CHAPTER 66.

GENERAL MUNICIPALITY LAW.

66.01 Home rule; manner of exercise.
66.02 Consolidation.
66.025 Annexation of owned territory.
66.029 Town boundaries, actions to test alteration.
66.03 Adjustment of assets and liabilities on division of territory.
66.04 Appropriations.
66.042 Disbursement from local treasury.
66.044 Financial procedure; alternative system of approving claims.
66.045 Privileges in streets.
66.046 Building material and approaches in streets.
66.047 Interference with public service structure.
66.048 Viaducts in cities; lease of space by Milwaukee.
66.049 Removal of rubbish.
66.05 Razing buildings.
66.051 Gambling.
66.052 Offensive industry.
66.053 Licenses for nonintoxicating and soda water beverages.
66.054 Licenses for fermented malt beverages.
66.055 Liquor and beer license application records.
66.056 Blackout ordinances.
66.057 Tavern-keeper shall request proof of age.
66.06 Public utilities.
66.061 Franchises.
66.062 Joint use of tracks.
66.063 Municipal tracks.
66.064 Joint operation.
66.065 Acquisition.
66.066 Method of payment.
66.067 Public utilities under NIRA.
66.068 Management.
66.069 Charges; outside services.
66.07 Sale or lease.
66.071 In first class cities.
66.072 Utility districts.
66.073 Docks and wharves.
66.074 Ice plants, fuel depots and landing fields.
66.075 Slaughterhouses.
66.076 Sewerage system, service charge.
66.077 Refunding village and sanitary district bonds.
66.078 Parking systems.
66.079 Special assessments.
66.08 Record of orders and court certificates.
66.09 Judgments against municipalities.
66.091 Mob damage.
66.10 Official publication.
66.11 Miscellaneous.
66.115 Penalties under county and municipal ordinances.
66.12 Sanitation; river improvement by county and city.
66.13 Limitation of actions attacking contracts.
66.14 Official bonds, premium.
66.145 Requirements for surety bonds of officers and employes in cities of the first class.
66.17 Schools; transportation in Milwaukee county.
66.18 Liability insurance.
66.19 Civil service system; veterans' preference.
66.199 Automatic salary schedules.
66.20 Metropolitan sewerage districts.
66.201 Sewage district; court procedure.
66.202 Sewage district; judgment.
66.203 Sewage district; commission, appointment, term, oath, duties, pay, treasurer.
66.204 Sewage district; plans, construction, maintenance, operation.
66.205 Sewage district; additions.
66.206 Sewage district; special assessments.
66.207 Sewage district; taxation.
66.208 Sewage district; compensation for existing sewers; service charges to state, county or municipality.
66.209 Sewage district; application of 59.96 (6) (h); retirement; election.
66.21 Special assessments against railroad for street improvement.
66.22 Action to recover assessment.
66.23 Improvement of streets by abutting railroad company.
66.24 Notice to railroad company; time for construction.
66.25 Construction by municipality; assessment of cost.
66.26 Effect of sections 66.21 to 66.25, inclusive.
66.27 Forestry land, local acquisition.
66.28 Municipal sale of abandoned property.
66.29 Public works, contracts, bids.
66.295 Authority to pay for public works done in good faith.
66.299 Intergovernmental purchases without bids.
66.30 Local co-operation.
66.31 Arrests.
66.315 Peace officers; compensation when acting outside own municipality.
66.32 Extraterritorial powers.
66.33 Appropriations for Wisconsin works progress administration projects; validation of appropriations heretofore made.
66.35 License for closing-out sales.
66.39 Veterans' housing authorities.
66.40 Housing authorities.
66.401 Housing authorities; operation not for profit.
66.402 Housing authorities; rentals and tenant selection.
66.403 Housing authorities; co-operation in housing projects.
66.404 Housing authorities; contracts with city; assistance to counties and municipalities.
66.405 Urban redevelopment.
66.406 Urban redevelopment; plans, approval.
66.407 Urban redevelopment; limitations on corporations.
66.408 Urban redevelopment; application of other corporation laws to redevelopment corporations.
66.409 Urban redevelopment; exemption as to local taxation.
66.41 Urban redevelopment; limitation on payment of interest and dividends.
66.411 Urban redevelopment; enforcement of duties.
66.412 Urban redevelopment; transfer of land.
66.413 Urban redevelopment; acquisition of land.
66.414 Urban redevelopment; condemnation for.
66.415 Urban redevelopment; continued use of land by prior owner.
66.416 Urban redevelopment; borrowing; mortgages.
66.417 Urban redevelopment; sale or lease of land.
66.418 Urban redevelopment; city lease to, terms.
66.419 Urban redevelopment; aids by city.
66.42 Urban redevelopment; city improvements.
66.421 Urban redevelopment; appropriations.
66.422 Urban redevelopment; construction of statute.
66.423 Urban redevelopment; severability clause.
66.424 Urban redevelopment; conflict of laws.
66.425 Urban redevelopment; supplemental powers.
66.43 Blighted area law.
66.45 Barriers across streets for play purposes.
66.50 Municipal hospital board.

66.51 Revenue bonds for counties and cities.
66.52 Employes or officers in military service.
66.526 Uniform salaries in first class cities.
66.527 Recreation authority.
66.53 Repayment of assessments in certain cases.
66.54 Special improvement bonds; certificates.
66.60 Special assessments and charges.
66.61 Emergency powers, cities of the first class.
66.70 Political subdivisions prohibited from levying tax on incomes.
66.90 Wisconsin retirement fund.
66.901 Definitions.
66.902 Municipalities included and effective dates.
66.903 Employes included; effective dates; contributions by employes.
66.904 Credits to employes; credits for service men.
66.905 Contributions by municipalities.
66.906 Compulsory retirement; annuities.
66.907 Reversionary annuities; disability annuities.
66.908 Death benefits.
66.909 Beneficiary annuities.
66.91 Separation benefits.
66.911 Board of trustees.
66.912 Powers and duties.
66.913 Investment of assets.
66.914 Funds.
66.915 Obligations of municipalities.
66.916 Surpluses.
66.917 Authorizations.
66.918 Assignments.
66.919 Separability of provisions.
66.92 Housing for veterans; authority to promote; state co-operation.
66.93 Sites for veterans' memorial halls.

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

(2) (a) A "charter ordinance" is any ordinance which enacts, amends or repeals the whole or any part of the charter of a city or village, or makes the election mentioned in subsection (4) of this section. Such charter ordinance shall be so designated, shall require a two-thirds vote of the members-elect of the legislative body of such city or village, and shall be subject to referendum as hereinafter prescribed.

(b) Every charter ordinance which amends or repeals the whole or any part of a city or village charter shall designate specifically the portion of the charter so amended or repealed, and every charter ordinance which makes the election mentioned in subsection (4) of this section shall designate specifically each enactment of the legislature or portion thereof, made inapplicable to such city or village by the election mentioned in subsection (4) of this section.

(3) Every enactment, amendment or repeal of the whole or any part of the charter of any city or village shall be published in the official newspaper of such city or village, or if there be none then in a newspaper having a general circulation in the city or village, shall be recorded by the clerk in a permanent book kept for that purpose, with a statement of the manner of its adoption, and a certified copy thereof shall be filed by said clerk with the secretary of state. The secretary of state shall keep a separate index of all charter ordinances and shall on August 1, 1931, issue a cumulative list of all charter ordinances filed prior to July 1, 1931, arranged alphabetically by city and village and summarizing each ordinance, and annually thereafter shall issue such a list of charter ordinances filed during the 12 months prior to July 1.

(3a) Every charter ordinance enacted pursuant to section 66.01, which charter ordinance was adopted by the governing body prior to December 31, 1944, and which has also been published prior to such date in the official newspaper of such city or village, or if there be none in a newspaper having general circulation therein, shall be valid as of the date of such original publication notwithstanding the failure to publish such ordinance as provided in section 10.43 (5).

(4) Any city or village may elect in the manner prescribed in this section that the whole or any part of any laws relating to the local affairs and government of such city or village other than such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village shall not apply to such city or village, and thereupon such laws or parts thereof shall cease to be in effect in such city or village.

(5) Any city or village by charter ordinance may make the election mentioned in subsection (4) of this section, or enact, amend or repeal the whole or any part of its charter; but such ordinance shall not take effect until sixty days after its passage and publication. If within such sixty days a petition signed by a number of electors of the city or village equal to not less than seven per cent of the votes cast therein for governor at the last general election shall be filed in the office of the clerk of said city or village demanding that such ordinance be submitted to a vote of the electors it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. Said petition and the proceedings for its submission shall be governed by subsections (2) to (5) of section 10.43.

(6) Any charter ordinance may be initiated in the manner provided in subsections (1) to (5) of section 10.43, but alternative adoption thereof by the legislative body shall be subject to referendum as provided in subsection (5) of this section.

(7) Any charter ordinance may be submitted to a referendum by the legislative body, in the manner prescribed in subsections (4) and (5) of section 10.43, without initiative

petition, and shall become effective when approved by a majority of the electors voting thereon.

(8) Every charter, charter amendment or charter ordinance enacted or approved by a vote of the electors shall control and prevail over any prior or subsequent act of the legislative body of the city or village. Whenever the electors of any city or village by a majority vote shall have adopted or determined to continue to operate under either chapter 62, 63, or 64, or shall 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 thereon within a period of two years. Any election to change or amend the charter of any city or village, other than a special election as provided in subsection (4) of section 10.43 shall be held at the time provided by statute for holding regular city elections.

(9) The legislative body of any city or village, by resolution adopted by a two-thirds vote of its members-elect may, and upon petition complying with section 10.43 shall, submit to the electors in the manner prescribed in subsections (4) and (5) of said section the question of holding a charter convention under one or more plans proposed in said resolution or petition.

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

	YES	NO
Shall a charter convention be held?	☐	☐

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

Plan 1	Plan 2	
☐	☐	Repeat for each plan proposed

Mark an [X] in the square under the one you vote for.

If a majority of the electors voting thereon vote for a charter convention such 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 two plans receiving the highest number of votes shall be again submitted to the electors and a convention shall thereupon be held pursuant to the plan favored by a majority of the votes cast.

(11) Such charter convention shall have power to adopt a charter or amendments to the existing charter. Such charter or charter amendments adopted by such convention shall be certified, as soon as may be, by the presiding officer and secretary thereof to the city or village clerk and shall thereupon be submitted to the electors in the manner prescribed in subsections (4) and (5) of section 10.43, without the alternative mentioned therein, and shall take effect only when approved by a majority of the electors voting thereon.

(12) 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.

(13) It is the intent of this act that its provisions are separable, and the holding of any provision unconstitutional shall not affect the remainder thereof.

(14) All laws relating to public instruction, pursuant to sections 1, 2, 3, 4 and 5 of article X of the constitution, remain and shall continue in force for the establishment, administration and government of the district schools as heretofore, until amended or repealed by the legislature. The term "district schools" as here used, in addition to common schools includes, among others, any and all public high schools, trade or vocational schools, auxiliary departments for instruction of pupils who are deaf or of defective speech or blind, and truancy or parental schools.

(15) The provisions of section 62.13 and chapter 589 of the Laws of 1921 and chapter 423, Laws of 1923, and chapter 586 of the Laws of 1911, shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of police and fire departments. [*1931 c. 211; 1935 c. 193, 248; 1945 c. 44*]

Note: The procedure for enacting a charter ordinance is discussed and set forth in State ex rel. Coyle v. Richter, 203 W 595, 234 NW 909.

A charter ordinance of a city is not subject to a statute dealing with local affairs unless such statute affects with uniformity every city. Van Gilder v. Madison, 222 W 58, 267 NW 25, 268 NW 108.

City ordinance prohibting killing of certain wild animals and hunting and trapping within city limits must be held constitutional as local regulation authorized under home rule amendment to constitution until supreme court has ruled otherwise. 19 Atty. Gen. 233.

Ordinance prohibiting blowing of whistles by locomotives crossing city streets is not charter ordinance, and certified copy of such ordinance is not required to be filed in office of secretary of state. 20 Atty. Gen. 802.

City may adopt charter ordinance providing for election of health officer by direct vote of people instead of by appointment. 21 Atty. Gen. 1.

Where charter ordinance purports to abandon city-manager form of government under chapter 64, Stats., and restore mayor-alderman plan under chapter 62, it must not conflict with chapter 62, and provisions of said chapter are controlling over those portions of charter ordinance which are in conflict therewith. 26 Atty. Gen. 43.

Charter ordinance of city initiated under 10.43, increasing number of wards, changing

number of aldermen from two to one per ward and adopted at spring election, may not be resubmitted at fall election, as specific provision of 66.01 (8) is applicable and controls over general provision of 10.43. 27 Atty. Gen. 593.

66.02 Consolidation. Any 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 thereon in each municipality shall be for consolidation, the ordinances shall then be in effect and shall have the force of a contract. The ordinance and the result of the referendum shall be certified to the clerk of the consolidated corporation and by him recorded and certified as provided in section 61.11 if a village; or subsection (6) of section 62.06 if a city; to the county clerk, if a town and the certification shall be preserved as provided in subsection (6) of section 60.05, section 61.11 and subsection (6) of section 62.06, respectively. Consolidation shall not affect the pre-existing rights or liabilities of any municipality and actions thereon may be commenced or completed as though no consolidation had been effected.

