

1969 Assembly Bill 533

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CHAPTER 499, LAWS OF 1969

AN ACT to repeal 59.65 (1) to (7); to amend 59.12, 59.13 (1) (h), 59.14 (1), 59.59, 59.60, 59.61, 59.62, 59.63, 59.635 (2) to (7), 59.64, 59.65 (intro.) and 59.66; and to create 59.635 (8) to (11) and 59.665 of the statutes, relating to regulation of local government land surveyors, their deputies and providing for a penalty.

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

SECTION 1. 59.12 of the statutes is amended to read:

59.12 A county clerk, treasurer, sheriff, coroner, clerk of circuit court, district attorney, register of deeds and surveyor, *who shall be a registered land surveyor*, shall be elected in each county for full terms at the general election held in each even-numbered year. The regular term of office of each such officer shall commence on the first Monday of January next succeeding his election and shall continue 2 years and until his successor qualifies. *In lieu of electing a surveyor in any county, the county board may, by resolution designate that the duties under ss. 59.60 and 59.635 be performed by any registered land surveyor employed by the county.* In any county containing one town only, the county board may, by resolution, designate any county office a part-time position, combine 2 or more county offices, and, if concurred in by the town board, combine the offices of county clerk and town clerk and any other county and town offices, provided that the offices combined are not incompatible and the combination is not expressly forbidden by law. If the town board so concurs, the election shall be for the combined office and no separate election for the town office shall be held until after the county board has by resolution decided to abandon such combination and the town board has concurred by resolution. In counties having a population of 500,000 or more, no county coroner or county surveyor shall be elected after August 25, 1965.

SECTION 2. 59.13 (1) (h) of the statutes is amended to read:

59.13 (1) (h) Surveyor, ~~one thousand dollars~~ \$5,000.

SECTION 3. 59.14 (1) of the statutes is amended to read:

59.14 (1) Every sheriff, clerk of the circuit court, register of deeds, county treasurer, register of probate ~~and~~, county clerk *and county surveyor*

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shall keep his office at the county seat in the offices provided by the county or by special provision of law; or if there is none, then at such place as the county board directs. The county board may also require any elective or appointive county official to keep his office at the county seat in an office to be provided by the county. All such officers shall keep such offices open during the usual business hours each day, Sundays excepted, and except that the county board of each county may permit said officers to close their offices on Saturday or on legal holidays for such time as the county board directs, and with proper care shall open to the examination of any person all books and papers required to be kept in his office and permit any person so examining to take notes and copies of such books, records, papers or minutes therefrom.

SECTION 4. 59.59 of the statutes is amended to read:

59.59 The county surveyor may appoint and remove deputies at will on filing a certificate thereof with the county clerk.

SECTION 5. 59.60 of the statutes is amended to read:

59.60 The county surveyor shall:

(1) Execute, by himself or ~~his~~ a deputy, any ~~survey and all surveys~~ required ~~of him by the county or by order of any court or upon application of any individual.~~ *Surveys for individuals or corporations may be executed at the county surveyor's discretion.*

(2) Make *by himself or a deputy* a record in books *or on drawings and plats* kept therefor, of all corners set and the manner of fixing the same and of all ~~corrected~~ bearings and the distances of all courses run, of each survey made by him ~~or~~, his deputies, *or other land surveyors* and so arrange or index the same as to be easy of reference and file and preserve in his office the original field notes and calculation thereof; and within ~~ten~~ 60 days after completing any survey, make a true and correct copy of the foregoing record, in record books *or on reproducible papers* to be furnished by the county and kept ~~on~~ in file in the office of the county ~~clerk~~ *surveyor to be provided by the county.*

(3) Furnish a copy of any record, plat or paper in his office to any person on demand and payment *to the county* of ~~his~~ the legal fees therefor.

(4) Administer to every ~~chairman and marker~~ *assisting survey assistant* engaged in any survey, before commencing their duties as such, an oath or affirmation faithfully and impartially to discharge the duties of ~~chairman or marker, as the case may be;~~ *survey assistant*, and the said surveyor and his deputies are empowered to administer the same.

(5) Perform such other duties as ~~may be~~ *are* required by law.

(6) ~~In counties having a population of 500,000 or more, the duties enumerated in this section~~ *Surveys for individuals or corporations may be performed by any land surveyor who is employed by the parties requiring his services, providing that within 60 days after completing any survey he files a true and correct copy of the survey in the office of the county surveyor. In counties having a population of 500,000 or more the copy shall be filed in the office of the register of deeds.*

SECTION 6. 59.61 of the statutes is amended to read:

59.61 In all surveys the bearing shall be expressed as nearly as may be according to the true meridian, and the declination of the magnetic meridian from the true meridian shall be given, with the year, month and day of the survey, except in the survey of an east and west and north and south line, when the declination of the needle from the line surveyed with the date thereof shall be sufficient *with reference to a magnetic, true or other identifiable meridian or line of the public land survey, recorded subdivision or to the Wisconsin coordinate system. In all cases the reference selected*

shall be so noted as set forth in s. 59.60 (2) and if magnetic must be retraceable and identifiable by reference to a monumented line.

