropriate maps, charts, tables and descriptive, interpretive and analytical matter. The plan shall serve as a general framework or guide of development within which the various area and redevelopment projects under this section may be more precisely planned and calculated. The plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property for the redevelopment of a project area, the following steps and plans are required:

1. Designation by the planning commission of the boundaries of the project area proposed by it for redevelopment, submission of the boundaries to the local legislative body and the adoption of a resolution by the local legislative body declaring the area to be a blighted area in need of redevelopment.

2. Adoption by the planning commission and approval by the local legislative body of the redevelopment plan of the project area. The redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area. The plan shall include a statement of the boundaries of the project area; a map showing existing uses and conditions of real property in the area; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage, and building intensity in the area after redevelopment; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the local legislative body may be given only after a public hearing

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conducted by it, and a finding by it that the plan is feasible and in conformity with the general plan of the city. Notice of the hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days prior to the date set for the hearing. All interested parties shall be afforded a reasonable opportunity at the hearing to express their views respecting the proposed plan, but the hearing is only for the purpose of assisting the local legislative body in making its determination.

(c) In relation to the location and extent of public works and utilities, public buildings and other public uses in the general plan or in a project area plan, the planning commission shall confer with those public officials, boards, authorities and agencies under whose administrative jurisdictions the uses respectively fall.

(d) After a project area redevelopment plan of a project area has been adopted by the planning commission and approved by the local legislative body, the planning commission may certify the plan to the local legislative body. The local legislative body shall exercise the powers granted to it in this section for the acquisition and assembly of the real property of the area. Following certification, no new construction may be authorized by any agencies, boards or commissions of the city, in the area, unless as authorized by the local legislative body, including substantial remodeling or conversion or rebuilding, enlargement or extension of major structural improvements on existing buildings, but not including ordinary maintenance or remodeling or changes necessary to continue the occupancy.

(6) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) After the real property in the project area has been assembled, the city may lease or sell all or part of the real property, including streets to be closed or vacated in accordance with the plan, to a redevelopment company or to an individual, a limited liability company or a partnership for use in accordance with the redevelopment plan. Real property in the project area shall be leased or sold at its fair value for uses in accordance with the redevelopment plan notwithstanding that the fair value may be less than the cost of acquiring and preparing the property for redevelopment. In determining the property's fair value, a city shall take into account and give consideration to the following:

1. The uses and purposes required by the plan.

2. The restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, and the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas.

3. Any other matters that the city considers appropriate.

(b) Any lease or sale under this subsection may be made without public bidding, but only after a public hearing by the planning commission upon the proposed lease or sale and its provisions. Notice of the hearing shall be published as a class 2 notice, under ch. 985.

(c) The terms of a lease or sale under this subsection shall be fixed by the planning commission and approved by the local legislative body. The instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to the reappraisals. Every lease or sale shall provide that the lessee or purchaser shall carry out the approved project area redevelopment plan or approved modifications and that no use may be made of any land or real property included in the lease or sale nor any building or structure erected which does not conform to the approved plan or approved modifications. In the instrument of lease or sale, the planning commission, with the approval of the local legislative body, may include other terms, conditions and provisions as in its judgment will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser and assurance of the financial and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale; and may include terms, conditions and specifications concerning buildings, improvements, subleases or tenancy, maintenance and management and any other matters as the planning commission, with the approval of the local legislative body, may impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. If maximum rentals to be charged to tenants of housing are specified, provision may be made for periodic reconsideration of rental bases.

(d) Until the planning commission certifies, with the approval of the local legislative body, that all building constructions and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser may not convey all or part of the area, without the consent of the planning commission and the local legislative body, and no consent may be given unless the grantee of the purchaser is obligated, by written instrument, to the city to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property. The grantee, and the heirs, representatives, successors and assigns of the grantee, may not convey, lease or let the conveyed property or any part of the property, or erect or use any building or structure erected on the property free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications.

(f) The planning commission may, with the approval of the local legislative body, demolish an existing structure or clear the area of any part of the structure, or may specify the demolition and clearance to be performed by a lessee or purchaser and the time schedule for the work. The planning commission, with the approval of the local legislative body, shall specify the time schedule and conditions for the construction of buildings and other improvements.

(g) In order to facilitate the lease or sale of a project area or, if the lease or sale is of parts of an area, the city may include in the cost payable by it the cost of the construction of local streets and sidewalks within the area or of grading and other local public surface or subsurface facilities necessary for shaping the area as the site of the redevelopment of the area. The city may arrange with the appropriate federal, state or county agencies for the reimbursement of outlays from funds or assessments raised or levied for these purposes.

(7) HOUSING FOR DISPLACED FAMILIES. The housing authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. The housing authority and the local legislative body shall assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available, or will be provided, at rents or prices within the financial reach of the income groups displaced.

(8) USE−VALUE APPRAISALS. After the city has assembled and acquired the real property of the project area, it shall, as an aid in determining the rentals and other terms upon which it will lease or the price at which it will sell all or part of the area, place a use value upon each piece or tract of land within the area which, in accordance with the plan, is to be used for private uses or for low−rent housing. The use value shall be based on the planned use and, for the purposes of this use valuation, the city shall provide a use valuation appraisal prepared by the local commissioner of assessments or assessor. Nothing contained in this section may be construed as requiring the city to base its rentals or selling prices upon the appraisal.

(9) PROTECTION OF REDEVELOPMENT PLAN. (a) Before execution and delivery by the city of a lease or conveyance to a redevelopment company, or before consent by the city to an assignment or conveyance by a lessee or purchaser to a redevelopment company, the articles or certificate of incorporation or association or charter or other basic instrument of the company shall contain provisions defining, limiting and regulating the exercise of the pow-

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ers of the company so that neither the company nor its stockholders, officers, directors, members, beneficiaries, bondholders or other creditors or other persons may amend the terms and conditions of the lease or the terms and conditions of the sale without the consent of the planning commission, together with the approval of the local legislative body, or, in relation to the project area development plan, without the approval of any proposed modification in accordance with sub. (10). No action of stockholders, officers, directors, bondholders, creditors, members, partners or other persons, nor any reorganization, dissolution, receivership, consolidation, foreclosure or any other change in the status or obligation of any redevelopment company, partnership, limited liability company or individual in any litigation or proceeding in any federal or other court may effect any release or any impairment or modification of the lease or terms of sale or of the project area redevelopment plan unless consent or approval is obtained.

(b) A redevelopment corporation may be organized under the general corporation law of the state to be a redevelopment company under this section; may acquire and hold real property for the purposes set forth in this section; and may exercise all other powers granted to redevelopment companies in this section.

(c) A redevelopment company, individual, limited liability company or partnership to which all or part of a project area is leased or sold under this section shall keep books of account of its operations of or transactions relating to the area entirely separate and distinct from accounts of and for any other project area or part of the other project area or any other real property or enterprise. No lien or other interest may be placed upon any real property in the area to secure any indebtedness or obligation of the redevelopment company, individual, limited liability company or partnership incurred for or in relation to any property or enterprise outside of the area.

(10) MODIFICATION OF DEVELOPMENT PLANS. An approved project area redevelopment plan may be modified at any time after the lease or sale of all or part of the area if the modification is consented to by the lessee or purchaser, and if the proposed modification is adopted by the planning commission and submitted to the local legislative body and approved by it. Before approval, the local legislative body shall hold a public hearing on the proposed modification, notice of the time and place of which shall be given by mail sent at least 10 days prior to the hearing to the then owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the planning commission any project area redevelopment plan, project area boundaries or modification submitted to it, together with its recommendation for changes in the plan, boundaries or modification and, if recommended changes are adopted by the planning commission and formally approved by the local legislative body, the plan, boundaries or modification as changed becomes the approved plan, boundaries or modification.

(11) LIMITATION UPON TAX EXEMPTION. Nothing contained in this section may be construed to authorize or require the exemption of any real property from taxation, except real property sold, leased or granted to and acquired by a public housing authority. No real property acquired under this section by a private redevelopment company, individual, limited liability company or partnership either by lease or purchase is exempt from taxation by reason of the acquisition.

(12) FINANCIAL ASSISTANCE. The city may accept grants or other financial assistance from the federal, state and county governments or from other sources to carry out the purposes of this section, and may do all things necessary to comply with the conditions attached to the grants or loans.

(13) COOPERATION AND USE OF CITY FUNDS. (a) To assist any redevelopment project located in the area in which it may act, a public body may, upon terms that it determines, furnish services or facilities, provide property, lend or contribute funds, and perform any other action of a character which it may perform for other purposes.

(b) A city may appropriate and use its general funds to carry out the purposes of this section and, to obtain funds, may incur indebtedness, and issue bonds in amounts that the local legislative body determines by resolution to be necessary for use in carrying out the purposes of this section. The issuance of bonds by a city under this paragraph shall be in accordance with statutory and other legal requirements that govern the issuance of obligations generally by the city.

(14) LIMITED OBLIGATIONS. (a) In this subsection, "municipal obligation" has the meaning specified in s. 67.01 (6).