66.025 Annexation of owned territory. In addition to other methods provided by law, territory owned by and lying near but not necessarily contiguous to a village or city may be annexed thereto by ordinance adopted by the board of trustees of such village or the council of such city. Such ordinance shall contain the exact description of the territory annexed and the names of the town or towns from which detached, and shall operate to attach such territory to such village or city upon the filing of 2 certified copies thereof in the office of the secretary of state, together with 2 copies of a plat showing the boundaries of the territory attached. One copy of the ordinance and plat shall be forwarded by the secretary of state to the highway commission. [*1947 c. 113*]

66.029 Town boundaries, actions to test alteration. In proceedings whereby territory is attached to or detached from any town, the town is an interested party, and the town board may institute, maintain or defend an action brought to test the validity of such proceedings, and may be interpleaded in any such action. [*1933 c. 97; 1937 c. 432*]

66.03 Adjustment of assets and liabilities on division of territory. (1) DEFINITION. In this section "municipality" includes school district, town, village and city.

(2) BASIS. Except as otherwise provided in this section when territory is transferred, in any manner provided by law, from one municipality to another, there shall be assigned to such other municipality such proportion of the assets and liabilities of the first municipality 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 municipality from which said territory is taken according to the last assessment roll of such municipality.

(3) REAL ESTATE. (a) The title to real estate shall not be transferred except by agreement, but the value thereof shall be included in determining the assets of the municipality owning the same, and in making the adjustment of assets and liabilities. Except in counties containing a population of five hundred thousand or more in each detachment subject to paragraph (e) of subsection (5) of section 40.85 the title to each parcel of real estate shall be vested in the school district or city in which it is located, subject to final adjustment of assets as provided therein, and shall apply in all cases where the adjustment of assets has not been made on June 11, 1937.

(b) The right to possession and control of school buildings and school sites shall pass to the municipality in which the same are situated immediately upon the annexation or detachment of any school district territory to another municipality becoming effective, except that in cities of the first class the right to possession and control of such school buildings and school sites shall pass on July 1 following the adoption of the ordinance authorized by paragraph (b) of subsection (1) of section 62.07. The municipality thus receiving possession and control of said school buildings and school sites shall be liable to the school district from which the same is annexed or detached for its share of the value of the use thereof, which shall be determined at the time of adjustment of assets and liabilities. The municipality annexing the territory shall provide school facilities for the children residing in the remainder of the school district pending the adjustment of assets and liabilities on payment of tuition based on the per capita cost of instruction.

(4) PUBLIC UTILITIES. Any public utility plant, including any dam, power house, power transmission line and other structures and property operated and used in connection therewith shall belong to the municipality in which the major portion of the patrons of such utility reside. The value of such utility, unless fixed by agreement of all parties interested shall be determined and fixed by the public service commission upon notice to the municipalities interested, in the manner provided by law. The commission shall certify

the amount of the compensation to the clerks of each municipality interested and said amount shall be used by the apportionment board or boards in adjusting assets and liabilities.

(5) APPORTIONMENT BOARD. The boards or councils of the municipalities, or committees, thereof selected for that purpose, acting together, shall constitute an apportionment board. When any municipality is dissolved by reason of all of its territory being so transferred the board or council thereof existing at the time of such dissolution shall for the purpose of this section, continue to exist as the board or council of such municipality.

(6) MEETING. The board or council of the municipality to which the territory is transferred shall fix a time and place for meeting and cause a written notice thereof to be given the clerk of the municipality from which such territory is taken at least five days prior to the date of the meeting. The apportionment may be made only by a majority of the members from each municipality who attend, and in case of committees, the action must be affirmed by the board or council so represented.

(7) ADJUSTMENT, HOW MADE. The apportionment board shall determine, except in the case of public utilities, such assets and liabilties from the best information obtainable and shall assign to the municipality to which the territory is transferred its proper proportion thereof by assigning the excess of liabilities over assets, or by assigning any particular asset or liability to either municipality, or in such other manner as will best meet the requirements of the particular case. If a proportionate share of any indebtedness existing by reason of municipal bonds or other obligations outstanding shall be assigned to any municipality it shall cause to be levied and collected upon all the taxable property in such municipality in one sum or in annual instalments the amount necessary to pay the principal and interest thereon when the same shall become due, and shall pay the amount so collected to the treasurer of the municipality which issued said bonds or incurred such other obligations, who shall apply the moneys so received strictly to the payment of such principal or interest.

(8) APPEAL TO COURT. In case the apportionment board is unable to agree, the circuit court of the county in which either municipality is situated, may, upon the petition of either municipality, make the adjustment of assets and liabilities pursuant to provisions of this section.

(9) TRANSCRIPT OF RECORDS. When territory shall be detached from a municipality by creation of a new municipality or otherwise, the proper officer of the municipality from which the territory was detached shall furnish, upon demand by the proper officer of the municipality created from the detached territory or to which it is annexed, authenticated transcript of all public records in his office pertaining to the detached territory. The municipality receiving the transcript shall pay therefor. [*1931 c. 394; 1937 c. 231; 1939 c. 476; 1941 c. 147*]

Note: Subsections (5) and (6) do not require that the members of the board of a town affected must attend, and mandamus does not lie to compel them to do so. State ex rel. Madison v. Walsh, 247 W 317, 19 NW (2d) 299.

Municipalities, to which some of the territory within a school district was annexed after a city had obtained a judgment for tuition against the school district, had no concern with the indebtedness represented by such judgment in the absence of an apportionment of assets and liabilities as provided for on a division of territory by this section. The legislature having prescribed the method of ascertaining the liabilities of the respective municipalities on a division of territory, that remedy is exclusive. Wauwatosa v. Union Free H. S. Dist. 250 W 266, 26 NW (2d) 535.

Upon division of territory and adjustment of assets and liabilities under this section municipality which obtained loan from trust funds is still responsible for repayment of same. Although annexing municipality assumes part of indebtedness, loan must be considered as liability of borrower and included in determining five per cent indebtedness limitation. 22 Atty. Gen. 897.

Provisions of (3) (b) respecting tuition charges are inapplicable where territory has been detached from school district pursuant to 40.85 and original district continues to provide school facilities for detached territory; such charges are governed by 40.21 (5). 25 Atty. Gen. 491.

Agreement to pay tuition in excess of legal rate for admission to schools of district from which new district is formed by detachment under 40.85, Stats. 1937, of pupils of latter does not abrogate right to division of assets pursuant to 66.03 (5) to (8), for refusal to accept said pupils at legal rate. 27 Atty. Gen. 283.

[*66.04 Stats. 1945 renumbered sections 66.04 to 66.044 by 1947 c. 362*]

66.04 Appropriations. (1) MEMORIAL DAY. (a) Money for the observance of Memorial day may be appropriated by any town meeting or any town or village board or city council, not to exceed in any one year, the sum of one thousand dollars.

(b) The board or council shall direct the manner of disbursement, unless there be in the town, village, or city a Grand Army post or other organization having in charge memorial day exercises, in which event such organization may direct the manner of disbursement. Two or more such organizations may by concurrent action direct what part of the fund shall be apportioned to each.

(c) The money shall be paid to the chairman, president, or mayor, and he shall account by receipted vouchers to be audited by the board or council. Order of the proper

officer of the organization having charge of the exercises, for the payment of expenses of such exercises, shall be a sufficient voucher.

(d) Any town or village board, upon submission of an itemized statement of expenses incurred for Memorial day exercises by a Grand Army post or other organization, may appropriate not to exceed twenty-five dollars toward such expenses.

(2) INDEPENDENCE DAY. Any city or village may appropriate not to exceed five thousand dollars for the celebration of Independence day or for a centennial celebration, provided that such a limitation shall not apply to a city of the first class. The money shall be expended for such purposes, in such manner, and through such city officers or citizen committees as the board or council shall direct, and may be expended without formal contract. When the Fourth of July falls on Sunday the celebration may be had on either the third or the fifth.

(3) TO PROMOTE PROSPERITY. (a) Upon petition signed by twenty-five per cent of the electors of a city, according to the preceding vote for governor, filed not less than twenty days prior to the regular city election, the following question shall be submitted: "Shall the city make an annual appropriation for commercial and industrial development?"

(b) If a majority of the votes cast on the question be in the affirmative, the council thereafter shall appropriate annually, in cities of the first class not more than four thousand dollars, in cities of the second class not more than three thousand dollars, and in cities of the third and fourth classes not more than two thousand dollars to aid and encourage the location of manufacturing, industrial, and commercial plants therein and for other purposes designed to increase the population, taxable property, and business prosperity of the city, and for necessary incidental expenses in relation thereto. The moneys shall be used by the council for such purposes.

(c) Thereafter, upon like petition, the question of discontinuing such appropriation shall be submitted and decided in like manner.

(3a) ADVERTISING OF ATTRACTIONS. The electors of any town at the annual town meeting, the village board of any village, or the common council of any city at any regular meeting, may appropriate in any year a sum not to exceed one-tenth of one per cent of the assessed valuation of the property of such town, village or city for the purpose of advertising the advantages, attractions and natural resources of such town, village or city and to develop and improve the same. The municipality making the appropriation or any authorized agent thereof may co-operate with any private agency or organization in such work.

(4) BONUS TO STATE INSTITUTION. No appropriation or bonus of any kind shall be made by any town, village, or city, nor any municipal liability created nor tax levied, as a consideration or inducement to the state to locate any public educational, charitable, reformatory, or penal institution.

(5) AID TO AGRICULTURAL SOCIETIES. Any town, village or city may, by a two-thirds vote of the board or council, appropriate in any one year a sum not to exceed one thousand dollars to aid any organized agricultural society or any incorporated poultry association, but no such society or association shall receive any such aid unless it also receives aid from the state, or make no charge to the public for admittance to its exhibitions.

(6) PUBLIC WELFARE ASSOCIATIONS. Any city may appropriate money for charitable and philanthropic purposes, to provide relief and assistance to those in need or to promote the general welfare of the poor and to alleviate poverty. Such appropriation may be made directly to any corporation located in such city organized for the purposes set forth herein. When so appropriated the money shall be expended and accounted for by such corporation in such manner as the council may direct.

(7) INVESTMENTS. Any county, city, village, town, school district, drainage district or other governing board as defined by subsection (4) of section 34.01 may invest any of its funds, not immediately needed, in bonds or securities issued or guaranteed as to principal and interest of the United States government or bonds or securities of any county, city, drainage district, village, town or school district of this state, or in the case of a town, city or village in any bonds or securities issued under the authority of such municipality, whether the same create a general municipality liability or a liability of the property owners of such municipality for special improvements made therein, and may sell or hypothecate the same. [*Stats. 1945 s. 66.04 (1) to (7); 1947 c. 362*]

Note: Under 66.04 (7), Stats. 1931, town or school district may temporarily invest in unsecured notes of county. 21 Atty. Gen. 406.

66.04 (7) was not repealed by chapter 55, Laws 1935, and municipalities may continue to invest inactive funds in government bonds where this is done in good faith and not for purpose of evading provisions of chapter 55. 24 Atty. Gen. 381.

66.042 Disbursement from local treasury. (1) In every city and village all disbursements from the treasury shall be made by the city or village treasurer upon the written order of the city or village clerk after proper vouchers have been filed in the office of the clerk; and in all cases where the statutes provide for payment by the treasurer without an order of the clerk, it shall hereafter be the duty of the clerk to draw and deliver to the treasurer an order therefor before or at the time when such payment is required to be made by the treasurer. The provisions of this section shall apply to all special and general provisions of the statutes relative to the disbursement of money from the city or village treasury except section 67.10 (2).

(2) Except in cities of the first class, municipal disbursements shall be by order check. No such order check shall be released to the payee, nor shall such be valid, unless signed by the clerk and treasurer of the municipality. Unless otherwise directed by ordinance adopted by the governing body, the mayor or village president shall countersign all city and village order checks. The governing body may also authorize additional signatures.

(3) In cities of the first class, municipal disbursements shall be by order, check or order check. Checks 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 such city. Disbursements of school moneys shall be in the manner provided by section 38.16 (2). Disbursements of vocational school moneys shall be in the manner provided by section 41.16 (5), except that such orders or checks shall be signed by a person authorized by the board of vocational and adult education and countersigned by the city comptroller.

(4) Whenever any city or village board or commission is vested by statute with exclusive control and management of a fund, including the audit and approval of payments therefrom, independently of the governing body, such payments shall be made by orders issued by the city or village clerk upon the filing with him of certified bills, vouchers or schedules signed by the proper officers of such board or commission, giving the name of the claimant or payee, and the amount and nature of each payment.

(5) No order shall be issued by the city or village clerk in excess of funds available or appropriated for the purposes for which such order is drawn, unless authorized by a resolution adopted by the affirmative vote of the members of the governing body of such city or village.

(6) The governing body of any city or village may, by ordinance adopted by a three-fourths vote of its members, enact a procedure alternative to that provided by subsection (2) by providing that a complete list of all authorized disbursements verified by the signature of the clerk is filed with each depository bank prior to the issuance of checks for such disbursements. In such case municipal disbursements may be by check signed by the treasurer of the municipality and by such other officer or officers as the governing body may direct by ordinance. [*Stats. 1945 s. 66.04 (8); 1947 c. 362*]

Note: Under 66.04 (8), Stats. 1937, all disbursements from city or village treasury must be made upon written order of city or village clerk after proper vouchers have been filed in office of clerk. This statute supersedes all prior legislation inconsistent therewith but leaves unchanged any statutory provisions not inconsistent therewith. 27 Atty. Gen. 76.

[*66.043 (66.04 (9) Stats. 1945) repealed by 1947 c. 483*]

66.044 Financial procedure; alternative system of approving claims. (1) The governing body of any village or of any city of the second, third or fourth class may by ordinance enact an alternative system of approving financial claims against the municipal treasury. Such ordinance shall provide that payments may be made from the city or village treasury after the comptroller or clerk of the city or village shall have audited and approved each such claim as a proper charge against the treasury, and shall have indorsed his approval thereon after having determined that the following conditions have been complied with:

(a) That funds are available therefor pursuant to the budget approved by the governing body.

(b) That the item or service covered by such 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 such authorization.