SECTION 7. 59.62 of the statutes is amended to read:

59.62 Whenever a surveyor is required to subdivide a section or smaller subdivision of land established by the United States survey he shall proceed according to the statutes of the United States and the rules and regulations made by the secretary of the interior in conformity thereto. *While so engaged a surveyor and his survey assistants shall not be liable as a trespasser and shall be liable only for any actual damage done to land or property.*

SECTION 8. 59.63 of the statutes is amended to read:

59.63 (1) Whenever a majority of all the resident landowners in any section of land within this state desire to establish, relocate or perpetuate any section or other corner thereof, or in the same section a division line thereof, they may make a formal application in writing to the ~~town clerk~~ *county judge* of the ~~town~~ county in which the land is situated. ~~Such clerk~~ *The county judge* shall file such application in his ~~office court~~ and shall within a reasonable time give at least 10 days' notice in writing to the owners of all adjoining lands, if such owners reside in the county where said land is situated and if not, by publication of a class 3 notice, under ch. 985, stating the day and hour when the ~~town board~~ *county judge* will ~~meet to~~ consider and pass upon such application, and the ~~town board~~ *county judge* shall, at such ~~meeting,~~ *time* hear all interested parties and approve or reject such application; if such application is approved the ~~town~~ county clerk shall notify the county surveyor who shall within a reasonable time proceed to make the required survey and location. If a corner is to be perpetuated, he shall deposit in the proper place a stone or other equally durable material of the dimensions and in the manner and with the markings set forth in sections s. 60.37, and shall also ~~enter in his field notes one or more bearing trees if there be such,~~ *the species and size, direction and distance thereof, and if there be no trees he shall deposit one or more suitable stones at a sufficient depth as witness to said corner, all of which proceedings shall be accurately entered by said surveyor or his deputy in a suitable book to be kept for that purpose, carefully preserved and which shall together with all applications on file be turned over by such county surveyor to his successor in office upon request and a receipt taken therefor erect witness monuments as set forth in s. 59.635. The surveyor shall be paid the cost of said perpetuation from the general fund of the county.*

(2) All expense and cost of the publication of ~~said the~~ notice, if any, and of said survey *and perpetuation* shall be apportioned by the ~~town~~ county clerk among the several pieces or parcels of land in said section upon the basis of the area surveyed and by him included in the next tax roll and shall be collected in the same manner as other taxes are collected.

SECTION 9. 59.635 (2) to (7) of the statutes are amended to read:

59.635 (2) Whenever it becomes necessary to destroy, remove or cover up in such a way that will make it inaccessible for use, any landmark, monument of survey, or corner post within the meaning of this section, the person ~~or persons~~ *including employes of governmental agencies* who intend to commit such act shall serve written notice upon the county surveyor of the county within which said landmark is located, except that such notice shall also be served upon the city or village engineer if such landmark is located within the corporate limits of a municipality, to the effect that he, or they, deem it necessary to remove or destroy *or cover* such landmark, giving a legal description of the same together with the reason for doing so. The county surveyor, ~~city or village engineer~~ upon receipt of said notice, shall within a period of not to exceed 30 working days, either by himself or by ~~his~~ a deputy, ~~make a survey~~ *or by the city or village engineer*

make an inspection of said landmark, and, if he deems it necessary because of the public interests to remove said landmark, he shall erect ~~2~~ 4 or more witness monuments or, if within a municipality, may make 2 or more offset marks at places near said landmark and where they will not be disturbed. He shall make a survey and field notes giving a description of the landmark and the witness monuments or offset marks, stating the material and size of the witness monuments and locating the offset marks, the *horizontal distance and courses in terms of the true meridian references set forth in s. 59.60* (2) that the witness monuments bear from the landmark and, also, of each witness monument to ~~at least one~~ all of the other witness monuments. He may also make notes as to such other objects, natural or artificial, as will enable anyone to locate the position of the landmark. The witness monuments shall be made of durable material of cement, natural stone, iron, or other equally durable material, except wood. If iron pipe monuments are used, they shall be made of 2 inch or more galvanized iron pipe not less than 30 inches in length having an iron or brass cap fastened to the top and marked with a cross cut on the top of the cap where the point of measurement is taken. If witness monuments are made of cement, stone or similar material, they shall be not less than 30 inches in length nor less than 5 inches in diameter along the shortest diagonal marked on the top with a cross where the point of measurement is taken. The county surveyor upon completing the survey shall make a certified copy of the field notes of the survey and record it as provided ~~for in section~~ under s. 59.60. The city or village engineer upon completing the survey shall record the notes in his office, open to the inspection of the public, *and shall file a true and correct copy with the county surveyor.*