(b) For the purpose of carrying out or administering a redevelopment plan or other functions authorized under this section, a city may issue municipal obligations payable solely from and secured by a pledge of and lien upon any or all of the income, proceeds, revenues, funds, and property of the city derived from or held by it in connection with redevelopment projects, including the proceeds of grants, loans, advances, or contributions from any public or private source. Municipal obligations issued under this subsection may be registered under s. 67.09 but shall otherwise be in a form, mature at times, bear interest at rates, be issued and sold in a manner, and contain terms, covenants, and conditions that the local legislative body of the city, by resolution, determines. The municipal obligations shall be fully negotiable, shall not require a referendum, and are not subject to the provisions of any other law or charter relating to the issuance or sale of municipal obligations. Obligations under this section sold to the United States government need not be sold at public sale.

(15) CONSTRUCTION. This section shall be construed liberally to effectuate its purposes and the enumeration in this section of specific powers does not restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in the general grant.

(16) LIQUIDATION AND DISPOSAL. Projects held under this section may be liquidated and disposed of under s. 66.1201 (25).

History: 1975 c. 94, 311; 1981 c. 112; 1983 a. 24; 1983 a. 189 ss. 58, 329 (7); 1983 a. 207 s. 95; 1991 a. 156, 316; 1993 a. 112, 184, 213; 1995 a. 225; 1999 a. 150 ss. 297, 434 to 440; Stats. 1999 s. 66.1331; 2001 a. 30, 103; 2009 a. 95.

66.1333 Blight elimination and slum clearance. **(1)** SHORT TITLE. This section shall be known and may be cited as the "Blight Elimination and Slum Clearance Act".

(2) FINDINGS. In addition to the findings and declarations made in ss. 66.1331 (2) and 66.1337, it is found and declared that the existence of substandard, deteriorated, slum and blighted areas and blighted properties is a matter of statewide concern. It is the policy of this state to protect and promote the health, safety, morals and general welfare of the people of the state in which these areas and blighted properties exist by the elimination and prevention of these areas and blighted properties through the utilization of all means appropriate for that purpose, thereby encouraging well−planned, integrated, stable, safe and healthful neighborhoods, the provision of healthful homes, a decent living environment and adequate places for employment of the people of this state and its communities in these areas and blighted properties. The purposes of this section are to provide for the elimination and prevention of substandard, deteriorated, slum and blighted areas and blighted properties through redevelopment and other activities by state−created agencies and the utilization of all other available public and private agencies and resources. State agencies are necessary in order to carry out in the most effective and efficient manner the state's policy and declared purposes for the prevention and elimination of substandard, deteriorated, slum and blighted areas and blighted properties. State agencies shall be available in all the cities in the state to be known as the redevelopment authorities of the particular cities and carry out and effectuate the provisions of this section when the local legislative bodies of the cities determine there is a need for them to carry out within their cities the powers and purposes of this section. Assistance

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which may be given by cities or any other public bodies under this section is a public use and purpose for which public money may be expended. The necessity in the public interest for the provisions of this section is declared a matter of legislative determination. Nothing in this subsection contravenes, repeals or rescinds the finding or declaration of necessity before the recreation of this subsection on June 1, 1958.

(2m) DEFINITIONS. In this section, unless the context clearly indicates otherwise:

(a) "Abandoned highway corridor" means land in any city designated by the department of transportation for use as part of an expressway or a freeway, which is no longer designated by the department for that purpose.

(am) "Arts incubator" has the meaning given in s. 41.60 (1) (a).

(ar) "Authority" means a redevelopment authority.

(b) "Blighted area" means any of the following:

1. An area, including a slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

2. An area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

3. An area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

(bm) "Blighted property" means any property within a city, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare, or any property which by reason of faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair market value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provisions of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any property which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

(c) "Blight elimination, slum clearance and urban renewal program", "blight elimination and urban renewal program", "redevelopment, slum clearance or urban renewal program", "redevelopment or urban renewal program", and "redevelopment program", mean undertakings and activities for the elimination and for the prevention of the development or spread of blighted areas.

(d) "Blight elimination, slum clearance and urban renewal project", "redevelopment and urban renewal project", "redevelopment or urban renewal project", "redevelopment project", "urban renewal project" and "project" mean undertakings and activities in a project area for the elimination and for the prevention of the development or spread of slums and blight, and may involve clearance and redevelopment in a project area, or rehabilitation or conservation in a project area, or any combination or part of the undertakings and activities in accordance with a "redevelopment plan", "urban renewal plan", "redevelopment or urban renewal plan", "project area plan" or "redevelopment and urban renewal plan", either one of which means the redevelopment plan of the project area prepared and approved as provided in sub. (6). These undertakings and activities include all of the following:

1. Acquisition of all or a portion of a blighted area.

2. Demolition and removal of buildings and improvements.

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the project area the objectives of this section in accordance with the redevelopment plan.

4. Disposition of any property acquired in the project area, including sale, initial leasing or retention by the authority itself, at its fair value for uses in accordance with the redevelopment plan.

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the redevelopment plan.

6. Acquisition of any other real property in the project area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

7. Studying the feasibility of and initial design for an arts incubator, developing and operating an arts incubator, and applying for a grant or loan under s. 41.60 in connection with an arts incubator.

8. Studying the feasibility of an initial design for a technology−based incubator and developing and operating a technology−based incubator.

(e) "Bonds" means any bonds, including refunding bonds; notes; interim certificates; certificates of indebtedness; debentures; or other obligations.

(g) "Local legislative body" means the board of alderpersons, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to enact ordinances or local laws.

(h) "Project area" means a blighted area which the local legislative body declares to be in need of a blight elimination, slum clearance and urban renewal project.

(i) "Public body" means the state or any city, county, town, village, town board, commission, authority, district, or any other subdivision or public body of the state.

(j) "Real property" includes all lands, together with improvements and fixtures, and property of any nature appurtenant to the lands, or used in connection with the lands, and every estate, interest, right and use, legal or equitable, in the lands, including terms for years and liens by way of judgment, mortgage or otherwise.

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(t) "Technology−based incubator" means a facility that provides a new or expanding technically−oriented business with all of the following:

1. Office and laboratory space.

2. Shared clerical and other support service.

3. Managerial and technical assistance.

(3) REDEVELOPMENT AUTHORITY. (a) 1. It is found and declared that a redevelopment authority, functioning within a city in which there exists blighted areas, constitutes a more effective and efficient means for preventing and eliminating blighted areas in the city and preventing the recurrence of blighted areas. Therefore, there is created in every city with a blighted area a redevelopment authority, to be known as the "redevelopment authority of the city of ....". An authority is created for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects as set forth in this section, together with all powers necessary or incidental to effect adequate and comprehensive blight elimination, slum clearance and urban renewal programs and projects.

2. An authority may transact business and exercise any of the powers granted to it in this section following the adoption by the local legislative body of a resolution declaring in substance that there exists within the city a need for blight elimination, slum clearance and urban renewal programs and projects.

3. Upon the adoption of the resolution by the local legislative body by a two−thirds vote of its members present, a certified copy of the resolution shall be transmitted to the mayor or other head of the city government. Upon receiving the certified copy of the resolution, the mayor or other head of the city government shall, with the confirmation of four−fifths of the local legislative body, appoint 7 residents of the city as commissioners of the authority.

4. The powers of the authority are vested in the commissioners.

5. In making appointments of commissioners, the appointing power shall give due consideration to the general interest of the appointee in a redevelopment, slum clearance or urban renewal program and shall, insofar as is possible, designate representatives from the general public, labor, industry, finance or business group, and civic organizations. Appointees shall have sufficient ability and experience in related fields, especially in the fields of finance and management, to assure efficiency in the redevelopment program, its planning and direction. One of the 7 commissioners shall be a member of the local legislative body. No more than 2 of the commissioners may be officers of the city in which the authority is created.

6. Commissioners shall receive their actual and necessary expenses, including local traveling expenses incurred in the discharge of their duties.

(b) The commissioners who are first appointed shall be designated by the appointing power to serve for the following terms: 2 for one year, 2 for 2 years, one for 3 years, one for 4 years, and one for 5 years, from the date of their appointment. After the first appointments, the term of office is 5 years. A commissioner holds office until a successor is appointed and qualified. Removal of a commissioner is governed by s. 66.1201. Vacancies and new appointments are filled in the manner provided in par. (a).

(c) The filing of a certified copy of the resolution adopted under par. (a) with the city clerk is prima facie evidence of the authority's right to proceed, and the resolution is not subject to challenge because of any technicality. In any suit, action or proceeding commenced against the authority, a certified copy of the resolution is conclusive evidence that the authority is established and authorized to transact business and exercise its powers under this section.

(d) Following the adoption of a resolution, under par. (a), a city is precluded from exercising the powers provided in s. 66.1331 (4), and the authority may proceed to carry on the blight elimination, slum clearance and urban renewal projects in the city, except that the city is not precluded from applying, accepting and contracting for federal grants, advances and loans under the housing and community development act of 1974 (P.L. 93−383).

(e) 1. An authority has no power in connection with any public housing project.

2. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

(f) An authority is an independent, separate and distinct public body and a body corporate and politic, exercising public powers determined to be necessary by the state to protect and promote the health, safety and morals of its residents, and may take title to real and personal property in its own name. The authority may proceed with the acquisition of property by eminent domain under ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

(g) An authority may employ personnel as required to perform its duties and responsibilities under civil service. The authority may appoint an executive director whose qualifications are determined by the authority. The director shall act as secretary of the authority and has the duties, powers and responsibilities delegated by the authority. All of the employees, including the director of the authority, may participate in the same pension system, health and life insurance programs and deferred compensation programs provided for city employees and are eligible for any other benefits provided to city employees.