(d) That the claim is just and valid pursuant to law. The comptroller or clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(2) Such ordinance shall require that the clerk or comptroller shall 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 shall provide that the governing body of the city or village shall authorize an annual detailed audit of its financial transactions and accounts by the department of state audit pursuant to section 15.22 (10) or by a public accountant licensed under the provisions of chapter 135 the designation to be made by the governing body.

(4) Such system shall be operative only if the comptroller or clerk is covered by a fidelity bond of not less than $5,000 in villages and cities of the fourth class, of not less than $10,000 in cities of the third class, and of not less than $20,000 in cities of the second class.

(5) Whenever such an alternative procedure has been adopted by ordinance in conformity with this section, then the claim procedure required by sections 62.09 (10), 62.11, 62.12, 62.25, 61.25 (6) and 61.51 and other relevant provisions shall not be applicable in such city or village. [*Stats. 1945 s. 66.04 (10); 1947 c. 300 s. 9; 43.08 (2); 1947 c. 362*]

66.045 Privileges in streets. (1) Privilege for an obstruction or excavation beyond the lot line, or within a highway in any town, village, or city, other than by general ordinance affecting the whole public, shall be granted only as provided in this section.

(2) Application therefor shall be made to the board or council, and the privilege shall be granted only on condition that by its acceptance the applicant shall become primarily liable for damages to person or property by reason of the granting of the privilege, be obligated to remove the same upon 10 days' notice by the state or the municipality and waive right to contest in any manner the validity of this section or the amount of compensation charged and that the applicant file such bond as the board or council require, not exceeding $10,000 running to the town, village, or city, and such third parties as may be injured, to secure the performance of these conditions. But if there is no established lot line and the application is accompanied by a blue print, the board or council may make such conditions as they deem advisable.

(3) Compensation for the special privilege shall be paid into the general fund and shall be fixed, in towns by the chairman, in villages by the president, and in cities by a board consisting of the board or commissioner of public works, city attorney and mayor.

(4) The holder of such special privilege shall be entitled to no damages for removal of the obstruction or excavation, and if he shall not remove the same upon due notice, it shall be removed at his expense.

(5) Third parties whose rights are interfered with by the granting of such privilege shall have right of action against the holder of the special privilege only.

(6) The provisions of subsections (1) to (5) do not apply to public service corporations, or to co-operative associations organized under chapter 185 to render or furnish telephone, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary obstructions or excavation in a highway and shall be liable for all injuries to person or property thereby.

(7) This section does not apply to such obstruction or excavation for not longer than 3 months, and for which permit has been granted by the proper official.

(8) Obstruction or excavation by a city or village in any street, alley, or public place belonging to any other municipality is included in this section.

(9) Anyone causing any obstruction or excavation to be made contrary to the provisions of subsections (1) to (8) shall be liable to a fine of not less than $25 and not more than $500, or to imprisonment in the county jail for not less than 10 days nor more than 6 months, or to both such fine and imprisonment. [*Stats. 1945 s. 66.05 (1); 1947 c. 362*]

66.046 Building material and approaches in streets. The council of any city of the fourth class, may by ordinance or resolution, provide for the use of not to exceed one-third in width of any or all of its streets adjacent to any proposed building, for the purpose of temporarily depositing thereon, building material and other articles necessary to be used in and about the construction of such building, and may by ordinance provide for the use of not to exceed 3½ feet of its street or streets adjacent to any business building or proposed business building therein, to be used for approaches to such building, stairways to the basement floors of such building or openings for light to such basements. [*Stats. 1945 s. 66.05 (2); 1947 c. 362*]

Note: A city ordinance enacted under 66.05 (2) [66.046] was a safety measure, the violation of which constituted negligence as a matter of law, as respects the right of a structural steel-worker, who had erected and stretched across a street a guy-rope supporting a derrick, to recover for injuries sustained when a truck struck the guy-rope. The negligence of the worker in stretching the guy-rope across the street too near the ground in violation of the ordinance contributed to his injury when the defendant's truck struck the guy-rope, causing the derrick to fall and injure the worker who was assisting in hoisting a beam into place. Langdon v. West Allis, 216 W 325, 257 NW 8.

66.047 Interference with public service structure. No contractor having a contract for any work upon, over, along or under any public street or highway shall interfere with, destroy or disturb the structures of any public service corporation encountered in the

performance of such work so as to interrupt, impair or affect the public service for which such structures may be used, without first procuring written authority from the commissioner of public works, or other properly constituted authority. It shall, however, be the duty of every public service corporation, whenever a temporary protection of, or temporary change in, its structures, located upon, over, along or under the surface of any public street or highway is deemed by the commissioner of public works, or other such duly constituted authority, to be reasonably necessary to enable the accomplishment of such work, to so temporarily protect or change its said structures; provided, that such contractor shall give at least 2 days' notice of such required temporary protection or temporary change to such corporation, and shall pay or assure to such corporation the reasonable cost thereof, except when such corporation is properly liable therefor under the law, but in all cases where such work is done by or for the state or by or for any county, city, village, or town, the cost of such temporary protection or temporary change shall be borne by such public service corporation. [*Stats. 1945 s. 66.05 (3); 1947 c. 362*]

66.048 Viaducts in cities; lease of space by Milwaukee. (1) VIADUCTS, PRIVATE IN CITIES. The privilege of erecting a viaduct above a public street or alley, for the purpose of connecting buildings on each side thereof, may be granted by the city council upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof 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 thereof which lies within 2,650 feet from the ends of the portion proposed to be so connected. Whenever any of the lots or lands aforesaid is owned by the state, or by a county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the president of the board of trustees of the village, the 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. Written notice stating when and where the petition will be acted upon, and stating what road, slip, pier, lane or alley, or part thereof, is proposed to be discontinued, shall be given by the city council as follows: By posting copies thereof in 3 public places in said city not less than 3 weeks before the day fixed for the hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city, once a week for 3 successive weeks before said day.

(2) VIADUCTS, REMOVAL OF PRIVATE. A viaduct in any city may be discontinued by the city council, upon written petition of the owners of more than one-half of the frontage of the lots and lands abutting on the street approaching on each end of such viaduct, which lies within 2,650 feet from the ends of such viaduct. Whenever any of the lots or lands aforesaid is owned by the state, or by a county or city, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the 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. 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 as follows: By posting copies thereof in 3 public places in said city not less than one year before the day fixed for the hearing and again not less than 20 nor more than 30 days before the date of such hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city, once not less than one year before and once a week for 3 successive weeks before said day.

(3) LEASE OF SPACE BY CITIES OF THE FIRST CLASS. (a) Any city of the first class shall have the power to lease space over any street, alley or other public place in the city which is more than 12 feet above the level of the street, 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, alley or other public place to be so leased, whenever the governing body of the city is of the opinion that such space is not leased for street, alley or other public purpose, and that the public interest will be served by such 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 by the mayor and shall be attested by the city clerk under the corporate seal. The lease shall also be executed by the lessee in such manner as necessary to bind him. After being duly executed and acknowledged the lease shall be recorded in the office of the register of deeds of the county in which is located the leased premises.

(d) If, in the judgment of such governing body, the public interest requires that any building erected in the leased space be removed so that a street, alley or public place may be restored to its original condition, the lessor city may condemn the lessee's interest in the leased space by proceeding under chapter 32. After payment of such damages as may be fixed in the condemnation proceedings, the city may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition. [*Stats. 66.05 (3a), (3b); 1947 c. 362, 491*]

66.049 Removal of rubbish. Cities and villages may cause the removal of ashes, garbage, and rubbish from such classes of places therein as the board or council shall direct. The removal may be from all such places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain of them only, and different regulations may be applied to each removal district. The cost of removal may be provided for 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 or village. [*Stats. 1945 s. 66.05 (4); 1947 c. 362*]

[*66.05 Stats. 1945 renumbered sections 66.045 to 66.054 by 1947 c. 362*]

66.05 Razing buildings. (1) The governing body or the inspector of buildings or other designated officer in every municipality may order the owner of premises upon which is located any building or part thereof within such municipality, which in his or their judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof, or if it can be made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any building or structure for a period of more than 2 years, to raze and remove such building or part thereof. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or his agent where an agent is in charge of the building and upon the holder of any incumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an incumbrance of record cannot be found the order may be served by posting it on the main entrance of the building and by publishing in the official newspapers of the municipality for 2 consecutive publications at least 10 days before the time limited in the order commences to run.

(2) If the owner shall fail or refuse to comply within the time prescribed, the inspector of buildings or other designated officer shall cause such building or part thereof to be razed and removed either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing and removal or closing shall be charged against the real estate upon which such building is located and shall be a lien upon such real estate, and shall be assessed and collected as a special tax. When any building has been ordered razed and removed the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use." And it shall be the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made. Any person, firm or corporation who shall rent, lease or occupy a building which has been condemned for human habitation, occupancy or use shall be liable to a fine of not less than $5 nor more than $50 for each week of such violation.

(3) Anyone affected by any such order shall within 30 days after service of such order apply to the circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing such building or part thereof or forever be barred. Hearing shall be had within 20 days and shall be given precedence over other matters on the court's calendar. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs shall be in the discretion of the court. If

the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order pursuant to the authority of this section in regard to the same building or part thereof until its condition is substantially changed. The remedies herein provided shall be exclusive remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removal of any such building.

(4) "Building" as used in this section includes any building or structure.

(5) If any building ordered razed or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing or repair of such building or if the razing of the building makes necessary the removal, sale or destruction of such personal property or fixtures the inspector of buildings or other designated officer may order in writing the removal of such personal property or fixtures by a certain date. Such order shall be served as provided in subsection (1). If the personal property or fixtures or both are not removed by the time specified the inspector may store the same, or may sell it, or if it has no appreciable value he may destroy the same. In case the property is stored the amount paid for storage shall be a lien against such property and against the real estate and 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 thereof, if known, shall be notified of the place of its storage and if it be not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. In case of sale the handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be handled as specified in subsection (2) and a report made to the circuit court as therein specified. Anyone affected by any order made under this subsection may appeal as provided in subsection (3). [*Stats. 1945 s. 66.05 (5); 1947 c. 238, 362*]

Note: Persons who destroy buildings under provisions of 66.05 are not subject to penalty under provisions of 74.44 (2). 30 Atty. Gen. 322.

[*66.051 Stats. 1945 renumbered section 66.056 by 1947 c. 362*]

66.051 Gambling. The board or council of any town, village, or city may prohibit all forms of gambling and fraudulent devices and practices and cause the seizure of anything devised solely for gambling or found in actual use for gambling and the destruction thereof after a judicial determination of the character or use. [*Stats. 1945 s. 66.05 (6); 1947 c. 362*]

Note: The power of a city to enact ordinances protecting the welfare of the youth of the city is not limited by statute but such ordinances may prohibit all forms of gambling and fraudulent devices and practices and cause the seizure of anything devised solely for gambling or found in actual use for gambling. The statute is a grant of power rather than a limitation. Dallman v. Kluchesky, 229 W 169, 282 NW 9.

66.052 Offensive industry. (1) Any city council or village board may direct the location, management and construction of, and license (annually or otherwise), regulate or prohibit any industry, thing or place where any nauseous, offensive or unwholesome business may be carried on, within the city or village or within 4 miles of the boundaries, 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 said rivers, together with the lands adjacent to said rivers and canals or within 100 yards thereof, shall be deemed to be within the jurisdiction of the city of Milwaukee. Any town board as to the area within the town not now or hereafter licensed, regulated or prohibited by any city or village pursuant to the provisions of this section, shall have the same powers as provided in this section for cities and villages. Any such business conducted in violation of any city, village or town ordinance permitted to be enacted under the provisions of this section is declared to be a public nuisance and an action for the abatement or removal thereof or to obtain an injunction to prevent the same may be authorized to be brought and maintained by the city council or village or town board in the name of this state on the relation of such city, village or town as provided in sections 280.01, 280.02 and 280.07, or as provided in section 146.125. The provisions of section 146.11 shall not be construed as any limitation upon the powers granted by this section. The provisions of section 146.12 shall not be construed as any limitation upon the powers granted by this section to cities or villages but powers granted to towns by this section shall be limited by the provisions of section 146.12 and any orders, rules and regulations promulgated thereunder.

(2) Any city or village may, subject to the approval of the town board of such town, by ordinance enact reasonable regulations governing areas where refuse, rubbish, ashes or garbage shall be dumped or accumulated in any town within one mile of the corporate limits of such city or village, so as to prevent nuisance. [*Stats. 1945 s. 66.05 (7); 1947 c. 362*]

Note: The general rule that municipalities may not make regulations inconsistent with the state law is not applicable to city ordinances providing for the licensing of

rendering plants because of the statute authorizing the state board of health to inspect and supervise such plants. La Crosse Rendering Works v. La Crosse, 231 W 438, 285 NW 393.

66.053 Licenses for nonintoxicating and soda water beverages. (1) NONINTOXICATING BEVERAGES. (a) Each town board, village board and common council shall grant licenses to such persons as they deem proper for the sale of beverages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of such beverages, for which a license fee of not less than $5 nor more than $50, to be fixed by the board or council, shall be paid, except that where such beverages are sold, not to be consumed on the premises, the license fee shall be $5. Such license shall be issued by the town, village or city clerk, shall designate the specific premises for which granted and shall expire the thirtieth day of June thereafter. The full license fee shall be chargd for the whole or a fraction of the year. No such beverages shall 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 such license.

(am) In case of removal of the place of business 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 such change of location, and the license shall be amended accordingly without payment of additional fee. No such license, however, shall be transferable from one person to another.

(b) No license or permit shall be granted to any person, unless to a domestic corporation, not a citizen of the United States and of this state and a resident of the town, village or city in which such license is applied for, nor to any person who has been convicted of a felony, unless such person has been pardoned.