(3) In those counties where there are no county surveyors ~~or where the county surveyor, because of illness or other infirmities, does not commence the work within the required period of time,~~ a petition can be made to the county judge of the county within which said landmark is located *by any resident of this state* requesting him to appoint a land surveyor to act in the capacity of the county surveyor. The county judge, upon receipt of this petition, ~~may~~ shall appoint a qualified land surveyor to act in the capacity of the county surveyor ~~in doing this work.~~ *In counties having a population of 500,000 or more, the county judge may appoint a governmental agency to act in the capacity of county surveyor.*

(4) The cost of the work of perpetuating the evidence of and landmark under the scope of this section shall be borne by the ~~party or parties deciding to have such work done~~ county or counties prorata, *in which said landmark is located.*

(5) Any person ~~or persons~~ who shall remove or destroy or make removes, destroys or makes inaccessible any landmark, monument of survey, corner post of government survey, survey made by the county surveyor or survey of public record without first complying with this section shall be ~~guilty of misdemeanor and upon conviction shall be punished by a fine of~~ fined not to exceed \$250 \$1,000 or ~~by imprisonment imprisoned~~ in the county jail for ~~a period of~~ not more than one year.

(5m) Any person who destroys, removes or covers any landmark, monument or corner post rendering them inaccessible for use, without first complying with the provisions of subsections subs. (1), (2) and (3) shall be liable in damages to ~~any person~~ the county or counties *in which said landmark is located,* for the amount of any additional expense incurred *by the county or counties* because of such destruction, removal or covering.

(6) ~~It shall be the duty of every forest ranger, forest patrolman, conservation warden, Every land surveyor and every other officer of the department of conservation~~ natural resources and the district attorney ~~to shall enforce the provisions of this section.~~

(7) ~~Every qualified engineer~~ *Any registered land surveyor* employed by the ~~state~~ highway commission or by a county *highway department*, may incident, to his employment as such, assume and perform the duties and act in the capacity of the county surveyor under this section with respect to preservation and perpetuation of landmarks, witness monuments and corner posts upon and along state trunk, county trunk and town highways. Upon completing a survey and perpetuating landmarks and witness monuments ~~as provided in~~ *under sub. (2) a land surveyor employed by the* state ~~engineer~~ shall file his field notes and records in the district office or main office of the highway commission, and *a land surveyor employed by a county engineer* shall file his field notes and records in the office of the county highway commissioner, open to inspection by the public, and in either case a true and correct copy of the field notes and records shall be filed with the ~~county clerk and~~ county surveyor.

SECTION 10. 59.635 (8) to (11) are created to read:

59.635 (8) The records of the corners of the public land survey shall be established and perpetuated in the following manner: commencing on January 1, 1970, and in each calendar year thereafter, the county surveyor or a deputy shall check and establish or reestablish and reference at least 5% of all corners originally established in the county by government surveyors, so that within 20 years or less all the original corners will be established or reestablished and thereafter perpetuated.

(9) At least 5% of all corners shown in the corner record book shall be checked by the county surveyor or a deputy and the references confirmed or new references made each year.

(10) The county surveyor may employ other land surveyors to assist in this work and may accept checks of references for these corners from any land surveyor.

(11) The cost of perpetuating these corners shall be paid out of the county road and bridge fund or other county fund under s. 83.11.

SECTION 11. 59.64 of the statutes is amended to read:

59.64 The certificate and also the official record of the county surveyor when produced by the legal custodian thereof, or any of his deputies, when duly signed by him ~~or them~~ in his ~~or their~~ official capacity, shall be admitted as evidence in any court within the state, but the same may be explained or rebutted by other evidence ~~and~~. If any *county surveyor* or ~~either any~~ of his deputies ~~be~~ are interested in any tract of land a survey of which becomes necessary, such survey may be executed by any ~~competent person~~ *land surveyor* to be appointed by the court before whom such matter may be pending.

SECTION 12. 59.65 (intro.) of the statutes is amended to read:

59.65 *In addition to the regular fees of land surveyors from the parties employing him, the county surveyor and his deputies may demand and receive the following fees, except it be otherwise agreed upon with the parties employing them: shall receive a salary of \$1,500 per annum from the county; but the county board of the several counties may at any annual meeting fix the salary to be paid at a greater sum.*

SECTION 13. 59.65 (1) to (7) of the statutes are repealed.

SECTION 14. 59.66 of the statutes is amended to read:

59.66 Any county surveyor, *city or village engineer, or any land surveyor* who fails or refuses to perform any duty required of him by law shall be punishable by a ~~fine of~~ *fine of* not less than ~~twenty five dollars~~ \$25 nor more than ~~fifty dollars~~ \$50 for each such failure or refusal.

SECTION 15. 59.665 of the statutes is created to read:

59.665 LIMITATIONS. No action may be brought against a county surveyor, city or village engineer, or any land surveyor to recover damages

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for negligence, errors or omission in the making of any survey nor for contribution or indemnity related to such negligence, errors or omissions more than 4 years after the completion of a survey.

Approved March 11, 1970.