(5) POWERS OF REDEVELOPMENT AUTHORITIES. (a) An authority may exercise all powers necessary or incidental to carry out and effectuate the purposes of this section, including the power to do all of the following:

1. Prepare redevelopment plans and urban renewal plans and undertake and carry out redevelopment and urban renewal projects within the corporate limits of the city in which it functions.

2. Enter into any contracts determined by the authority to be necessary to effectuate the purposes of this section. All contracts, other than those for personal or professional services, in excess of $25,000 are subject to bid and shall be awarded to the lowest qualified and competent bidder. The authority may reject any bid required under this paragraph. The authority shall advertise for bids by a class 2 notice, under ch. 985, published in the city in which the project is to be developed. If the estimated cost of a contract, other than a contract for personal or professional services, is between $3,000 and $25,000, the authority shall give a class 2 notice, under ch. 985, of the proposed work before the contract is entered into.

3. Within the boundaries of the city, acquire by purchase, lease, eminent domain, or otherwise, any real or personal property or any interest in the property, together with any improvements on the property, necessary or incidental to a redevelopment or urban renewal project; hold, improve, clear or prepare for redevelopment or urban renewal any of the property; sell, lease, subdivide, retain or make available the property for the city's use; mortgage or otherwise encumber or dispose of any of the property or any interest in the property; enter into contracts with redevelopers of property containing covenants, restrictions and conditions regarding the use of the property in accordance with a redevelopment or urban renewal plan, and other covenants, restrictions and conditions that the authority considers necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; make any restrictions, conditions or covenants running with the land and provide appropriate remedies for their breach; arrange or contract for the furnishing of services, privileges, works or facilities for, or in connection with a project; temporarily operate and maintain real property acquired by it in a project area for or in connection with a project pending the disposition of the property for uses and purposes that may be deemed desirable even though not in conformity with the redevelopment plan for the area; within the

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boundaries of the city, enter into any building or property in any project area in order to make inspections, surveys, appraisals, soundings or test borings, and obtain a court order for this purpose if entry is denied or resisted; own and hold property and insure or provide for the insurance of any real or personal property or any of its operations against any risks or hazards, including paying premiums on any insurance; invest any project funds held in reserves or sinking funds or the funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control; redeem its bonds issued under this section at the redemption price established in the bonds or purchase the bonds at less than redemption price, all bonds so redeemed or purchased to be canceled; develop, test and report methods and techniques, and carry out demonstrations and other activities, for the prevention and elimination of slums and blight; and disseminate blight elimination, slum clearance and urban renewal information.

4. a. Borrow money and issue bonds; execute notes, debentures, and other forms of indebtedness; apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the city in which it functions, from the federal government, the state, county, or other public body, or from any sources, public or private for the purposes of this section, and give such security as may be required and enter into and carry out contracts or agreements in connection with the security; and include in any contract for financial assistance with the federal government for or with respect to blight elimination and slum clearance and urban renewal such conditions imposed pursuant to federal laws as the authority considers reasonable and appropriate and that are not inconsistent with the purposes of this section.

b. Any debt or obligation of the authority is not the debt or obligation of the city, county, state or any other governmental authority other than the redevelopment authority itself.

c. Issue bonds to finance its activities under this section, including the payment of principal and interest upon any advances for surveys and plans, and issue refunding bonds for the payment or retirement of bonds previously issued by it. Bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the authority derived from or held in connection with its undertaking and carrying out of projects or activities under this section. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source, in aid of any projects or activities of the authority under this section, and by a mortgage of all or a part of the projects or activities. Bonds issued under this section are not an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction of the state, city or of any public body other than the authority issuing the bonds, and are not subject to any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and, together with interest and income, are exempt from all taxes. Bonds issued under this section shall be authorized by resolution of the authority, may be issued in one or more series and shall bear a date, be payable upon demand or mature at a time, bear interest at a rate, be in a denomination, be in a form either with or without coupon or registered, carry conversion or registration privileges, have rank or priority, be payable in a medium of payment, at a place, and be subject to terms of redemption, with or without premium, be secured in a manner, and have other characteristics, as provided by the resolution, trust indenture or mortgage issued pursuant to the transaction. Bonds issued under this section shall be executed as provided in s. 67.08 (1) and may be registered under s. 67.09. The bonds may be sold or exchanged at public sale or by private negotiation with bond underwriters as the authority provides. The bonds may be sold or exchanged at any price that the authority determines. If sold or exchanged at public sale, the sale shall be held after a class 2 notice, under ch. 985, published before the sale in a newspaper having general circulation in the city and in any other medium of publication that the authority determines. Bonds may be sold to the federal government at private sale, without publication of any notice, at not less than par, and, if less than all of the authorized principal amount of the bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the authority that does not exceed the interest cost to the authority of the portion of the bonds sold to the federal government. Any provision of law to the contrary notwithstanding, any bonds issued under this section are fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this section or the security for any bond, any bond reciting in substance that it has been issued by the authority in connection with a project or activity under this section is deemed to have been issued for that purpose and the project or activity is deemed to have been planned, located and carried out in accordance with this section.

5. Establish a procedure for preservation of the records of the authority by the use of microfilm, another reproductive device, optical imaging or electronic formatting, if authorized under s. 19.21 (4) (c). The procedure shall assure that copies of the records that are open to public inspection continue to be available to members of the public requesting them. A photographic reproduction of a record or copy of a record generated from optical disk or electronic storage is deemed the same as an original record for all purposes if it meets the applicable standards established in ss. 16.61 and 16.612.

6. Authorize the chairperson of the authority or the vice chairperson in the absence of the chairperson, selected by vote of the commissioners, and the executive director or the assistant director in the absence of the executive director to execute on behalf of the authority all contracts, notes and other forms of obligation when authorized by at least 4 of the commissioners of the authority to do so.

7. Commence actions in its own name. The authority shall be sued in the name of the authority. The authority shall have an official seal.

8. Exercise other powers that may be required or necessary to effectuate the purposes of this section.

9. Exercise any powers of a housing authority under s. 66.1201 if done in concert with a housing authority under a contract under s. 66.0301.

(b) 1. Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

3. Where a public hearing has been held with respect to a project area under this section the authority may proceed with such project and the redevelopment plan by following the procedure set forth in ch. 32. Any owner of property who has filed objections to the plan as provided under sub. (6) may be entitled to a remedy as determined by s. 32.06 (5).

4. The authority may acquire by purchase real property within any area designated for urban renewal or redevelopment purposes under this section before the approval of either the redevelopment or urban renewal plans or before any modification of the plan if approval of the acquisition is granted by the local governing body. If real property is acquired, the authority may demolish or remove structures with the approval of the local governing body. If acquired real property is not made part of the urban renewal project the authority shall bear any loss that may arise as a result of the acquisition, demolition or removal of structures acquired under this section. If the local legislative body has given its approval to the acquisition of real property that is not made a part of the urban renewal project, it shall reimburse the authority for any loss sustained as provided for in this subsection. Any real property acquired in a redevelopment or in an urban renewal area under this subsection may be disposed of under this section if the local gov-

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erning body has approved the acquisition of the property for the project.

(c) 1. Notwithstanding sub. (6), the authority of a 1st class city may acquire any property determined by the authority to be blighted property without designating a boundary or adopting a redevelopment plan. The authority may not acquire property under this subdivision without the approval of the local legislative body of the city in which the authority is located.

1g. Notwithstanding sub. (6), the authority of any 2nd, 3rd or 4th class city may acquire blighted property without designating a boundary or adopting a redevelopment plan, if all of the following occur:

a. The authority obtains advance approval for the acquisition by at least a two−thirds vote of the members of the local legislative body in which the authority is located.

b. The two−thirds approval in subd. 1g. a. shall be by resolution and the resolution shall contain a finding of the local legislative body that a comprehensive redevelopment plan is not necessary to determine the need for the acquisition, the uses of the property after acquisition and the relation of the acquisition to other property redevelopment by the authority.

1r. Condemnation proceedings for the acquisition of blighted property shall be conducted under ch. 32 or under any other law relating specifically to eminent domain procedures of authorities. The authority may hold, clear, construct, manage, improve or dispose of the blighted property, for the purpose of eliminating its status as blighted property. Notwithstanding sub. (9), the authority may dispose of the blighted property in any manner. The authority may assist private acquisition, improvement and development of blighted property for the purpose of eliminating its status as blighted property, and for that purpose the authority has all of the duties, rights, powers and privileges given to the authority under this section, as if it had acquired the blighted property.