(c) Each town board, village board and common council shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof, the sale of beverages containing less than one-half of one per centum of alcohol by volume and the revocation of any license or permit.

(2) SODA WATER BEVERAGES. Each town board, village board and common council of any city may grant licenses to such persons as they deem proper for the sale of soda water beverages, as defined in section 97.09, to be consumed on or off the premises where sold. Such license fee shall be fixed by such governing body of such 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 thirtieth day of June thereafter. Each such governing body shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof and the revocation of any such license. [*Stats. 1945 s. 66.05 (9), (9m); 1947 c. 362*]

Note: For discussion of concessionaire licenses and town board's powers on state fair grounds, see 28 Atty Gen. 325.

66.054 Licenses for fermented malt beverages. (1) DEFINITIONS. As used in this subsection:

(a) "Brewer" shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

(b) "Bottler" shall mean any person, firm or corporation, other than a brewer, who shall place in bottles fermented malt beverages as hereinafter defined, for the purpose of sale, barter, exchange, transportation, offering for sale, or having in possession with intent to sell.

(c) "Wholesaler" shall mean any person, firm or corporation, other than a brewer or bottler, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in fermented malt beverages as herein defined, in quantities of not less than 4½ gallons at one time, not to be consumed in or about the premises where sold.

(d) "Retailer" shall mean any person who shall sell, barter, exchange, offer for sale or have in possession with intent to sell, any fermented malt beverages in quantities of less than 4½ gallons at any one time.

(e) "Permit" shall mean a permit issued to a brewer or bottler by the commissioner of internal revenue of the United States.

(f) "Operator" shall mean any person who shall draw or remove any fermented malt beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" license, for sale or service to a consumer for consumption in or upon the premises where sold.

(g) "License" shall mean an authorization or permit issued by the city council or village or town board, relating to the sale, barter, exchange, or traffic in fermented malt beverages.

(h) "Application" shall mean a formal written request filed with the clerk of the town, city or village in which the applicant shall be a resident, for the issuance of a license, supported by a verified statement of facts.

(i) "Regulation" shall mean any reasonable rule or ordinance adopted by the council or board of any city, village or town, not in conflict with the provisions of any statute of the state of Wisconsin.

(j) "Fermented malt beverages" shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing one-half of one per cent or more of alcohol by volume.

(k) "Brewery premises" shall mean and include all land and all buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

(3) Labels. (a) Every brewer shall file with the state treasurer, in such form as he shall prescribe, proof that said brewer is the possessor of a permit, together with the permit number assigned to him. The state treasurer shall thereupon register such permit number in the name of said brewer. Every bottler shall make application to the state treasurer for the assignment to him of a registration number, which shall be registered in the name of said bottler. The numbers so registered shall appear in plain and legible type upon a label which shall be affixed by each brewer or bottler to every barrel, keg, cask, bottle, or other container in which fermented malt beverage shall be packed by said brewer or bottler.

(b) No fermented malt beverage shall be sold, bartered, exchanged, offered or exposed for sale, kept in possession with intent to sell, or served in any licensed premises unless there shall be placed upon each barrel, keg, cask, bottle or other container a label bearing the name and address of the brewer or bottler manufacturing or bottling said beverage and, in plain legible type, the registration number of said brewer or bottler.

(c) The possession of any fermented malt beverages in or about any licensed premises which shall not be labeled as herein provided, except upon premises of a brewer or bottler, shall be deemed prima facie evidence that such products are kept and possessed with intent to sell, offer for sale, display for sale, barter, exchange or give away such fermented malt liquor.

(4) Restrictions on brewers, bottlers and wholesalers. (a) No brewer, bottler or wholesaler shall furnish, give or lend any money or other thing of value, other than consumable merchandise intended for resale, including the containers thereof, nor furnish, give, lend, lease or sell any furniture, fixtures, fittings or equipment, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder of partner thereof, to any Class "B" licensee, or to any person for the use, benefit or relief of any Class "B" licensee, or guarantee the repayment of any loan, or the fulfillment of any financial obligation of any Class "B" licensee; except that brewers, bottlers and wholesalers may:

1. Furnish, give, lend or rent outside and inside signs to Class "B" licensees provided the value of such signs, in the aggregate, furnished, given, lent or rented by any brewer, bottler or wholesaler to any Class "B" licensee, shall not exceed $125 exclusive of erection, installation and repair charges, but nothing herein shall be construed as affecting signs owned and located in the state of Wisconsin on the effective date hereof by any brewer, bottler or wholesaler;

2. Furnish miscellaneous advertising matter and other items not to exceed, in the aggregate, the value of $25 in any calendar year to any one Class "B" licensee;

3. Furnish or maintain for Class "B" licensees such equipment as is designed and intended to preserve and maintain the sanitary dispensing of fermented malt beverages, provided the expense incurred thereby does not exceed the sum of $25 per tap per calendar year no part of which shall be paid in cash to any Class "B" licensee;

4. Sell dispensing equipment such as direct draw boxes, novelty boxes, coil boxes, beer storage boxes or trapping equipment, none of which shall include bar additions, to Class "B" licensees for cash or on credit payable in equal monthly payments within 2 years to be evidenced by a written contract or chattel mortgage setting forth all of the terms, conditions and monthly payments agreed on, and within 10 days after execution of the same the seller shall file with the register of deeds for the county wherein such equipment is installed a true copy of such contract or chattel mortgage and pay a filing fee of 50 cents; and

5. Acquire within 5 days after the effective date hereof any furniture, fixtures, fittings and equipment, or any valid lien thereon or interest therein, which were actually installed in this state on the premises of any Class "B" licensee prior to the effective date hereof, and may lease or lend the same to Class "B" licensees who are in possession or to any person in possession of the premises where the same are actually installed prior to the effective date hereof. Any brewer, bottler or wholesaler who shall repossess any furniture, fixtures, fittings or equipment lent, leased or sold to any Class "B" licensee may sell the same to any Class "B" licensee, for cash on delivery only, and deliver a bill of sale of the same. Any application for Class "B" license hereafter made for the sale of fermented malt beverages shall have appended thereto and made a part thereof, an affidavit, sworn and acknowledged under oath, by the applicant for such license, setting forth the ownership of the fixtures in or attached to the premises, or any part thereof, and if such fixtures are not owned by the applicant for such license, the manner, terms and conditions under which said fixtures are held. No brewer, bottler or wholesaler shall hereafter, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner enter into any written agreement, and no written or oral agreement shall be valid, whether or not incorporated in any chattel mortgage, conditional sales contract, bill of sale, lease, land contract, mortgage, deed or other instrument wherein or whereby any Class "B" licensee is required to purchase the fermented malt beverages of any brewer to the exclusion, in whole or in part, of fermented malt beverages manufactured by other brewers. The restrictions contained in this subsection shall not apply to real estate owned in whole or in part on the effective date hereof by any brewer, bottler or wholesaler, directly or indirectly, or by any subsidiary or affiliate corporation, or by any officer, director, stockholder, partner or trustee for any of the foregoing, or upon which any of the foregoing had or held a valid subsisting lien on said date. Nothing herein contained shall affect the extension of usual and customary commercial credits for products of the industry actually sold and delivered. Any licensee who shall be a party to any violation of this subsection or who shall receive the benefits thereof shall be equally guilty of a violation of the provisions thereof. The words "effective date hereof" as used in this subsection mean the date this subsection took effect. [May 24, 1941]

(b) A brewer may maintain and operate a place in and upon the brewery premises and a place in and upon real estate owned by a brewer, or subsidiary or affiliate corporation for the sale of fermented malt beverages for which a Class "B" license shall be required for each place but not more than 2 such Class "B" licenses shall be issued, and in addition a brewer may own, maintain and operate a place or places for the sale of fermented malt beverages on any state or county fairgrounds located within this state. Any Class "B" licenses necessary in connection with this subsection shall be issued to the brewer. A brewer may own the furniture, fixtures, fittings, furnishings and equipment used therein and shall pay any license fee or tax required for the operation of the same. Brewers may without license therefor, furnish fermented malt beverages free of charge to customers, visitors and employes on the brewery premises and no license fee shall be required of any such brewer, if such fermented malt beverages so furnished shall be consumed on the brewery premises and if fermented malt beverages shall not be furnished or consumed in or about any room or place where intoxicating liquors, as defined by section 176.01, are sold.

(c) A brewer or bottler may own and operate depots or warehouses, from which sales of fermented malt beverages, not to be consumed in or about the premises where sold, may be made in original packages in quantities of not less than 4½ gallons at any one time. A separate wholesaler's license shall be required for each warehouse or depot maintained or operated.

(d) "Brewers" and "bottlers" who shall desire to sell (in the original packages or containers) fermented malt beverages not to be consumed in or upon the premises where sold, shall be required to obtain a wholesaler's license if said fermented malt beverages are sold in quantities of not less than 4½ gallons at any one time, or a Class "A" license if such sales are made in quantities of less than 4½ gallons at any one time.

(5) LICENSES; GENERAL REQUIREMENTS. (a) No person shall sell, barter, exchange, offer for sale, or have in possession with intent to sell, deal or traffic in fermented malt beverages, unless licensed as provided in this section by the governing board of the city, village or town in which the place of business is located, provided that in case of a foreign corporation whose wholesale place of business is located outside of the state such wholesaler's license shall be issued by the governing board of a city, village or town in which is conducted some part of such wholesaler's business in this state, provided, however, that no license shall be required to authorize the solicitation of orders for sale to be made to or by licensed wholesalers, provided that nothing herein shall prohibit brewers from manufacturing, possessing or storing fermented malt beverages on the brewery premises

or from transporting fermented malt beverages between such brewery premises and any depot or warehouse maintained by such brewer for which such brewer has a wholesaler's license as provided in subsection (6).

(b) The governing body of every city, village and town shall have the power, but shall not be required, to issue licenses to wholesalers and retailers for the sale of fermented malt beverages within its respective limits, as herein provided. Said retailers' licenses shall be of two classes, to be designated as Classes "A" and "B."

(c) The electors of any city, village or town may, by ballot, at the spring election, determine whether or not Class "B" retail licenses shall be issued for the sale of fermented malt beverages for consumption on or off the premises where sold, or whether or not Class "A" retail licenses shall be issued for the sale of fermented malt beverages for consumption away from the premises where sold, provided that whenever a number of qualified electors of any city, village or town equal to, or more than, 15 per centum of the number of votes cast therein for governor at the last general election, shall present to the clerk thereof a separate petition on each question, in writing, signed by them, praying that the electors thereof may have submitted to them any such question and shall file such petition with the clerk at least 30 days prior to the first Tuesday of April next succeeding. Within 5 days of the filing of any such petition such clerk shall determine by careful examination the sufficiency or insufficiency thereof and state his findings in a signed certificate dated and attached to such petition, and within 5 days give written notice to the beverage tax division, at Madison, Wisconsin, that such petition has been filed with him, stating the question to be submitted, the date of filing such petition, the name of the town, its post-office address, village or city, and such clerk after and not until he shall have determined that such petition is sufficient and shall have given the notice to the beverage tax division as hereinabove set forth, shall forthwith make an order providing that such question shall be so submitted on the first Tuesday of April next succeeding the date of such order. Said petition must be circulated by one or more qualified voters residing in the town, village or city wherein such local option question will be submitted. The preparation of such petition shall be governed as to the use of more than a single sheet of paper, the dates of signatures, the places of residence of signers, and verification thereof, by the provisions of section 5.05 as far as applicable. No petition shall be circulated prior to 60 days before the date on which it must be filed, and no signature shall be counted unless it has been affixed to such petition and bears date within 60 days prior to the time for the filing thereof. At such election a separate ballot box shall be provided for such ballots. Such ballots shall conform to the provisions of section 6.23 (8).

Any question so submitted shall be upon a separate ballot and the ballot relating to the question of whether or not Class "B" retail license shall be issued shall be upon yellow print paper and the ballot relating to the question whether or not Class "A" retail license shall be issued upon light green print paper. The questions shall read as follows:

Shall Class "B" license (taverns, hotels, restaurants, clubs, societies, lodges, fair associations, etc.) be issued for the retail sale of beer for consumption on or off the premises where sold?

Yes. ☐ No. ☐

Shall Class "A" license (stores, etc.) be issued for the retail sale of beer in original packages to be consumed away from the premises where sold?

Yes. ☐ No. ☐

The city clerk making such order shall give notice of the election to be held on any such question in the manner notice is given of the regular city election; town and village clerks who make such orders shall give such notice by posting written or printed notices in at least 5 public places in the town or village not less than 10 days before the date of election. The election on such question or questions shall be held and conducted and the returns canvassed in the manner in which elections in such city, town or village on other questions are conducted and the returns thereof canvassed. The results shall be certified by the canvassers immediately upon the determination thereof, and be entered upon the records of the town, village or city, and within 10 days such clerk shall notify the beverage tax division of the results of such election. Such result shall remain in effect for a period of 2 years and thereafter until changed by ballot at another election held for the same purpose. If the results of such election shall prohibit the issuance of Class "A" and Class "B" retail licenses the town, village, or city may nevertheless issue wholesalers' licenses to applicants who qualify under subsection (6), but on condition that such wholesaler shall not make any sale and delivery of fermented malt beverages in such town, village or city to any person, firm or corporation residing in such town, village or city.

(d) All licenses shall be granted only upon written application and shall be issued for a period of one year to expire on the thirtieth day of June of each calendar year; provided, that licenses may be granted which shall expire on the thirtieth day of June, 1933, upon payment of one-fourth of the annual license fee. A separate license shall be required for each place of business. Said licenses shall particularly describe the premises for which issued, shall not be transferable, and shall be subject to revocation for violation of any of the terms or provisions thereof or of any of the provisions of this section. As soon as an application for a license has been approved a duplicate copy thereof shall be forwarded to the state treasurer.