2. Before acquiring blighted property under subd. 1. or 1g., the authority shall hold a public hearing to determine if the property is blighted property. Notice of the hearing, describing the time, date, place and purpose of the hearing and generally identifying the property involved, shall be given to each owner of the property, at least 20 days before the date set for the hearing, by certified mail with return receipt requested. If the notice cannot be delivered by certified mail with return receipt requested, or if the notice is returned undelivered, notice may be given by posting the notice at least 10 days before the date of hearing on any structure located on the property which is the subject of the notice. If the property which is the subject of the notice consists of vacant land, a notice may be posted in some suitable and conspicuous place on that property. For the purpose of ascertaining the name of the owner or owners of record of property which is subject to a public hearing under this subdivision, the records of the register of deeds of the county in which the property is located, as of the date of the notice required under this subdivision, are conclusive. An affidavit of mailing or posting the notice which is filed as a part of the records of the authority is prima facie evidence of that notice. In the hearing under this subdivision, all interested parties may express their views on the authority's proposed determination, but the hearing is only for informational purposes. Any technical omission or error in the procedure under this subdivision does not invalidate the designation or subsequent acquisition. If any owner of property subject to the authority's determination that the property is blighted property objects to that determination or to the authority's acquisition of that property, that owner shall file a written statement of and reasons for the objections with the authority before, at the time of, or within 15 days after the public hearing under this subdivision. The statement shall contain the mailing address of the person filing the statement and be signed by or on behalf of that person. The filing of that statement is a condition precedent to the commencement of an action to contest the authority's actions under this paragraph.

(5m) BONDS TO FINANCE MORTGAGE LOANS ON OWNER−OCCUPIED DWELLINGS. (a) Subject to par. (b), an authority may issue bonds to finance mortgage loans on owner−occupied dwellings. Bonds issued under this paragraph may be sold at a private sale at a price determined by the authority.

(b) The redevelopment authority shall submit the resolution authorizing the issuance of bonds under par. (a) to the common council for review. If the common council disapproves the resolution within 45 days after its submission, no bonds may be issued under the authority of the resolution.

(c) The redevelopment authority may:

1. Issue mortgage loans for the rehabilitation, purchase or construction of any owner−occupied dwelling in the city.

2. Issue loans to any lending institution within the city which agrees to make mortgage loans for the rehabilitation, purchase or construction of any owner−occupied dwelling in the city.

3. Purchase loans agreed to be made under subd. 2.

(5r) FINANCING OF CERTAIN SCHOOL FACILITIES. (a) *Legislative declaration.* The legislature determines that the development of new public schools will help alleviate the substandard conditions described in sub. (2) and will promote the sound growth and economic development of cities and enhance the education of youth in neighborhood settings. The legislature determines that the social and economic problems sought to be addressed are particularly acute in more densely populated areas. The legislature desires to make certain financing and economic tools available in 1st class cities with the view that there are likely to be positive statewide benefits in light of the impact that 1st class cities have on the economy and welfare of the entire state.

(b) *Bond issuance for public school facilities.* 1. The authority of a 1st class city may issue up to $170,000,000 in bonds to finance or refinance the development or redevelopment of sites and facilities to be used for public school facilities by the board of school directors of the school district operating under ch. 119 if all of the following apply:

a. The board of school directors of the school district operating under ch. 119 requests the issuance of the bonds to implement the report approved under 1999 Wisconsin Act 9, section 9158 (7tw) (b).

b. The authority determines that the purposes of the financing are consistent with the 1st class city's master plan.

2m. The authority of a 1st class city may issue refunding bonds to fund, refund, or advance refund any bonds previously issued by the authority under subd. 1., to fund a debt service reserve fund for such refunding bonds, to pay capitalized interest with respect to such refunding bonds, and to pay the costs incurred in connection with the issuance of such refunding bonds.

(c) *Terms and conditions.* The terms and conditions of bonds issued under this subsection shall be those specified in sub. (5) (a) 4. except that it shall not be necessary that the financed property be located in a project area or a blighted area. The bonds may not have a maturity in excess of 20 years and, other than refunding bonds, may not be issued later than October 1, 2004.

(d) *Designation of special debt service reserve funds.* The authority may designate one or more accounts in funds created under the resolution authorizing the issuance of bonds under this subsection as special debt service reserve funds if, prior to each issuance of bonds to be secured by the special debt service reserve fund, the secretary of administration determines that all of the following conditions are met with respect to the bonds:

1. 'Purpose.' The proceeds of the bonds, other than refunding bonds, will be used for public school facilities in the school district operating under ch. 119.

2. 'Feasibility.' There is a reasonable likelihood that the bonds will be repaid without the necessity of drawing on funds in the special debt service reserve fund that secures the bonds. The

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secretary of administration may make this determination of reasonable likelihood only after considering all of the following:

a. The extent to which and manner by which revenues of the school district operating under ch. 119 are pledged to the payment of the bonds.

c. The proposed interest rates of the bonds and the resulting cash−flow requirements.

d. The projected ratio of annual pledged revenues from the school district operating under ch.119 to annual debt service on the bonds, taking into account capitalized interest.

e. Whether an understanding exists providing for repayment by the authority to the state of all amounts appropriated to the special debt service reserve fund pursuant to par. (j).

f. Whether the authority has agreed that the department of administration will have direct and immediate access, at any time and without notice, to all records of the authority relating to the bonds.

3. 'Limit on bonds issued.' The principal amount of all bonds, other than refunding bonds, that would be secured by all special debt service reserve funds of the authority will not exceed $170,000,000.

4. 'Refunding bonds.' All refunding bonds to be secured by the special debt service reserve fund meet all of the following conditions:

a. The bonds to be refunded by the refunding bonds are secured by a special debt service reserve fund.

b. The refunding will not adversely affect the risk that the state will be called on to make a payment under par. (j).

c. The refunding bonds do not extend the maturity of bonds previously issued by the authority under par. (b) 1.

5. 'Approval of outstanding debt.' All outstanding bonds of the authority issued under this subsection have been reviewed and approved by the secretary of administration. In determining whether to approve outstanding bonds under this subdivision, the secretary may consider any factor that the secretary determines to have a bearing on whether the state moral obligation pledge under par. (j) should be granted with respect to an issuance of bonds.

6. 'Financial reports.' The authority has agreed to provide to the department of administration all financial reports of the authority and all regular monthly statements of any trustee of the bonds on a direct and ongoing basis.

(e) *Payment of funds into a special debt service reserve fund.* The authority shall pay into any special debt service reserve fund of the authority any moneys appropriated and made available by the state for the purposes of the special debt service reserve fund, any proceeds of a sale of bonds to the extent provided in the bond resolution authorizing the issuance of the bonds and any other moneys that are made available to the authority for the purpose of the special debt service reserve fund from any other source.

(f) *Use of moneys in the special debt service reserve fund.* All moneys held in any special debt service reserve fund of the authority for bonds issued under this subsection, except as otherwise specifically provided, shall be used solely for the payment of the principal of the bonds, the making of sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. If moneys in a special debt service reserve fund at any time are less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund, the authority may not use these moneys for any optional purchase or optional redemption of the bonds. Any income or interest earned by, or increment to, any special debt service reserve fund due to the investment of moneys in the special debt service reserve fund may be transferred by the authority to other funds or accounts of the authority relating to the bonds to the extent that the transfer does not reduce the amount of the special debt service reserve fund below the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund.

(g) *Limitation on bonds secured by a special debt service reserve fund.* The authority shall accumulate in each special debt service reserve fund an amount equal to the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund. The authority may not at any time issue bonds under this subsection secured in whole or in part by a special debt service reserve fund if upon the issuance of these bonds the amount in the special debt service reserve fund will be less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund.

(h) *Special debt service reserve fund requirement.* The special debt service reserve fund requirement for a special debt service reserve fund, as of any particular date of computation, is equal to an amount of money, as provided in the bond resolution authorizing bonds under this subsection with respect to which the special debt service reserve fund is established, that may not exceed the maximum annual debt service on the bonds of the authority for that fiscal year or any future fiscal year of the authority secured in whole or in part by that special debt service reserve fund. In computing the annual debt service for any fiscal year, bonds deemed to have been paid in accordance with the defeasance provisions of the bond resolution authorizing the issuance of the bonds shall not be included in bonds outstanding on such date of computation. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all of the following calculated on the assumption that the bonds will, after the date of computation, cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due, and application in accordance with the bond resolution authorizing those bonds, of all of the sinking fund payments payable at or after the date of computation:

1. All interest payable during the fiscal year on all bonds that are secured in whole or in part by the special debt service reserve fund and that are outstanding on the date of computation.

2. The principal amount of all of the bonds that are secured in whole or in part by the special debt service reserve fund, are outstanding on the date of computation, and mature during the fiscal year.

3. All amounts specified in bond resolutions of the authority authorizing any of the bonds that are secured in whole or in part by the special debt service reserve fund to be payable during the fiscal year as a sinking fund payment with respect to any of the bonds that mature after the fiscal year.

(i) *Valuation of securities.* In computing the amount of a special debt service reserve fund for the purposes of this subsection, securities in which all or a portion of the special debt service reserve fund is invested shall be valued at par, or, if purchased at less than par, at their cost to the authority.

(j) *State moral obligation pledge.* If at any time of valuation the special debt service reserve fund requirement under par. (h) for a special debt service reserve fund exceeds the amount of moneys in the special debt service reserve fund, the authority shall certify to the secretary of administration, the governor and the joint committee on finance the amount necessary to restore the special debt service reserve fund to an amount equal to the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund. If this certification is received by the secretary of administration in an even−numbered year prior to the completion of the budget compilation under s. 16.43, the secretary shall include the certified amount in the budget compilation. In any case, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so certified to the appropriate special debt service reserve fund of the authority. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make this appropriation. This paragraph applies

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only to bonds issued under, and in compliance with, this subsection.

(L) *Types of schools.* The proceeds of bonds issued under this subsection may not be used for modular schools.

(5s) UNFUNDED SERVICE LIABILITY. (a) *Bond issuance.* Subject to s. 119.499 (1), the authority of a 1st class city may issue up to $200,000,000 in bonds to finance or refinance the payment of unfunded prior service liability contributions under the Wisconsin Retirement System for the board of school directors of the school district operating under ch. 119 if the board of school directors of the school district operating under ch. 119 requests the issuance of the bonds.

(b) *Terms and conditions.* The terms and conditions of bonds issued under this subsection shall be those specified in sub. (5) (a) 4. The bonds may not have a maturity in excess of 40 years.

(c) *Bonds not secured by special debt service reserve funds.* If the authority issues bonds under this subsection that are not secured by a special debt service reserve fund, as provided under par. (d), pars. (e) to (i) do not apply.

(d) *Designation of special debt service reserve funds.* The authority may designate one or more accounts in funds created under the resolution authorizing the issuance of bonds under this subsection as special debt service reserve funds if, prior to each issuance of bonds to be secured by the special debt service reserve fund, the secretary of administration determines that all of the following conditions are met with respect to the bonds:

1. 'Purpose.' The proceeds of the bonds, other than refunding bonds, will be used for the purpose specified in par. (a).

2. 'Feasibility.' There is a reasonable likelihood that the bonds will be repaid without the necessity of drawing on funds in the special debt service reserve fund that secures the bonds. The secretary of administration may make this determination of reasonable likelihood only after considering all of the following:

a. The extent to which and manner by which revenues of the school district operating under ch. 119 are pledged to the payment of the bonds.

c. The proposed interest rates of the bonds and the resulting cash−flow requirements.

d. The projected ratio of annual pledged revenues from the school district operating under ch.119 to annual debt service on the bonds, taking into account capitalized interest.

f. Whether the authority has agreed that the department of administration will have direct and immediate access, at any time and without notice, to all records of the authority relating to the bonds.

3. 'Limit on bonds issued.' The principal amount of all bonds, other than refunding bonds, that would be secured by all special debt service reserve funds of the authority as designated under par. (d) will not exceed $200,000,000.

4. 'Refunding bonds.' All refunding bonds to be secured by the special debt service reserve fund are to be issued to fund, refund, or advance refund bonds secured by a special debt service reserve fund.

5. 'Approval of outstanding debt.' All outstanding bonds of the authority issued under this subsection have been reviewed and approved by the secretary of administration.

6. 'Financial reports.' The authority has agreed to provide to the department of administration all financial reports of the authority and all regular monthly statements of any trustee of the bonds on a direct and ongoing basis.

(e) *Payment of funds into a special debt service reserve fund.* The authority shall pay into any special debt service reserve fund of the authority any moneys appropriated and made available by the state for the purposes of the special debt service reserve fund, any proceeds of a sale of bonds to the extent provided in the bond resolution authorizing the issuance of the bonds and any other moneys that are made available to the authority for the purpose of the special debt service reserve fund from any other source.

(f) *Use of moneys in the special debt service reserve fund.* All moneys held in any special debt service reserve fund of the authority for bonds issued under this subsection, except as otherwise specifically provided, shall be used solely for the payment of the principal of the bonds, the making of sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. If moneys in a special debt service reserve fund at any time are less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund, the authority may not use these moneys for any optional purchase or optional redemption of the bonds. Any income or interest earned by, or increment to, any special debt service reserve fund due to the investment of moneys in the special debt service reserve fund in excess of the special debt service reserve fund requirement under par. (h) may be transferred by the authority to other funds or accounts of the authority relating to the bonds.

(g) *Limitation on bonds secured by a special debt service reserve fund.* The authority shall accumulate in each special debt service reserve fund an amount equal to the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund. The authority may not at any time issue bonds under this subsection secured in whole or in part by a special debt service reserve fund if upon the issuance of these bonds the amount in the special debt service reserve fund will be less than the special debt service reserve fund requirement under par. (h) for the special debt service reserve fund.

(h) *Special debt service reserve fund requirement.* The special debt service reserve fund requirement for a special debt service reserve fund, as of any particular date of computation, is equal to an amount as provided in the bond resolution authorizing bonds under this subsection with respect to which the special debt service reserve fund is established, and that amount may not exceed the maximum annual debt service on the bonds of the authority for that fiscal year or any future fiscal year of the authority secured in whole or in part by that special debt service reserve fund. In computing the annual debt service for any fiscal year, bonds deemed to have been paid in accordance with the defeasance provisions of the bond resolution authorizing the issuance of the bonds shall not be included in bonds outstanding on such date of computation. The annual debt service for any fiscal year is the amount of money equal to the aggregate of all of the following calculated on the assumption that the bonds will, after the date of computation, cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due, and application in accordance with the bond resolution authorizing those bonds, of all of the sinking fund payments payable at or after the date of computation:

1. All interest payable during the fiscal year on all bonds that are secured in whole or in part by the special debt service reserve fund and that are outstanding on the date of computation.

2. The principal amount of all of the bonds that are secured in whole or in part by the special debt service reserve fund, are outstanding on the date of computation, and mature during the fiscal year.

3. All amounts specified in bond resolutions of the authority authorizing any of the bonds that are secured in whole or in part by the special debt service reserve fund to be payable during the fiscal year as a sinking fund payment with respect to any of the bonds that mature after the fiscal year.

(i) *Valuation of securities.* In computing the amount of a special debt service reserve fund for the purposes of this subsection, securities in which all or a portion of the special debt service reserve fund is invested shall be valued at par, or, if purchased at less than par, at their cost to the authority.

(6) COMPREHENSIVE PLAN OF REDEVELOPMENT; DESIGNATION OF BOUNDARIES; APPROVAL BY LOCAL LEGISLATIVE BODY. (a) The authority may make and prepare a comprehensive plan of redevelopment and urban renewal which shall be consistent with the gen-

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eral plan of the city, including the appropriate maps, tables, charts and descriptive and analytical matter. The plan is intended to serve as a general framework or guide of development within which the various area and redevelopment and urban renewal projects may be more precisely planned and calculated. The comprehensive plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land. The authority may make all other surveys and plans necessary under this section, and adopt or approve, modify and amend the plans.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property in a project area, the following steps and plans are required:

1. Designation by the authority of the boundaries of the proposed project area, submission of the boundaries to the local legislative body, and adoption of a resolution by two−thirds of the local legislative body declaring the area to be a blighted area in need of a blight elimination, slum clearance and urban renewal project. After these acts, the local legislative body may, by resolution by two−thirds vote, prohibit for an initial period of not to exceed 6 months from enactment of the resolution any new construction in the area except upon resolution by the local legislative body that the proposed new construction, on reasonable conditions stated in the resolution, will not substantially prejudice the preparation or processing of a plan for the area and is necessary to avoid substantial damage to the applicant. The order of prohibition is subject to successive renewals for like periods by like resolutions, but no new construction contrary to any resolution of prohibition may be authorized by any agency, board or commission of the city in the area except as provided in this subdivision. No prohibition of new construction may be construed to forbid ordinary repair or maintenance, or improvement necessary to continue occupancy under any regulatory order.

2. Approval by the authority and by two−thirds of the local legislative body of the redevelopment plan of the project area which has been prepared by the authority. The redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area. The redevelopment plan shall include a statement of the boundaries of the project area; a map showing existing uses and conditions of real property; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage and building intensity in the area after redevelopment; present and potential equalized value for property tax purposes; a statement of proposed changes in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the authority, which may be given only after a public hearing conducted by the authority and a finding by the authority that the plan is feasible and in conformity with the general plan of the city. Notice of the hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days before the date set for the hearing. At least 20 days before the date set for the hearing on the proposed redevelopment plan of the project area a notice shall be transmitted by certified mail, with return receipt requested, to each owner of real property of record within the boundaries of the redevelopment plan. If transmission of the notice by certified mail with return receipt requested cannot be accomplished, or if the letter is returned undelivered, then notice may be given by posting the notice at least 10 days before the date of hearing on any structure located on the property or, if the property consists of vacant land, a notice may be posted in some suitable and conspicuous place on the land. The notice shall state the time and place at which the hearing will be held with respect to the redevelopment plan and that the owner's property might be taken for urban renewal. For the purpose of ascertaining the name of the owner of record of the real property within the project boundaries, the records, at the time of the approval by the redevelopment authority of the project boundaries, of the register of deeds of the county in which the property is located are conclusive. Failure to receive the notice does not invalidate the plan. An affidavit of mailing or posting of the notice filed as a part of the records of the authority is prima facie evidence of the giving of notice. All interested parties shall be afforded a full opportunity to express their views on the proposed plan at the public hearing, but the hearing shall only be for the purpose of assisting the authority in making its determination and in submitting its report to the local legislative body. Any technical omission in the procedure outlined in this subdivision does not invalidate the plan. Any owner of property included within the boundaries of the redevelopment plan who objects to the plan shall state the owner's objections and the reasons for objecting, in writing, and file the s document with the authority before the public hearing, at the time of the public hearing, or within 15 days after the hearing. The owner shall state his or her mailing address and sign his or her name. The filing of objections in writing is a condition precedent to the commencement of an action to contest the right of the redevelopment authority to condemn the property under s. 32.06 (5).