(e) No license shall be imposed upon the sale of fermented malt beverages upon any railroad sleeping, buffet car or steamboat while in transit or in any public park operated by any county, city, town or village when sold by officers or employes thereof pursuant to any ordinance, resolution, rule or regulation enacted by the governing body of such municipality where the receipts from such sales go into the public treasuries.

(6) WHOLESALERS' LICENSES. Wholesalers' licenses may be issued only to domestic corporations, to foreign corporations licensed under chapter 226 to do business in this state or to persons of good moral character who shall have been residents of this state continuously for not less than one year prior to the date of filing application for said license. Said licenses shall authorize sales of fermented malt beverages only in original packages or containers and in quantities of not less than 4½ gallons at any one time, not to be consumed in or about the premises where sold. The fee for a wholesaler's license shall not exceed $25 per year or fractional part thereof.

(6a) SPECIAL WHOLESALERS' LICENSES. 1. Special wholesalers' licenses may be issued to any holder of a retail Class "B" license for the sale of fermented malt beverages which will permit the sale of fermented malt beverages in original packages or containers and in quantities of not less than 4½ gallons at any one time for consumption on the premises.

2. The annual fee charged for a special wholesalers' license shall not exceed $25.

(7) CLASS "A" RETAILERS' LICENSES. Class "A" retailers' licenses shall be issued only to domestic corporations, to foreign corporations engaged in the manufacture of fermented malt beverages and licensed under chapter 226 to do business in this state or to persons of good moral character who shall be citizens of the United States and of the state of Wisconsin and shall have resided in this state continuously for not less than one year prior to the date of the filing of application for said license. Said license shall authorize sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers, or bottles and unrefrigerated. The license fee for a Class "A" license shall not exceed $10 per year or fractional part thereof. Not more than 2 Class "A" licenses shall be issued in the state to any one corporation or person, and in each application for a Class "A" license the applicant shall state that he has not made application for more than one other Class "A" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another.

(8) CLASS "B" RETAILERS' LICENSES. (a) Class "B" retailers' licenses shall be issued only to persons of good moral character, who shall be citizens of the United States and of the state of Wisconsin, and shall have resided in this state continuously for not less than one year prior to the date of the filing of the application. No such license shall be granted for any premises where any other business shall be conducted, in connection with said licensed premises except that such restriction shall not apply to a hotel, or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a bowling alley or recreation premises or to a bona fide club, society or lodge that shall have been in existence for not less than 6 months prior to the date of filing application for such license. Not more than 2 Class "B" licenses shall be issued in the state to any one person, and in each application for a Class "B" license the applicant shall state that he has not made application for more than one other Class "B" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another, except that this restriction shall not apply to a hotel or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that shall have been in existence for not less than 6 months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this section. The provisions of section 176.05 (13) relating to the issuance of licenses to domestic or foreign corporations for the sale of intoxicating liquor and to the appointment of agents and successor agents by such corporations shall also be applicable

to Class "B" retailers' licenses issued to domestic or foreign corporations for the sale of fermented malt beverages.

(b) The amount of the license fee shall be determined by the city, village or town in which said licensed premises are located, but said license fee shall not exceed $100 per year, but licenses may be issued at any time for a period of 6 months in any calendar year for which three-fourths of the license fee shall be paid. Such 6 months' licenses shall not be renewable during the calendar year in which issued. Licenses may also be issued to bona fide clubs, state, county or local fair associations or agricultural societies, lodges or societies that have been in existence for not less than 6 months prior to the date of application or to posts now or hereafter established, of ex-service men's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post, or during a fair conducted by such fair associations or agricultural societies, for which a fee of not to exceed $10 may be charged as fixed by the governing board. All Class "B" licenses shall be posted in a conspicuous place in the room or place where fermented malt beverages are drawn or removed for service or sale, except such licenses issued to the state fair or to county or district fairs receiving state aid. Such license when issued to the state fair or to a county or district fair shall license and cover the entire fairgrounds where a fair is being conducted and all operators thereon retailing and selling fermented malt beverages from let stands. The state fair or county or district fair to which such license is issued may let stands on such fairgrounds to operators who may retail and sell fermented malt beverages therefrom while the fair is being held, and no such operator is required to obtain an operator's license when retailing and selling such beverages on grounds of fairs receiving state aid or of the state fair.

(c) Persons holding a Class "B" license may sell fermented malt beverages either to be consumed on the premises where sold or away from such premises. They may also sell beverages containing less than one-half of one per centum of alcohol by volume without obtaining a special license to sell such beverages under section 66.053 (1).

(d) Every holder of a Class "B" retailer's license selling or offering for sale draught fermented malt beverages to be consumed on or off the premises shall display a sign on, over or near each tap or faucet disclosing the brand of beer drawn from each tap or faucet and the name of the manufacturer of the beer on tap, visible to patrons for a distance of at least 10 feet so that every patron may be informed of the brand of fermented malt beverages on tap. No such licensee shall substitute any other brand of fermented malt beverage in place of the brand so designated by such visible sign and every licensee who shall violate this subsection shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $15, and the provisions in subsection (15) shall not apply on account of any violations of this subsection.

(9) CONDITIONS OF LICENSES. Wholesalers' and retailers' licenses shall be issued subject to the following restrictions:

(a) No fermented malt beverages shall be sold or consumed upon any licensed premises during such hours as may be prohibited by local ordinance.

(b) No fermented malt beverages shall be sold, dispensed, given away or furnished to any person under the age of 18 years unless accompanied by parent or guardian.

(c) No fermented malt beverages shall be sold to any person who is intoxicated.

(d) No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

(e) No fermented malt beverages shall be sold unless the barrel, keg, cask, bottle, or other container containing the same shall have thereupon at the time of sale a label of the kind and character required by subsection (3). Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces, in plain and legible type.

(f) No person licensed under this section shall use the word "saloon" upon any sign or advertising or as a designation of any premises in or upon which fermented malt beverages are sold or kept for sale.

(10) (a) In any county having a population of less than 500,000 no premises for which a retail Class "B" license has been issued shall be permitted to remain open between 1 a. m. and 8 a. m. or on any election day until after the polls of such election are closed.

(b) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not be permitted to sell fermented malt beverages during the hours mentioned in paragraph (a).

(c) This subsection shall not prevent or interfere with any town, village or city to require by ordinance or resolution the closing of such taverns at an hour earlier than provided herein.

(11) OPERATORS' LICENSES. (a) Every city council, village or town board, may issue a license known as an "Operator's" license, which shall be granted only upon application in writing. Said operator's license shall be issued only to persons of good moral character, who shall have been citizens of the United States and residents of this state continuously for not less than one year prior to the date of the filing of the application. Such licenses shall be operative only within the limits of the city, village or town in which issued. For the purpose of this subsection any member of the immediate family of the licensee shall be considered as holding an operator's license.

(b) There shall be upon premises operated under a Class "B" license, at all times, the licensee or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he shall possess an operator's license, or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license, who shall be at the time of such service upon said premises.

(c) The fee for an operator's license shall not exceed $5 per year, shall be issued for one year, and shall expire on the thirtieth day of June of each calendar year. An operator's license may be granted, which shall expire on the thirtieth day of June, 1933, upon a payment of one-fourth of the amount of the prescribed license fee.

(d) Any violation of any of the terms or provisions of this section by any person holding an operator's license shall be cause for revocation of said license.

(12) LOCAL ENFORCEMENT. The common council of any city, the board of trustees of any village and the town board of any town may adopt any reasonable rule or regulation for the enforcement of this section not in conflict with the provisions of any statute.

(13) MUNICIPAL REGULATIONS. Nothing in this section shall be construed as prohibiting or restricting any city, village or town ordinances from placing additional regulations in or upon the sale of fermented malt beverages, not in conflict with the terms and provisions of this section.

(14) COURT REVIEW. (a) The action of any city council, village or town board in the granting or revocation of any license, or the failure of said city council, village or town board to revoke any license for good cause because of the violation of any of the provisions of this section may be reviewed by any court of record in the county in which the application for said license was filed or said license issued, upon application by any applicant, licensee or any citizen of such city, town or village.

(b) The procedure in said review shall be the same as in civil actions instituted in said court. The person desiring such review shall file his pleadings, which shall be served upon the city council, village or town board in the manner provided for service in civil actions by statute, and a copy thereof shall be served upon the licensee. The said city council, village or town board or licensee shall have 20 days within which to file his or their answer to said complaint, and thereupon said matter shall be deemed at issue and hearing may be had before the presiding judge of said court within 5 days, upon due notice served upon the opposing party. The hearing shall be before the presiding judge without a jury. Subpoenas for witnesses shall be issued and their attendance compelled, in accordance with the provisions of statute relating to civil proceedings. The decision of the presiding judge shall be filed within 10 days thereafter, and a copy thereof transmitted to each of the parties, and said decision shall be binding unless appeal be had to the supreme court in the manner provided by statute for appeals in civil actions.

(15) PENALTIES. (a) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $500, or by imprisonment in the county jail for a term of not more than 90 days, or by both such fine and imprisonment, and his license shall be subject to revocation by a court of record in its discretion. Any city, village or town may, by ordinance, prescribe different penalties than those provided in this section, and may provide that the license may be revoked by a court of record in the court's discretion. No city, village or town shall pass any ordinance which shall fix the penalty for violation of any ordinance so that the same shall be greater than the maximum provided by this section. In event that such person shall be convicted of a second offense, under the provisions of this section such offender, in addition to the penalties herein provided, shall forthwith forfeit any license issued to him without further notice, and in the event that such person shall be convicted of a felony, in addition to the penalties provided for such felony, the court shall revoke the license of such offender. Every town, village or city shall have the right to revoke any license by it issued to any person who shall violate any of the provisions of this section or any municipal ordinance adopted pursuant thereto. No license shall thereafter be granted to such person for a period of one year from the date of such forfeiture.

(b) Any person, other than the person or corporation registering the same, who shall place upon any barrel, keg, cask, bottle, or other container containing any fermented malt beverage any label bearing a number registered by any other person or corporation, or who shall place upon any label a permit number not registered in the office of the state treasurer shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not more than one year.

(16) LEGISLATIVE INTENT. (a) The provisions of this section shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of the sale of fermented malt liquors.

(b) The several terms and provisions of this section shall be deemed severable, and if any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of the section and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(17) REVOCATION ON COMPLAINT OF STATE TREASURER. (a) Upon complaint in the name of the state filed by the state treasurer, or any of his employes employed under section 139.03 (11) as he may designate, with the clerk of any court of record in the jurisdiction in which the premises of the licensed person complained of are situated, that any such licensed person therein has at any time violated any provision of this section, or keeps or maintains a disorderly or riotous, indecent or improper house, or that he has at any time illegally sold or given away any malt beverages to any minor, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards, or has failed to maintain said premises in accordance with the standards of sanitation prescribed by the state board of health, or in whose licensed premises known criminals or prostitutes are permitted to loiter, or that he has at any time been convicted of a violation of any federal or state law involving moral turpitude or been convicted of any felony or any offense against the laws relating to sale of intoxicating liquors or fermented malt beverages, or that he does not possess the qualifications required by this section to entitle him to a license, the clerk of said court shall issue a summons commanding the person so complained of to appear before it within 20 days after service of the summons, exclusive of the day of service, and show cause why his license should not be revoked or suspended.

(b) The procedure thereon and the effect of the order of the court shall be as prescribed in section 176.121.

(18) INFORMATION REQUISITE TO VALIDITY. No license issued by any local authority under the provisions of this section shall be valid unless and until it shall have affixed thereto an affidavit signed under oath by the clerk issuing said license that a copy of the application for such license and all information required by law to be furnished by the licensing body to the beverage tax division relating to such applicant and license has been mailed to the beverage tax division at Madison, Wisconsin. [*Stats. 1945 s. 66.05 (10); 1947 c. 290, 362, 402, 564, 614*]

Note: It is a matter of common knowledge that purpose of statutory provision, limiting number of retail beer licenses to 2 for each person, was to prevent brewer from establishing chain of licensed places controlled by him and selling only his own beer (sec. 1, ch. 207, laws of 1933). State ex rel. Torres v. Krawczak, 217 W 593, 259 NW 607.

One who is not a citizen is not prejudiced by a discrimination between citizens, and therefore cannot challenge the constitutionality of a statute on that ground. 66.05 (10) (i), Stats. 1937, requires that the applicant for an operator's license be a citizen at the time of filing his application and for not less than the year prior thereto, and the statute as so construed is not unconstitutional as discriminating between citizens of the United States. Vieau v. Common Council, 235 W 122, 292 NW 297.

If a Class A retailer under (10) (f), Stats. 1939, sells beverages which he is not permitted to sell under his license, the offense is a misdemeanor and subjects the seller to the loss of his license under (10) (m) and such offense is a "crime" within the meaning of the constitution. Frank v. Kluchesky, 237 W 510, 297 NW 399.

66.05 (10) (f), Stats, 1939, authorizing the holder of a Class A retailer's license to sell fermented malt beverages only for consumption away from the premises where sold and in the original containers and "unrefrigerated," is invalid for indefiniteness and uncertainty in relation to the meaning of the term "unrefrigerated," but (10) (n) 2 contains a severability clause, the term "unrefrigerated" is considered severable, and the statute, with the term "unrefrigerated" eliminated, leaves a workable and valid provision consistent with the legislative intent. Frank v. Kluchesky, 237 W 510, 297 NW 399.

Under provisions that the electors of any town may determine at the spring election whether or not retail licenses for the sale of beer shall be issued, and that the result shall remain in force for 2 years and thereafter until changed at another election, an affirmative vote by the electors is a mere authorization and leaves unimpaired the provision in 66.05 (10) (d) 2 [Stats. 1939] that a town board shall have the power, but shall not be required, to issue licenses, so that a town board, despite an affirmative vote by the electors on the question, may pursue a policy of refusing to issue any licenses. Johnson v. Town Board, 239 W 461, 1 NW (2d) 796.