(c) In relation to the location and extent of public works and utilities, public buildings and public uses in a comprehensive plan or a project area plan, the authority shall confer with the planning commission and with such other public officials, boards, authorities and agencies of the city under whose administrative jurisdictions these uses fall.

(d) After the redevelopment plan has been approved both by the authority and the local legislative body, it may be amended by resolution adopted by the authority, and the amendment shall be submitted to the local legislative body for its approval by a two−thirds vote before it becomes effective. It is not required in connection with any amendment to the redevelopment plan, unless the boundaries described in the plan are altered to include other property, that the provisions in this subsection with respect to public hearing and notice be followed.

(e) After a project area redevelopment plan of a project area has been adopted by the authority, and the local legislative body has by a two−thirds vote approved the redevelopment plan the authority may certify the plan to the local legislative body. After certification, the authority shall exercise the powers granted to it for the acquisition and assembly of the real property of the area. The local legislative body shall upon the certification of the plan by the authority direct that no new construction be permitted. After this direction, no new construction may be authorized by any agencies, boards or commissions of the city in the area unless authorized by the local legislative body, including substantial remodeling or conversion or rebuilding, enlargement, or extension or major structural improvements on existing buildings, but not including ordinary maintenance or remodeling or changes necessary to continue the occupancy.

(f) Any city in which a redevelopment authority is carrying on redevelopment under this section may make grants, loans, advances or contributions for the purpose of carrying on redevelopment, urban renewal and any other related purposes.

(9) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) 1. a. Upon the acquisition of any real property in the project area, the authority may lease, sell or otherwise transfer to a redevelopment company, association, corporation or public body, or to an individual, limited liability company or partnership, all or any part of the real property, including streets or parts of streets to be closed or

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vacated in accordance with the plan, for use in accordance with the redevelopment plan. No assembled lands of the project area may be either sold or leased by the authority to a housing authority created under s. 66.1201 for the purpose of constructing public housing projects upon the land unless the sale or lease of the lands has been first approved by the local legislative body by a vote of not less than four−fifths of the members elected.

b. Any real property sold or leased under subd. 1. a. shall be leased or sold at its fair market value for uses in accordance with the redevelopment plan, notwithstanding that the fair market value may be less than the cost of acquiring and preparing the property for redevelopment. In determining fair market value, an authority shall give consideration to the uses and purposes required by the redevelopment plan; the restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention or recurrence of slum and blighted areas; and other matters that the authority considers appropriate.

c. A copy of the redevelopment plan shall be recorded in the office of the register of deeds in the county where the redevelopment project is located. Any amendment to the redevelopment plan, approved under sub. (6), shall be recorded in the office of the register of deeds of the county.

d. Before the transfer, lease or sale of any real property in the project area occurs, a report as to the terms, conditions and other material provisions of the transaction shall be submitted to the local legislative body, and the local legislative body shall approve the report prior to the authority proceeding with the disposition of the real property.

2. Any lease, including renewal options, which can total more than 5 years shall be approved by the local legislative body.

(b) A lease or sale may be made without public bidding, but only after public hearing is held by the authority after a notice is published as a class 2 notice, under ch. 985. The hearing shall be predicated upon the proposed sale or lease and the provisions of the sale or lease.

(c) The terms of a lease or sale shall be fixed by the authority, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to the reappraisals. Every lease or sale shall provide that the lessee or purchaser will carry out the approved project area redevelopment plan or approved modifications of the redevelopment plan, and that the use of land or real property included in the lease or sale, and any building or structure, shall conform to the approved plan or approved modifications of the plan. In the instrument of lease or sale, the authority may include other terms, provisions and conditions that will provide reasonable assurance of the priority of the obligations of the lease or sale, of conformance to the plan over any other obligations of the lessee or purchaser, and of the financial and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale. In the instrument of lease or sale, the authority may include terms, conditions and specifications concerning buildings, improvements, subleases or tenancy, maintenance and management, and any other matters that the authority imposes or approves, including provisions under which the obligations to carry out and conform to the project area plan run with the land. If maximum rentals to be charged to tenants are specified, provision may be made for periodic reconsideration of rental bases.

(d) Until the authority certifies that all building constructions and other physical improvements specified by the purchaser have been completed, the purchaser may not convey all or part of an area without the consent of the authority. No consent may be given unless the grantee of the purchaser is obligated, by written instrument, to the authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and unless the written instrument specifies that the grantee and the heirs, representatives, successors and assigns of the grantee may not convey, lease or let all or part of the conveyed property, or erect or use any building or structure on the conveyed property free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications of the redevelopment plan.

(e) The authority may demolish any existing structure or clear all or part of an area or specify the demolition and clearance to be performed by a lessee or purchaser and a time schedule for the demolition and clearance. The authority shall specify the time schedule and conditions for the construction of buildings and other improvements.

(f) In order to facilitate the lease or sale of a project area, or if the lease or sale is part of an area, the authority may include in the cost payable by it the cost of the construction of local streets and sidewalks in the area, or of grading and any other local public surface or subsurface facilities or any site improvements necessary for shaping the area as the site of the redevelopment of the area. The authority may arrange with the appropriate federal, state, county or city agencies for the reimbursement of outlays from funds or assessments raised or levied for these purposes.

(10) HOUSING FOR DISPLACED FAMILIES; RELOCATION PAYMENTS. An authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. The authority shall prepare a plan for submittal to the local legislative body for approval which shall assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available or will be provided at rents or prices within the financial reach of the income groups displaced. The authority may make relocation payments to or with respect to persons, including families, business concerns and others, displaced by a project for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including making payments financed by the federal government.

(11) MODIFICATION OF REDEVELOPMENT PLAN. (a) An approved project area redevelopment plan may be modified at any time after the lease or sale of all or part of the area if the modification is consented to by the lessee or purchaser, and the proposed modification is adopted by the authority and submitted to, and approved by, the local legislative body. Before approval, the authority shall hold a public hearing on the proposed modification, and notice of the time and place of hearing shall be sent by mail at least 10 days before the hearing to the owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the authority any project area redevelopment plan, project area boundaries or modifications submitted to it, together with recommendations for changes in the plan, boundaries or modification, and if the recommended changes are adopted by the authority and approved by the local legislative body, the plan, boundaries or modifications as changed become the approved plan, boundaries or modification.

(b) Whenever the authority determines that a redevelopment plan with respect to a project area that has been approved and recorded in the register of deed's office is to be modified to permit land uses in the project area, other than those specified in the redevelopment plan, the authority shall notify all purchasers of property within the project area of the authority's intention to modify the redevelopment plan, and it shall hold a public hearing on the modification. Notice shall be given to the purchasers of the property by personal service at least 20 days before the holding of the public hearing, or if the purchasers cannot be found notice shall be given by registered mail to the purchasers at their last−known address. Notice of the public hearing shall also be given by publication as a class 2 notice, under ch. 985. The notice shall specify the project area and recite the proposed modification and its purposes. The public hearing is advisory to the authority. If the authority, following the public hearing, determines that the modification of the redevelopment plan will not affect the original objectives of the plan and that it will not produce conditions leading to a reoccurrence of blight within the project area, the author-

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ity may by resolution act to modify the plan to permit additional land uses in the project area, subject to approval by the legislative body by a two−thirds vote of the members−elect. If the local legislative body approves the modification to the redevelopment plan, an amendment to the plan containing the modification shall be recorded with the register of deeds of the county in which the project area is located and shall supplement the redevelopment plan previously recorded. Following the action with respect to modification of the redevelopment plan, the plan is amended and no legal rights accrue to any person or to any owner of property in the project area by reason of the modification of the redevelopment plan.

(c) The provisions of this subsection shall be construed liberally to effectuate its purposes and substantial compliance is adequate. Technical omissions do not invalidate the procedure in this subsection with respect to acquisition of real property necessary or incidental to a redevelopment project.

(12) LIMITATION UPON TAX EXEMPTION. The real and personal property of the authority is declared to be public property used for essential public and governmental purposes, and the property and an authority are exempt from all taxes of the state or any state public body. The city in which a redevelopment or urban renewal project is located may fix a sum to be paid annually in lieu of taxes by the authority for the services, improvements or facilities furnished to the project by the city if the authority is financially able to do so, but the sum may not exceed the amount which would be levied as the annual tax of the city upon the project. No real property acquired under this section by a private company, corporation, individual, limited liability company or partnership, either by lease or purchase, is exempt from taxation because of the acquisition.

(13) COOPERATION BY PUBLIC BODIES AND USE OF CITY FUNDS. To assist any redevelopment or urban renewal project located in the area in which the authority is authorized to act, a public body may, upon terms that it determines: furnish services or facilities, provide property, lend or contribute funds, perform any other action of a character which it may perform for other general purposes, and enter into cooperation agreements and related contracts in furtherance of the purposes enumerated. A city and a public body may levy taxes and assessments and appropriate funds and make expenditures that may be necessary to carry out the purposes of this subsection, but taxes and assessments may not be levied under this subsection by a public body which may not levy taxes and assessments for any other purpose.

(14) OBLIGATIONS. For the purpose of financially aiding an authority to carry out blight elimination, slum clearance and urban renewal programs and projects, the city in which the authority functions may issue and sell general obligation bonds under ch. 67, except that no referendum is required, and may levy taxes without limitation for the payment of the bonds, as provided in s. 67.035. The bonds authorized under this subsection are fully negotiable and except as provided in this subsection are not subject to any other law or charter pertaining to the issuance or sale of bonds.

(15) BUDGET. The local legislative body shall approve the budget for each fiscal year of the authority, and may alter or modify any item of the budget relating to salaries, office operation or facilities.

(16) LEGAL SERVICES TO AUTHORITY. The legal department of a city in which the authority functions can provide legal services to the authority and a member of the legal department having the necessary qualifications may, subject to approval of the authority, be its counsel. The authority may retain specialists to render legal services as required by it.

(17) CONSTRUCTION. This section shall be construed liberally to effectuate its purposes and the enumeration in this section of specific powers does not restrict the meaning of any general grant of power contained in this section or exclude other powers comprehended in the general grant.

History: 1973 c. 172; 1975 c. 4, 94, 350; 1979 c. 89, 110, 221; 1981 c. 20, 112, 232; 1983 a. 24, 189; 1985 a. 219; 1987 a. 27, 403; 1989 a. 31, 89; 1991 a. 316; 1993 a. 16, 112, 172, 184, 268, 301; 1995 a. 27, 225; 1999 a. 9; 1999 a. 150 ss. 441 to 446; Stats. 1999 s. 66.1333; 1999 a. 185 s. 58; 2001 a. 30; 2003 a. 43, 320; 2005 a. 453; 2007 a. 96; 2009 a. 28, 95; 2011 a. 32.

The general rule of strict construction of eminent domain statutes does not apply due to the requirement of liberal construction of this section under sub. (17). Whether an area is "blighted" under this section may be determined by focusing on the general overall character of the area in the context of its surrounding neighbors. Grunwald v. City of West Allis, 202 Wis. 2d 471, 551 N.W.2d 36 (Ct. App. 1996), 95−2920.

When a property owner refuses access to property and an authority seeks to obtain a court order under sub. (5) (a) 3. authorizing entry for inspecting and testing, the opportunity must be provided to consider the necessity of the entry, the scope of the entry, and the time, place, and manner of the entry. Redevelopment Authority of the City of Milwaukee v. Uptown Arts and Education, Inc. 229 Wis. 2d 458, 599 N.W.2d 655 (Ct. App. 1999), 98−2389.

A city may reimburse a commissioner of the city redevelopment authority for his legal expenses incurred when charges are filed against him in his official capacity seeking his removal from office for cause and the charges are found by the common council to be unsupported. Such reimbursement is discretionary. The city redevelopment authority lacks statutory authority to authorize reimbursement for such legal expenses. 63 Atty. Gen. 421.

A redevelopment authority may condemn any property within the project area even though some portions of the urban renewal area are not in fact blighted. 65 Atty. Gen. 116.

Certain local governments and public agencies may issue obligations to provide mortgage loans on owner−occupied residences. However, compliance with the federal Mortgage Subsidy Bond Tax Act of 1980 is necessary to allow exemption of interest from federal taxation. 71 Atty. Gen. 74.

66.1335 Housing and community development authorities. (1) AUTHORIZATION. A city may, by a two−thirds vote of the members of the city council present at the meeting, adopt an ordinance or resolution creating a housing and community development authority which shall be known as the "Community Development Authority" of the city. It is a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects. The ordinance or resolution creating a housing and community development authority may also authorize the authority to act as the agent of the city in planning and carrying out community development programs and activities approved by the mayor and common council under the federal housing and community development act of 1974 and as agent to perform all acts, except the development of the general plan of the city, which may be otherwise performed by the planning commission under s. 66.1105, 66.1301 to 66.1329, 66.1331 or 66.1337. A certified copy of the ordinance or resolution shall be transmitted to the mayor. The ordinance or resolution shall also do all of the following:

(a) Provide that any redevelopment authority created under s. 66.1333 operating in the city and any housing authority created under s. 66.1201 operating in the city, shall terminate its operation as provided in sub. (5).

(b) Declare in substance that a need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects exists in the city.

(2) APPOINTMENT OF MEMBERS. Upon receipt of a certified copy of the ordinance or resolution, the mayor shall, with the confirmation of the council, appoint 7 resident persons having sufficient ability and experience in the fields of urban renewal, community development and housing, as commissioners of the community development authority.

(a) Two of the commissioners shall be members of the council and shall serve during their term of office as council members.

(b) The first appointments of the 5 noncouncil members shall be for the following terms: 2 for one year and one each for terms of 2, 3 and 4 years. Thereafter the terms of noncouncil members shall be 4 years and until their successors are appointed and qualified.

(c) Vacancies shall be filled for the unexpired term as provided in this subsection.

(d) Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties, and may, in the discretion of the city council, receive other compensation.

(3) EVIDENCE OF AUTHORITY. The filing of a certified copy of the ordinance or resolution referred to in sub. (1) with the city clerk is prima facie evidence of the community development

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authority's right to transact business and the ordinance or resolution is not subject to challenge because of any technicality. In a suit, action or proceeding commenced against the community development authority, a certified copy of the ordinance or resolution is conclusive evidence that the community development authority is established and authorized to transact business and exercise its powers under this section.

(4) POWERS AND DUTIES. The community development authority has all powers, duties and functions set out in ss. 66.1201 and 66.1333 for housing and redevelopment authorities. As to all housing projects initiated by the community development authority it shall proceed under s. 66.1201, and as to all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs it shall proceed under ss. 66.1105, 66.1301 to 66.1329, 66.1331, 66.1333 or 66.1337 as determined appropriate by the common council on a project by project basis. As to all community development programs and activities undertaken by the city under the federal housing and community development act of 1974, the community development authority shall proceed under all applicable laws and ordinances not inconsistent with the laws of this state. In addition, if provided in the resolution or ordinance, the community development authority may act as agent of the city to perform all acts, except the development of the general plan of the city, which may be otherwise performed by the planning commission under ss. 66.1105, 66.1301 to 66.1329, 66.1331 or 66.1337.

(5) TERMINATION OF HOUSING AND REDEVELOPMENT AUTHORITIES. Upon the adoption of an ordinance or resolution creating a community development authority, all housing and redevelopment authorities previously created in the city under ss. 66.1201 and 66.1333 terminate.

(a) Any programs and projects which have been begun by housing and redevelopment authorities shall, upon adoption of the ordinance or resolution, be transferred to and completed by the community development authority. Any procedures, hearings, actions or approvals taken or initiated by the redevelopment authority under s. 66.1333 on pending projects are deemed to have been taken or initiated by the community development authority as if the community development authority had originally undertaken the procedures, hearings, actions or approvals.

(b) Any form of indebtedness issued by a housing or redevelopment authority shall, upon the adoption of the ordinance or resolution, be assumed by the community development authority except as indicated in par. (e).

(c) Upon the adoption of the ordinance or resolution, all contracts entered into between the federal government and a housing or redevelopment authority, or between these authorities and other parties shall be assumed and discharged by the community development authority except for the termination of operations by housing and redevelopment authorities. Housing and redevelopment authorities may execute any agreements contemplated by this subsection. Contracts for disposition of real property entered into by the redevelopment authority with respect to any project are deemed contracts of the community development authority without the requirement of amendments to the contracts. Contracts entered into between the federal government and the redevelopment authority or the housing authority bind the community development authority in the same manner as if originally entered into by the community development authority.

(d) A community development authority may execute appropriate documents to reflect its assumption of the obligations set forth in this subsection.

(e) A housing authority which has outstanding bonds or other securities that require the operation of the housing authority in order to fulfill its commitments with respect to the discharge of principal or interest or both may continue in existence solely for that purpose. The ordinance or resolution creating the community development authority shall delineate the duties and responsibilities which shall devolve upon the housing authority with respect to that purpose.

(f) The termination of housing and redevelopment authorities pursuant to this section is not subject to s. 66.1201 (26).

(5m) TAX EXEMPTION. Community development authority bonds issued on or after January 28, 1987, are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest on the bonds and income from the bonds, are exempt from taxes.

(6) CONTROLLING STATUTE. The powers conferred under this section are in addition and supplemental to the powers conferred by any other law. To the extent that this section is inconsistent with any other law, this section controls.

(7) CONSTRUCTION. This section shall be construed liberally to effectuate its purposes and the enumeration of specific powers in this section does not restrict the meaning of any general grant of power contained in this section nor does it exclude other powers comprehended in the general grant.

History: 1975 c. 311; 1979 c. 110; 1987 a. 27; 1999 a. 150 s. 448; Stats. 1999 s. 66.1335.

66.1337 Urban renewal. (1) SHORT TITLE. This section shall be known and may be cited as the "Urban Renewal Act".

(2) FINDINGS. It is found and declared that there exists in municipalities of the state slum, blighted and deteriorated areas which constitute a serious and growing menace injurious to the public health, safety, morals and welfare of the residents of the state, and the findings and declarations made in s. 66.1331 are affirmed and restated. Certain slum, blighted or deteriorated areas may require acquisition and clearance, as provided in s. 66.1331, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation in a manner that eliminates, remedies or prevents the conditions and evils of these areas. To the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process. All acts and purposes provided for by this section are for and constitute public uses and are for and constitute public purposes. Moneys expended under this section are for public purposes and to preserve the public interest, safety, health, morals and welfare. Any municipality in carrying out the provisions of this section shall afford maximum opportunity consistent with the sound needs of the municipality as a whole to the rehabilitation or redevelopment of areas by private enterprise.