66.05 (10) (hm), Stats. 1943, classifying counties according to population in prescribing different closing hours therein for malt beverage licensees, is valid. State v. Potokar, 245 W 460, 15 NW (2d) 158.

Under 66.05 (10), Stats. 1933, wholesale and Class B retail licenses may not be issued to same person. 22 Atty. Gen. 503.

Under 66.05 (10), Stats. 1933, foreign corporation may not do business in Wisconsin as wholesaler through agent who secures license. 22 Atty. Gen. 510.

Confectionery store operated in connection with restaurant is "mercantile establishment" within meaning of 66.05 (10) (g), Stats. 1933. 22 Atty. Gen. 517.

City, village and town may refuse to grant licenses to sell beer and light wines, and without licenses beer and light wines may not lawfully be sold. 22 Atty. Gen. 569.

Under 66.05 (10), Stats. 1933, city, town or village has jurisdiction over county-owned property within corporate limits as to issuance of licenses. City, village or town may not arbitrarily discriminate between applicants. Where individuals operate taverns on rented county property for private benefit regular Class B license must be obtained. Agricultural and fair association may be granted license for not to exceed $10, authorizing sales during fair, when sales are for benefit of said association. 22 Atty Gen. 621.

Ordinance of town board regulating sale of malt beverages is not applicable to Camp Williams. 22 Atty. Gen. 758.

Under 66.05 (10) (c) 1, Stats. 1933, brewer may not lend money to person holding Class B license if money is to be used for purchase of tavern fixtures or equipment. Bona fide fixture corporation may furnish or lease fixtures or lend money to Class B licensee, even though stockholders of brewery also own stock in such fixture corporation, but such loan of money may not be accompanied by exclusive beer purchase agreement. Brewer may not guarantee payment for fixtures. 22 Atty. Gen. 814.

Brewer does not need wholesaler's license unless operating depots or warehouses in nature of distributing point, separate from brewing plant. Foreign corporation licensed to operate in this state cannot obtain wholesaler's license as domestic corporation. 22 Atty. Gen. 967.

Electors in town may secure referendum under 66.05 (10) (d) 3, Stats. 1933, by petition by at least 12 qualified voters of town, such petition to be presented early enough to allow town clerk to post notices in accordance with provisions of 60.15. Electors in village cannot demand vote under (10) (d) 3 by petition but question must be submitted by village board. 23 Atty. Gen. 180, 294.

Many questions calling for construction of liquor laws (66.05 (10), ch. 139 and ch. 176, Stats. 1933) are answered. 23 Atty. Gen. 191.

Corporation may transport fermented malt beverages across state line and distribute them to retail dealers without violating law. Foreign corporation may establish warehouse in Wisconsin from which deliveries of fermented malt beverages previously sold out of state may be distributed without wholesaler's license. 23 Atty. Gen. 364.

Town board may not issue fermented malt beverage license without charge to holder of Class B liquor license. 23 Atty. Gen. 461.

Municipality may require bond from seller of fermented malt beverages, conditioned upon faithful performance of law. 23 Atty. Gen. 719.

District attorney need not prosecute for violations of local "liquor" ordinances. 24 Atty. Gen. 39.

When tavern-keeper leaves home with no intention of returning his wife may not operate tavern under license issued in his name. 24 Atty. Gen. 138.

Brother who is member of household of tavern-keeper is one of licensee's "immediate family" within 66.05 (10) (i), Stats. 1935. 24 Atty. Gen. 362.

Electors may, on one petition, request referenda on issuance of intoxicating liquor and fermented malt beverage licenses. Questions of issuing liquor and fermented malt beverage licenses cannot be on same ballot. 24 Atty. Gen. 411.

Restaurant and grocery store operated in one establishment constitute "other business" within meaning of 66.05 (10) (g) 1, Stats. 1935. 24 Atty. Gen. 425.

Whether sale of beer on land of CCC camp owned by federal government is subject to local control depends upon whether state has relinquished jurisdiction over land. 25 Atty Gen. 605.

Provisions of 176.17 and 66.05 (10) (c) 1, Stats. 1937, do not prohibit granting of wholesale liquor permit to corporation where one of its stockholders holds Class B retail license. 26 Atty. Gen. 361.

Under 66.05 (10) (j), Stats. 1937, cities, villages and towns may adopt reasonable rules or regulations for enforcement of (10), and bring violation of such ordinance under provisions of (10) (m). Any such rule or regulation must be reasonable. 26 Atty. Gen. 588.

Licenses for sale of malt beverages cannot be issued for period of less than year under 66.05 (10) (d) 2, Stats. 1937, but may be granted at any time during calendar year for a period of 6 months during same calendar year under (10) (g) 2. If issued under latter provision said licenses cannot be renewed during calendar year, although holder of 6 months' license is not precluded from thereafter securing regular annual license upon payment of full year's fee. 27 Atty. Gen. 442.

As to meaning of "premises" in 66.05 (10), Stats. 1937, see note to 176.05, citing 27 Atty. Gen. 702.

Under 66.05 (10) (g) 1, Stats. 1937, Class B retail license for sale of fermented malt beverages may be issued to manager of particular hotel, restaurant, club, etc., that applies for license, but may not be issued to so-called "manager" of that part of hotel devoted to sale of fermented malt beverages only. 27 Atty. Gen. 735.

Issuance of second license under 66.05 (10), Stats. 1937, for same premises during same license year is within power of proper licensing authorities. 28 Atty. Gen. 123.

For discussion of concessionaire licenses and town board's powers on state fair grounds, see 28 Atty. Gen. 325.

Signatures of electors on petition for local option under 66.05 (10) (d) 3, Stats. 1941, and 176.38 are insufficient unless affixed in handwriting of petitioners themselves or in alternative manner provided for electors unable to write, under 370.01 (19). Where such petition for local option election is insufficient, results of election held thereon cannot be given effect, at least where such results leave any doubt as to will of electors. 30 Atty. Gen. 229.

Concessionaire at state park whose lease with state permits him to sell malt beverages is subject, nevertheless, to licensing provisions imposed by municipality in which state park is located. 30 Atty. Gen. 297.

Failure to notify beverage tax division within time prescribed by 176.38 (1) and 66.05 (10) (d) 3, Stats. 1941, does not render election void. Where election resulted in voting beer out and voting intoxicating liquors in, 176.05 (10) (b) prohibits issuing Class B liquor license. 30 Atty. Gen. 351.

Retail Class B license issued under 66.05 (10), Stats. 1941, to house manager of club may not be transferred from such house manager to his successor. Beer may not be sold under such license after resignation of house manager to whom it was issued, even though sales are made by person holding operator's license. 31 Atty. Gen. 171.

Sale of fermented malt beverage to person under 18 years of age not accompanied by parent or guardian is misdemeanor under 66.05 (10) (d) 1, (h) 2 and (m) 1, Stats. 1943. 32 Atty. Gen. 388.

Where patrons of Class B retail liquor and beer licensee are permitted to remain on premises and are served with liquor after closing time, place is "open" in violation of 66.05 (10) (hm), Stats. 1943, and 176.06, even though door is locked and additional customers are not admitted. 32 Atty. Gen. 461.

Elections under 66.05 (10) (d) 3, Stats. 1945, and 176.38 may be held on the second Tuesday in April regardless of whether town officials are to be elected under 60.19 in the same year. 35 Atty. Gen. 81.

It is doubtful that 66.05 (10) (hm), Stats. 1945, prohibits owner or bartender from remaining in tavern after hours to clean it, check the day's receipts and do other work, although the Iowa closing law has been so construed by the supreme court of that state. 35 Atty. Gen. 229.

A grocery store in which fermented malt beverages are sold pursuant to a Class A retailer's license which, by reason of 66.05 (10) (f), Stats. 1945, authorizes the sale of such beverages only for consumption away from the premises where sold and in the original packages, is not a "tavern." 35 Atty. Gen. 234.

In determining whether "principal business" of Class B licensee is restaurant or liquor business, within 66.05 (10) (hm) 2, 176.06 (5) and 176.32, Stats. 1945, consideration is to be given to amount of capital, labor, time, attention and floor space devoted to respective businesses, gross and net income derived from each, and appearance, arrangement, advertising and name of premises. This is defensive matter as to which burden of producing evidence is on defendant. 36 Atty. Gen. 155.

66.055 Liquor and beer license application records. In any city of the first class, all applications made to it for licenses for the sale of fermented malt beverages and intoxicating liquor and all records and files pertaining to such applications in possession of the city clerk and which are more than 4 years old may be destroyed by him. [*1943 c. 332*]

66.056 Blackout ordinances. Towns, villages and cities may enact blackout ordinances and in that respect shall have the powers granted to counties by section 59.08 (45), but in case of conflict between local and county ordinances, the county ordinance shall prevail. [*1943 c. 134; 1947 c. 362*]

66.057 Tavern-keeper shall require proof of age. (1) Any person in premises operating under a Class "A" or a Class "B" retailer's license for the sale of fermented malt beverages or in premises operating under a "Retail Class A" or a "Retail Class B" license for the sale of intoxicating liquor shall, upon demand of the person in charge of such premises or of any law enforcement officer show a certificate-card issued by the register of deeds of the county or the clerk of the city, village or town of his residence or election commission thereof, stating the date of his birth and other matters as provided in subsection (2), or be regarded as a person under the age of 18 years if in premises operating under a Class "A" or a Class "B" retailer's license for the sale of fermented malt beverages or under the age of 21 years if in the premises operating under a "Retail Class A" or a "Retail Class B" license for the sale of intoxicating liquor.

(2) Any person desiring such certificate-card shall make application therefor to the register of deeds of the county or the clerk of the city, village or town of his residence or election commission thereof. The applicant shall pay a fee of 25 cents and in cities of the first class 50 cents and furnish his individual photograph and such proof of the date of his birth as the register of deeds or such clerk or commission shall require. If the register of deeds or such clerk or commission is satisfied with the proof he shall issue his certificate-card which shall show the applicant's name, description, residence, date of birth, photograph and signature. The state beverage tax division shall prescribe the form of the certificate-card, the size of the photograph to be furnished by the applicant and the manner and method of affixing it to the certificate. The register of deeds or such clerk or commission shall pay the fees received under this section into the treasury of his county or municipality. Any parent may upon application to such official procure a certificate-card for any of his minor children by supplying the child's photograph and proof as above required.

(3) In the absence of a certificate-card as provided by subsections (1) and (2) the licensee or his agent or employe shall require the person whose age may be in question to fill out and sign in the presence of 2 witnesses, other than the licensee or his agents or employes, a statement in the following form:

STATEMENT OF AGE

.... 194..
(date)

I, ... hereby represent to .... that I am .... years of age having been
(name) (licensee)
born on .... 19.., at ...., ... This statement is made to induce the licensee above
(date of birth) (place of birth)
named to sell or otherwise furnish fermented malt beverages or intoxicating liquor to the undersigned. I understand that I am subject to a fine of not less than $10 nor more than $50 or to imprisonment for not to exceed 10 days or both for any misrepresentation made herein.

In presence of

....
(signature)
...., ...
(address)
....
(signature)
...., ...
(address)

....
(signature)
...., ...
(address)

(4) The statement provided by subsection (3) shall be printed upon a 3-inch by 5-inch or a 4-inch by 5-inch file card which shall be filed alphabetically by the licensee at or before the close of business on the day on which said statement is executed in a file box containing a suitable alphabetical index and which card shall be subject to examination by any law enforcing officer at any time.

(5) The signed statement procured by the licensee at the time of sale may be offered as a defense in all civil and criminal prosecutions for serving fermented malt beverages or intoxicating liquors to persons to whom sale is prohibited by law because of such person's age, and no penalty shall be imposed if the licensing authority or the court is satisfied that the licensee acted in good faith. [*1947 c. 406; 43.08 (2)*]

[*66.06 Stats. 1945 renumbered sections 66.06 to 66.078 by 1947 c. 362*]

66.06 Public utilities. (1) DEFINITIONS. The definition of "public utility" in section 196.01 is applicable to sections 66.06 to 66.078. Whenever the phrase "resolution or ordinance" is used in sections 66.06 to 66.078, it means, as to villages and cities, ordinance only.

(2) LIMITATION. Nothing in sections 66.06 to 66.078 shall be construed as depriving the public service commission of any power conferred by sections 195.05, 195.07 and 196.01 to 197.10. [*Stats. 1945 s. 66.06 (1), (2); 1947 c. 362*]

66.061 Franchises; service contracts. (1) FRANCHISES. (a) Any city or village may grant to any person or corporation the right to construct and operate therein a system of waterworks or to furnish light, heat or power subject to such reasonable rules and regulations as the proper municipal authorities by ordinance may from time to time prescribe.

(b) The board or council may submit the ordinance when passed and published to a referendum.

(c) No such ordinance shall be operative until 60 days after passage and publication unless sooner approved by a referendum. Within that time electors equal in number to 20 per cent of those voting at the last regular municipal election, may demand a referendum. The demand shall be in writing and filed with the clerk. Each signer shall state his occupation and 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 demand, and the ordinance shall not be effective unless approved by a majority of the votes cast thereon. This paragraph shall not apply to extensions by a utility previously franchised by the village or city.

(2) SERVICE CONTRACTS. (a) Cities and villages may contract for furnishing light, heat or water to the municipality or to the inhabitants thereof for a period of not more than 10 years or for an indeterminate period if the prices shall be subject to adjustment at intervals of not greater than 5 years. The commission shall have jurisdiction relative to the rates and service to any city or village where light, heat or water is furnished to such city or village under any contract or arrangement, to the same extent that it has jurisdiction where such service is furnished directly to the public.