(2m) DEFINITIONS. In this section:

(a) "Rehabilitation or conservation work" includes any of the following:

1. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

2. Acquisition of real property and demolition, removal or rehabilitation of buildings and improvements on the property where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

3. Installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project.

4. The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project. The disposition shall be in the manner prescribed in this section for the disposition of property in a redevelopment project area.

(b) "Urban renewal project" includes undertakings and activities for the elimination and for the prevention of the development or spread of slums or blighted, deteriorated or deteriorating areas and may involve any work or undertaking for this purpose consti-

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tuting a redevelopment project or any rehabilitation or conservation work, or any combination of the undertaking or work.

(3) URBAN RENEWAL PROJECTS. A municipality may plan and undertake urban renewal projects.

(4) WORKABLE PROGRAM. (a) 1. The governing body of the municipality, or the public officer or public body that it designates, including a housing authority organized and created under s. 66.1201, a redevelopment authority created under s. 66.1333 or a community development authority created under s. 66.1335, may prepare a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated or slum areas, or to undertake those activities or other feasible activities that may be suitably employed to achieve these objectives. The governing body may by resolution or ordinance provide the specific means by which a workable program can be effectuated and may confer upon its officers and employees the power required to carry out a program of rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas. If a municipality finds that there exists in the municipality dwellings or other structures that are unfit for human habitation due to dilapidation, defects that increase the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or other conditions, rendering the dwellings or other structures unsanitary, dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the municipality, the municipality may enact the resolutions or ordinances that it considers appropriate and effectual in order to prevent those conditions and may require the repair, closing, demolition or removal of the dwellings or other structures.

2. In this subsection:

a. "Dwelling" means any building, structure or part of the building or structure that is used and occupied for human habitation or intended to be so used and includes any appurtenances belonging to it or usually enjoyed with it.

b. "Structure" includes fences, garages, sheds, and any type of store or commercial, industrial or manufacturing building.

3. The ordinances or resolutions under subd. 1. shall require that, if there are reasonable grounds to believe that there has been a violation of the ordinances or resolutions, notice of the alleged violation shall be given to the alleged responsible person by appropriately designated public officers or employees of the municipality. Every such notice shall be in writing; include a description of the real estate sufficient for identification; include a statement of the reason for issuance; specify a time for the performance of any act that the notice requires; and be served upon the alleged responsible person. The notice of violation is properly served on the person if a copy of it is delivered to the person personally; is left at the person's usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents of the notice; is sent by registered mail or by certified mail with return receipt requested to the person's last−known address; or, if the registered or certified letter with the copy of the notice is returned showing the letter has not been delivered to the person, by posting a copy of the notice in a conspicuous place in or about the dwelling or other structure affected by the notice.

4. A person affected by a notice under subd. 3. may request and shall be granted a hearing on the matter before a board or commission established by the governing body of the municipality or before a local health officer. The person shall file in the office of the designated board or commission or the local health officer a written petition requesting the hearing and setting forth a statement of the grounds for it within 20 days after the day the notice was served. Within 10 days after receipt of the petition, the designated board or commission or the local health officer shall set a time and place for the hearing and shall give the petitioner written notice of it. At the hearing the petitioner may be heard and show cause why the notice should be modified or withdrawn. The hearing before the designated board or commission or the local health officer shall be commenced not later than 30 days after the date on which the petition was filed. Upon written application of the petitioner to the designated board or commission or the local health officer, the date of the hearing may be postponed for a reasonable time beyond the 30−day period, if, in the judgment of the board, commission or local health officer, the petitioner has submitted a good and sufficient reason for a postponement. Any notice served under this section becomes an order if a written petition for a hearing is not filed in the office of the designated board or commission or the local health officer within 20 days after the notice is served. The designated board or commission or the local health officer may administer oaths and affirmations.

5. After the hearing the designated board or commission or the local health officer shall sustain, modify or cancel the notice given under subd. 3., depending upon its findings as to whether the provisions of the resolutions or ordinances have been complied with. The designated board or commission or the local health officer may modify any notice to authorize a variance from the provisions of the resolutions or ordinances when, because of special conditions, enforcement of the provisions of the resolutions or ordinances will result in practical difficulty or unnecessary hardship, if the intent of the resolutions or ordinances will be observed and public health and welfare secured. If the designated board or commission or the local health officer sustains or modifies the notice, the sustained or modified notice is an order, and the persons affected by the order shall comply with all provisions of the order within a reasonable period of time, as determined by the board, commission or local health officer. The proceedings at the hearing, including the findings and decisions of the board, commission or local health officer, shall be reduced to writing and entered as a matter of public record in the office of the board, commission or local health officer. The record shall also include a copy of every notice or order issued in connection with the matter. A copy of the written decision of the board, commission or local health officer shall be served, in the same manner prescribed for service of notice under subd. 3., on the person who filed the petition for hearing.

6. If the local health officer finds that an emergency exists that requires immediate action to protect the public health, the local health officer may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that action be taken that the local health officer determines is necessary to meet the emergency. This order is effective immediately. Any person to whom the order is directed shall comply with it, but shall be afforded a hearing as specified in this subsection if the person immediately files a written petition with the local health officer requesting the hearing. After the hearing, depending upon the findings of the local health officer as to whether an emergency still exists that requires immediate action to protect the public health, the local health officer shall continue the order in effect or modify or revoke it.

(b) A person aggrieved by the determination of a board, commission or local health officer, following review of an order issued under this subsection, may appeal directly to the circuit court of the county in which the dwelling or other structure is located by filing a petition for review with the clerk of the circuit court within 30 days after a copy of the order of the board, commission or local health officer has been served upon the person. The petition shall state the substance of the order appealed from and the grounds upon which the person believes the order to be improper. A copy of the petition shall be served upon the board, commission or local health officer whose determination is appealed. The copy shall be served personally or by registered or certified mail within the 30−day period provided in this paragraph. A reply or answer shall be filed by the board, commission or local health officer within 15 days after the receipt of the petition. A copy of the written proceedings of the hearing held by the board, commission or local health officer which led to service of the order being appealed

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shall be included with the reply or answer when filed. If it appears to the court that the petition is filed for purposes of delay, the court shall, upon application of the municipality, promptly dismiss the petition. Either party to the proceedings may petition the court for an immediate hearing on the order. The court shall review the order and the copy of written proceedings of the hearing conducted by the board, commission or local health officer, shall take testimony that the court determines is appropriate, and, following a hearing upon the order without a jury, shall make its determination. If the court affirms the determination made by the board, commission or local health officer, the court shall fix a time within which the order appealed from becomes operative.

(5) GENERAL POWERS CONFERRED UPON MUNICIPALITIES. The governing body of a municipality has all powers necessary and incidental to effect a program of urban renewal, including functions with respect to rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas, and the local governing body may adopt resolutions or ordinances for the purpose of carrying out that program and the objectives and purposes of this section. In connection with the planning, undertaking and financing of the urban renewal program or projects, the governing body of any municipality and all public officers, agencies and bodies have all the rights, powers, privileges and immunities which they have with respect to a redevelopment project under s. 66.1331.

(6) ASSISTANCE TO URBAN RENEWAL BY MUNICIPALITIES AND OTHER PUBLIC BODIES. A public body may enter into agreements, which may extend over any period notwithstanding any provision or rule of law to the contrary, with any other public body respecting action to be taken pursuant to any of the powers granted by this section, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(7) POWERS GRANTED TO BE SUPPLEMENTAL AND NOT IN DEROGATION. (a) Nothing in this section may be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter, ordinances or regulations, nor to prevent or punish violations of its charter, ordinances or regulations.

(b) Nothing in this section may be construed to impair or limit the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(c) The powers conferred by this section are in addition and supplemental to the powers conferred by any other law. This section shall be construed liberally to effectuate its purposes and its enumeration of specific powers does not restrict the meaning of any general grant of power contained in this section or exclude other powers comprehended in the general grant.

History: 1975 c. 311; 1977 c. 187; 1979 c. 89; 1983 a. 219; 1991 a. 316; 1993 a. 27; 1995 a. 225; 1997 a. 35; 1999 a. 150 s. 452; Stats. 1999 s. 66.1337.

66.1339 Villages to have certain city powers. Villages have all of the powers of cities under ss. 66.1105, 66.1201 to 66.1329 and 66.1331 to 66.1337.

History: 1975 c. 105, 311; 1993 a. 300; 1999 a. 150 s. 453; Stats. 1999 s. 66.1339.

66.1341 Towns to have certain city powers. Towns have all of the powers of cities under ss. 66.0923, 66.0925, 66.1201 to 66.1329 and 66.1331 to 66.1335, except the powers under s. 66.1201 (10) and any other powers that conflict with statutes relating to towns and town boards.

History: 1993 a. 246; 1999 a. 150 s. 454; Stats. 1999 s. 66.1341.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Sept. 1, 2012. Statutory changes effective on or prior to Sept. 1, 2012 are printed as currently in effect. Changes effective after Sept. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (9−13−12)