(b) When a village or city shall have contracted for water or lighting service to the municipality the cost shall be raised by tax levy and kept as a separate fund and used for no other purpose. In making payment to the owner of the utility a sum equal to the amount due the city from such owner for taxes or special asssessments may be deducted.

(c) This subsection shall apply to every city and village regardless of any charter limitations on the tax levy for water or light. [*Stats. 1945 s. 66.06 (3), (4); 1947 c. 362*]

Note: It is determined that, since a public utility does not obtain an indeterminate permit in a town by simply occupying the highways pursuant to permit authorized by 86.16, or by virtue of organization as a domestic corporation with powers conferred by 180.17, or by merely extending its services to persons and places within a town, neither a city nor a power company was operating as a public utility under an indeterminate permit in a village formed out of the town, and that no declaration of public convenience and necessity by the commission was required under 196.50 and 196.55, as a condition precedent to the grant by the village within the express authority of 66.06 (3), Stats. 1929, of a franchise to another company. South Shore U. Co. v. Railroad Comm. 207 W 95, 240 NW 784.

The effect of 66.06 (4) (a), Stats. 1931, extending the jurisdiction of the public service commission to lighting and heating rates and service furnished to a city or village under contract, is to place such contracts under the supervision of the commission, whether or not the contracting company is a public utility, and not to make a company furnishing light or heat under such a contract a public utility. Union Falls Power Co. v. Oconto Falls, 221 W 457, 265 NW 722.

66.062 Joint use of tracks. (1) When two electric railway companies, in pursuance of franchises, are operating upon the same public way, the city may by ordinance, effective 90 days after passage and publication, require joint use of tracks and prohibit the operation of cars on either track in more than one direction. Such joint use shall include right to install and maintain necessary poles, wires, conduits, and other accessories.

(2) Either of such railway companies may acquire by condemnation a right to use the tracks of the other company for such purpose of providing one-way tracks, upon

terms and conditions determined by agreement, or by the procedure provided in sections 32.08 to 32.14, inclusive, except that pending appeal to the circuit court the use may be had upon payment or deposit with the clerk of the court of the compensation awarded. [*Stats. 1945 s. 66.06 (5); 1947 c. 362*]

66.063 Municipal tracks. Cities may lay and maintain street railway tracks upon bridges and viaducts and by ordinance lease such tracks to any company authorized to operate a street railway in the city. But the city shall not grant an exclusive lease to any one company, nor such an exclusive franchise upon approaching ways as will prevent other companies from using such municipal tracks. [*Stats. 1945 s. 66.06 (6); 1947 c. 362*]

66.064 Joint operation. Any city or village served by any privately owned public utility, street railway or interurban railway rendering local service may contract with the owner thereof for the leasing, public operation, joint operation, extension and improvement by the municipality or with funds loaned by the municipality, for the stabilization by municipal guaranty of the return upon or for the purchase by instalments out of earnings or otherwise of that portion of said public utility, street or interurban railway which is operated within such municipality and any territory immediately adjacent and tributary thereto; or 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 such property. The provisions of section 66.07 relating to preliminary agreement, approval by the public service commission, and ratification by the electors, shall be applicable to the contracts authorized hereby and said public service commission shall, when any such contract is approved by it and consummated co-operate with the parties in respect to making valuations, appraisals, estimates and other determinations specified in such contract to be made by it. [*Stats. 1945 s. 66.06 (7); 1947 c. 362*]

Note: Municipally owned public utility may not invest its depreciation fund except in manner provided in 66.04 (7), Stats. 1929. 20 Atty. Gen. 571.

[*66.065 Stats. 1945 renumbered section 66.079 by 1947 c. 362*]

66.065 Acquisition. (1) Any town, village or city may construct, acquire or lease any plant and equipment located within or without the municipality, and including interest in or lease of land, for furnishing water, light, heat, or power, to the municipality, or to its inhabitants or for street railway purposes; 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 the cases where the municipality shall in the franchise have reserved right to purchase. The character or duration of the franchise, permit or grant under which any public utility is operated, shall not affect the power to acquire the same hereunder. Two or more public utilities owned by the same person or corporation, or two or more public utilities subject to the same lien or charge, may be acquired as a single enterprise under any proceeding heretofore begun or hereafter commenced, and the board or council may at any time agree with the owner or owners of any public utility or utilities as to the agreed value thereof, and to contract to purchase or acquire the same hereunder at such value, upon such terms and conditions as may be mutually agreed upon between said board or council and said owner or owners.

(2) 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.

(3) The notice of the referendum shall include a general statement of the plant equipment or part thereof it is proposed to acquire or construct and of the manner of payment.

(4) Referendum elections under this section shall not be held oftener than once a year, except that a referendum so held for the acquisition, lease or construction of any of the types of property enumerated in subsection (1) shall not bar the holding of one referendum in the same year for the acquisition and operation of a bus transportation system by the municipality.

(5) Any city or village 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, trackless trolley or other local transportation system exists in such city or village. Any city or village 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 thereof, or pursuant to law, or upon securing a certificate from the public service commission pursuant to section 194.23 that public convenience and necessity requires the acquisition and operation of such bus transportation system by the municipality.

(6) Any street motor bus transportation company operating pursuant to the provisions of chapter 194 shall by the acceptance of authority under such 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 such property is situated or operated for compensation under terms and conditions determined by the public service commission in the manner provided for the acquisition of utilities by municipalities under chapter 197; provided that if such motor bus transportation facilities are operated as auxiliary to street railway or trackless trolley facilities operated pursuant to franchise granted under the provisions of chapter 193, such motor bus facilities shall be acquired only by the acquisition, pursuant to chapter 193, of the transportation system to which they are auxiliary.

(7) Any city or village providing or acquiring a motor bus transportation system under the provisions of this section may finance such construction or purchase in any manner now authorized in respect of the construction or purchase of a public utility. [*Stats. 1945 s. 66.06 (8); 1947 c. 362*]

Note: The methods prescribed by 66.06 (8), (9), Stats. 1931, and 197.01 to 197.05 for the municipal acquisition of public utilities are separate, distinct, and mutually exclusive. Wisconsin P. & L. Co. v. Public Service Comm. 222 W 25, 267 NW 386.

66.066 Method of payment. (1) Any town, village, city or power district 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 from the general fund, or from the proceeds of municipal bonds, mortgage bonds, or mortgage certificates. The term municipality as used in this section shall include power districts. Any indebtedness created pursuant to subsections (2) to (4) shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional 5 per cent debt limitation.

(2) Where payment is provided by mortgage bonds, the procedure for payment shall be in the manner following:

(a) The board or council shall order the issuance and sale of bonds bearing interest at a rate not exceeding 6 per centum per annum, payable semiannually, executed by the chief executive and the clerk and payable at such times not exceeding 40 years from the date thereof, and at such places, as the board or council of such municipality shall determine, which bonds shall be payable only out of the said special redemption fund. Each such bond shall state plainly upon its face that it is payable only from the said special redemption fund, naming the ordinance creating it and that it does not constitute an indebtedness of such municipality. The said bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupon and bearer bonds may be registered as to principal in the holder's name on the books of such municipality, such registration being noted on the bond by the clerk or other designated officer, after which no transfer shall be valid unless made on the books of such municipality by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from such registration by being transferred to bearer after which it shall be transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons be surrendered, the surrender and cancellation thereof shall be noted on the bond and thereafter interest on the bond shall be payable to the registered holder or order in cash or at his option by check or draft payable at the place or one of the places where the coupons were payable. Such bonds shall be sold in such manner and upon such terms as the board or council shall deem for the best interests of said municipality; provided, however, that if such bonds are issued bearing interest at the rate of 6 per centum per annum, they shall not be sold for less than par; if issued bearing a lower rate than 6 per centum per annum, they may be sold at less than par, provided always that the selling price is such that the interest cost to the municipality for the funds representing the proceeds of said bonds computed to maturity according to standard tables of bond values shall not exceed 6 per centum per annum. All bonds shall mature serially commencing not later than 3 years after the date of issue in such amounts that the requirement each year to pay both principal and interest will be as nearly equal as practicable. All such bonds may contain a provision authorizing redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the bonds, and shall provide the method of selecting the bonds to be redeemed. The board or council may provide in any contract for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, that payment thereof shall be made in such bonds at not less than 95 per cent of the par value thereof.

(b) All moneys received from any bonds issued pursuant hereto 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 any subsequent necessary additions, improvements and extensions, and there shall be and there is hereby granted and created a statutory mortgage lien upon the public utility to the holders of the said bonds and to the holders of the coupons of said bonds. The public utility shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds. Any holder of the said bonds or of any coupons attached thereto may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred, and compel performance of all duties required by this section of the municipality. If there be any default in the payment of the principal or interest of any of the said bonds, any court having jurisdiction of the action may appoint a receiver to administer the said public utility on behalf of the said municipality, and the said bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against said utility, and to apply the income and revenues thereof in conformity with this statute and the said ordinance, or the said court may declare the whole amount of said bonds due and payable and may order and direct the sale of the said public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the said public utility. Any municipality may provide for additions, extensions and improvements to a public utility owned by said municipality by additional issue of bonds in the manner herein provided; but such additional issue or issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder. Any municipality may issue new bonds in the manner herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding.

(c) As accurately as possible in advance, said board or council shall by ordinance fix and determine:

1. The proportion of the revenues of such public utility which shall be necessary for the reasonable and proper operation and maintenance thereof;

2. The proportion of the said revenues which shall be set aside as a proper and adequate depreciation fund; and

3. The proportion of the said revenues which shall be set aside and applied to the payment of the principal and interest of the bonds herein authorized and shall set the same aside in separate funds.

At any time after one year's operation, the council or board may recompute the proportion of the revenues which shall be assignable as provided above based upon the experience of operation or upon the basis of further financing.

(d) The proportion set aside to the depreciation fund shall be expended in making good depreciation either in said public utility or in new constructions, extensions or additions. Any accumulations of such depreciation fund may be invested, and if invested, the income from the investment shall be carried in the depreciation fund.

(e) The proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized shall from month to month as the same shall accrue and be received, be set apart and paid into a special fund in the treasury of the said municipality to be identified as "the .... special redemption fund."

(f) If any surplus shall be accumulated in any of the above funds, it shall be disposed of as provided in section 66.069 (1) (c).

(g) The reasonable cost and value of any service rendered to such municipality by such public utility shall be charged against the said municipality and shall be by it paid for in monthly instalments.

(h) The rates for all services rendered by such public utility to the municipality or to other consumers, shall be reasonable and just, taking into account and consideration the value of the said public utility, the cost of maintaining and operating the same, the proper and necessary allowance for depreciation thereof, and a sufficient and adequate return upon the capital invested.

(i) Said board or council shall have full power to adopt all ordinances necessary to carry into effect the provisions of subsection (2).

(j) Proceedings for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating, or managing a public utility by any municipality heretofore begun under the provisions of law other than subsection (2), may be proceeded with either under the provisions of such law, if still in force, or under the provisions of said subsection (2) as the board or council may elect. A municipality proceeding under chapter 197 to acquire the property of a public utility may pay for the same by the method provided for in this section.

(k) The ordinance required by subsection (2) (c) may set apart bonds hereunder 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 in any proceedings heretofore begun or hereafter commenced, and shall set aside for interest and sinking 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 such instrument does not make any provision therefor, said ordinance shall fix and determine 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 one per cent of the principal, to be set aside into said 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 such debt may, from time to time be issued to an amount sufficient with the amount then in such sinking fund, to pay and retire the said debt or any portion thereof; such bonds may be so issued at not less than 95 per cent of the par value in exchange for, or satisfaction of, the secured debt, or may be sold in the manner herein provided, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. The board or council and the owners of any public utility acquired, purchased, leased, constructed, extended, added to, or improved, hereunder may, upon such terms and conditions as are satisfactory, contract that public utility bonds to provide for such secured debt, or for the whole purchase price shall be deposited with a trustee or depository and released from such deposit from time to time on such terms and conditions as are necessary to secure the payment of the debt.

(l) Any municipality which has heretofore or may hereafter purchase, acquire, lease, construct, extend, add to or improve, conduct, control, operate, or manage a public utility subject to a mortgage or deed of trust by the vendor or his or its predecessor in title to secure the payment of outstanding and unpaid bonds made by the vendor or his or its predecessor in title, may readjust, renew, consolidate or extend the debt evidenced by such outstanding bonds and continue the lien thereof of the mortgage, securing the same by issuing bonds to refund the said outstanding mortgage bonds at or prior to their maturity, which bonds shall be payable only out of a special redemption fund to be created and set aside by ordinance as nearly as may be in the manner prescribed by subsection (2), and which refunding bonds shall be secured by a statutory mortgage lien upon the public utility, and such municipality is authorized to adopt all ordinances and take all proceedings, following as nearly as may be the procedure prescribed by subsection (2), the lien thereof shall have the same priority on the public utility as the mortgage securing the outstanding bonds, unless it be otherwise expressly provided in the proceedings of the common council or other governing authority to authorize the same.

(m) Any city, village or town now or hereafter owning and operating a waterworks system and having controlled and operated and managed such waterworks system and which shall have expended moneys from its general fund or from the proceeds of its general obligation tax bonds, for the acquisition, construction, extension, improvement and operation of such waterworks system, or for any one or more of such purposes, may issue and sell waterworks mortgage bonds to procure funds to reimburse itself in an amount not exceeding the total amount of such expenditures not theretofore reimbursed, and the findings by the governing body of any such municipality of the amount of such expenditures so to be reimbursed by the issue of such bonds shall be conclusive, and such bonds shall be issued and secured in the same manner and with like effect as provided in this section. In lieu of the sale of such bonds and delivery of the proceeds thereof as hereinbefore provided, such bonds may be issued by delivery to the general fund of such city, village or town on the basis of par. Such bonds so delivered may be sold at any time thereafter or from time to time as the governing body of such city, village or town may see fit.

(3) When payment is provided by mortgage certificate it shall be in the manner following:

(a) The board or council shall order the issue and sale of mortgage certificates which shall recite that they are secured by trust deed or mortgage upon such equipment and that no municipal liability is created thereby.

(b) Such mortgage certificates shall bear interest not to exceed 6 per cent per annum, payable semiannually, shall not be sold for less than 95 per cent of the par value, and shall be made payable at the option of such municipality in not less than 3 years and in not more than 20 years from the date thereof.

(c) To secure the payment of principal and interest of such mortgage certificates, the chief executive and clerk shall execute to the purchaser thereof or to a trustee selected by

resolution or ordinance, a trust deed or mortgage upon such public utility to the holders of said bonds and to the holders of the coupons of said bonds.

(d) The trust deed or mortgage shall among other things provide:

1. That the lien upon the property therein described and upon the income, shall be the only security, and that no municipal liability is created.

2. That the income from operation shall be applied, first to the necessary maintenance and operation, second to provide for proper and adequate depreciation, and third, to payment of the principal and interest of the certificates herein authorized. All certificates shall mature in substantially equal annual instalments, and the first instalment of principal shall fall due and be payable not later than 3 years after the date of issue. All such certificates shall contain a provision requiring redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the certificates.

3. That if any interest shall remain due and unpaid for 12 months, or if any part of the principal shall not be paid when due, the trust deed or mortgage may be foreclosed.

4. That upon default in payment of principal or interest, the holder of such trust deed or mortgage may by notice in writing served after such default declare the whole amount due and payable 6 months after such service and that it shall be so due and payable.

(e) Refunding mortgage certificates may be issued in the same manner, upon a two-thirds vote of the board or council. The rate of interest and time of payment shall be as fixed by subsection (3) (b).

(4) Any city, village, town or municipal power district which may own or operate, or hereafter purchase, acquire, lease, construct, extend, add to, improve, conduct, control, operate or manage any public utility may also, by action of its governing body, in lieu of the issuance of bonds or certificates or the levy of taxes and in addition to any other lawful methods or means of providing for the payment of indebtedness, have the power by and through its governing body to provide for or to 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, the net earnings or profits derived, or to be derived, from the operation of such public utility. To that end, it may enter into such contracts and may mortgage its plant and issue such evidences of indebtedness as may be proper to carry out the provisions of this subsection. [*Stats. 1945 s. 66.06 (9); 1947 c. 362*]

Note: Mortgage bonds financing extension of municipal sewage system which pledged property and income of entire system, as authorized by statute (66.06 (9) and (22), Stats. 1933), held not a municipal indebtedness included in constitutional debt limitation. Payne v. Racine, 217 W 550, 259 NW 437.

The inclusion of lots, purchased by a village for the situs of a well, in a trust deed securing mortgage certificates, issued under 66.06 (9) (b), (c), Stats. 1927, given in payment for a water system, did not create an incumbrance on property owned by the village at the time of the contract and did not make the purchase price of the system an additional municipal indebtedness so as to exceed the constitutional limit, where, under the purchase contract, the lots became a part of the property and plant which the village agreed to buy from the contractor, and where the contract did not obligate the village to pay any sum in discharge of the trust deed and certificates except out of revenues to be obtained from the use of the unit of which the lots had become a part. [State ex rel. Morgan v. Portage, 174 W 588, distinguished] Morris v. Ellis, 221 W 307, 266 NW 921.

Where a city had owned and operated its own generating and distribution plant for many years and was presently operating its own distribution system, its proposal to install and operate its own Diesel generating plant, instead of continuing to purchase electrical energy from the supplier, did not involve an "acquisition" of a plant, but involved "extending, adding to, or improving" the existing system, and, under 66.06 (9) (a) and (b), the common council could issue mortgage-revenue bonds for the purposes stated without submitting the matter to a referendum, as required by (8) (a) in the case of an "acquisition". [1940] Flottum v. Cumberland, 234 W 654, 291 NW 777.

It was proper for the common council of a city, in proceedings under 66.06, for a utility acquisition project and paying for the same by mortgage-revenue bonds to be issued pursuant to 66.06 (9) (b), to adopt a resolution and submit the proposition to a referendum of the electors as prescribed and required therefor by (8) (b), (c) and to ignore a proposed ordinance filed with the council by petition of the requisite number of electors under 10.43. [1940] Flottum v. Cumberland, 234 W 654, 291 NW 777.

The sale of mortgage-revenue bonds issued by a city pursuant to 66.06 (9) is governed by the special provisions in that subsection and not by provisions in ch. 67, it being the clear intent of the legislature to exempt all mortgage bonds issued pursuant to 66.06 from the provisions of ch. 67, although the literal provision of 67.01 (8) (g) is that ch. 67 is not applicable to mortgage bonds issued pursuant to 66.06 for the purpose of "acquiring" public utilities. [1940] Flottum v. Cumberland, 234 W 654, 291 NW 777.

Under 66.06 (9) (b) 1 and 13, Stats. 1945, and in an ordinance and resolution adopted thereunder by a common council, the functions of a city clerk in respect to advertising the sale of, and affixing his signature to, mortgage revenue bonds of the city were purely ministerial and the performance thereof by him was not discretionary. State ex rel. Madison v. Bareis, 248 W 387, 21 NW (2d) 721.

Mortgage-revenue bonds proposed to be issued by a city pursuant to (9) (b) 13, Stats. 1945, for the purpose of reimbursing itself for moneys previously expended for the acquisition, etc. of a municipal waterworks system, are straight mortgage bonds, enforceable as such under subd. 2, and, although the revenues from the waterworks system may also be pledged for their payment, they are not "revenue bonds" within

the rule that a municipality may pledge its revenues already provided for without thereby creating a debt within the meaning of sec. 3, Art. XI, Const. Roberts v. Madison, 250 W 317, 27 NW (2d) 233.

Municipality owning public utility property may extend facilities thereof beyond city limits without referendum. Except for question of construction or acquisition by municipality of public utility property and proposed method of financing, mortgage bonds authorized by 66.06 (9), Stats. 1935, may be issued without referendum vote. 25 Atty. Gen. 594.

66.067 Public utilities under NIRA. For the purpose of financing necessary public works projects whether or not under the act of congress entitled "An act to encourage national industrial recovery, to foster fair competition and to provide for the construction of certain useful public works," approved June 16, 1933, usually referred to as the National Industrial Recovery Act, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, hospitals, and any and all other necessary public works projects whether or not undertaken pursuant to this federal act by any town, village, city, county or other municipality shall be deemed public utilities within the meaning of section 66.066, and any town, village, city, county or other municipality may finance such public utilities in accordance with the provisions of and in the manner provided in section 66.066. For the purposes of such financing, rentals and fees shall be considered as revenue. Any indebtedness created pursuant to this section shall not be considered an indebtedness of such town, village, city, county or other municipality and shall not be included in arriving at the constitutional 5 per cent debt limitation. [*Stats. 1945 s. 66.06 (9m); 1947 c. 362*]

Note: Ch. 395, laws of 1939, is in all probability valid legislation in treating armory as public utility for purposes of financing without creating municipal indebtedness within meaning of sec. 3, art. XI, Const. 28 Atty. Gen. 663.

66.068 Management. (1) In cities owning a public utility, the council shall and in towns and villages owning a public utility the board may provide for a nonpartisan management thereof, and create for each or all such utilities, a board of 3 or 5 or 7 commissioners, to take entire charge and management of such utility, to appoint a manager and fix his compensation, and to supervise the operation of the utility under the general control and supervision of the board or council.

(2) The commissioners shall be elected by the board or council 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 commissioners shall choose from among their number a president and a secretary. They may command the services of the city engineer and may employ and fix the compensation of such subordinates as shall be necessary. They may make rules for their own proceedings and for the government of their department. They shall keep books of account, in the manner and form prescribed by the public service commission, which shall be open to the public.

(4) It may be provided, notwithstanding the provisions of section 62.09, that departmental expenditures be audited by such commission, and if approved by the president and secretary of the commission, be paid by the city or village clerk and treasurer in the manner provided by section 66.042; that the utility receipts be paid to a bonded cashier or cashiers appointed by the commission, to be turned over to the city treasurer at least once a month; and that the commission have such general powers in the construction, extension, improvement and operation of the utility as shall be designated. Where in any municipality water mains have been installed or extended and the cost thereof has been in some instances assessed against the abutting owners and in other instances paid by the municipality or any utility therein, notwithstanding the provisions of section 62.19 it may be provided by the governing body of such municipality that all persons who paid any such assessment against any lot or parcel of land may be reimbursed the amount of such assessment regardless of when such assessment was made or paid. Such reimbursement may be made from such funds or earnings of said municipal utility or from such funds of the municipality as the governing body may determine.

(5) Actual construction work shall be under the immediate supervision of the board of public works or corresponding authority.

(6) Two or more public utilities acquired as a single enterprise hereunder may be operated as a single enterprise.

(7) In cities of the third or fourth class the council 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 above provided for. [*Stats. 1945 s. 66.06 (10); 1947 c. 362, 388*]

Note: The effect of 62.14 (1) and 66.06 (10) (g) is that in a city of the fourth class a municipal utility may be managed either by a nonpartisan commission or by a board of public works, and that the board of public works, as constituted by 62.14 (1), may be dispensed with and its duties performed by such officers and boards as the common

council may designate. [1934] Rice Lake v. United States F. & G. Co. 216 W 1, 255 NW 130.

Under 66.06 (10) (a), Stats. 1931, a village utility commission has implied power to remove the manager at pleasure, and the commission cannot surrender its power of removal by appointing or making a contract with a manager for a definite term. Richmond v. Lodi, 227 W 23, 277 NW 620.

City of third class operating on commission plan may govern its utility by nonpartisan commission pursuant to 66.06 (10), Stats. 1937. Offices of municipal utility commissioner and metropolitan sewerage district commissioner are compatible. Commission city of third class may by charter ordinance provide for method of selection of members of utility commission. 26 Atty. Gen. 267.

Member of municipal utility commission under 66.06 (10), Stats. 1937, is not entitled to compensation. He may not hold position of manager of utility and receive compensation therefor. 28 Atty. Gen. 44.

Board of water commissioners of city may not contract with privately operated companies for insurance upon water department property after common council of such city has voted to insure in state insurance fund under 210.04, unless common council votes to terminate insurance which it previously authorized. 31 Atty. Gen. 305.

66.069 Charges; outside services. (1) CHARGES. (a) The council or board of any town, village or city operating a public utility may, by ordinance, fix the initial rates and provide for this collection monthly, quarterly or semiannually in advance or otherwise. The rates shall be uniform for like service in all parts of the municipality. The charges shall be collected by the treasurer.

(b) On the first day of January and July in each year the department in charge of the utility shall furnish the treasurer with a list of all lots or parcels of real estate to which water has been furnished by the town, village or city during the preceding 6 months and the amount due for the same. If such amount is not paid within 10 days thereafter a penalty of 10 per cent shall be added and the treasurer shall proceed to collect the said dues with said penalty, together with 5 per cent thereon for his fees. He shall have all the authority in collecting said tax vested in him for the collection of general taxes. Said dues shall be a lien on the real estate to which the water was furnished from the time said list is placed in the hands of said clerk, and all sums that have accrued during the preceding year and are not paid by the first day of November in any year shall be reported by the treasurer to the clerk, who shall insert the same in the tax roll as a delinquent tax against the property. All proceedings in relation to the collection, return and sale of property for delinquent taxes shall apply to said tax.

(c) The income of a public utility owned by a municipality, shall first be used to meet operation, maintenance, depreciation, interest, and sinking fund requirements, local and school tax equivalents, additions and improvements, and other necessary disbursements or indebtedness. Income in excess of these requirements may be used to purchase and hold interest bearing bonds, issued for the acquisition of the utility, or bonds issued by the United States or any municipal corporation of this state, or insurance upon the life of an officer or manager of such utility, or may be paid into the general fund.

(d) Any city, town or village may use funds derived from its water plant above such as are necessary to meet operation, maintenance, depreciation, interest and sinking funds, new construction or equipment or other indebtedness, for sewerage construction work other than such as is chargeable against abutting property; or they may turn such funds into the general fund to be used for general city purposes, or may place such funds in a special fund to be used for special municipal purposes.

(e) Any city, village or town owning a public utility shall be entitled to the same rate of return as permitted for privately owned utilities.

(2) OUTSIDE SERVICE. (a) Any town, 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 such purposes may use equipment owned by such other municipality.

(b) So much of such plant or equipment, except water plant or equipment or interconnection property in any municipality so interconnected, as shall be situated in another municipality shall be taxable in such other municipality pursuant to the provisions of sections 76.01 to 76.29. [*Stats. 1945 s. 66.06 (11), (12); 1947 c. 362*]

Note: The commission's inclusion of a sum representing local and school-tax equivalents as an operating expense of the municipally owned water utility for rate-making purposes was proper, the inclusion of such item being authorized by 66.06 (11) (c), Stats. 1937. Fox Point v. Public Service Comm. 242 W 97, 7 NW (2d) 571.

Municipal utility may collect charges as taxes. Lien is imposed even though property has been sold after delinquent charges were incurred. 21 Atty. Gen. 695.

Bonds purchased by municipal utility pursuant to 66.06 (11) (c), Stats. 1935, should be deposited with city treasurer for safe-keeping. 25 Atty. Gen. 612.

Municipal utility funds are separate and distinct from general funds of municipality and are held by municipality in separate capacity and right within meaning of FDIC act and are each entitled to be treated as insured funds to full extent of $5,000. 29 Atty. Gen. 407.

[*66.07 Stats. 1945 renumbered section 66.091 by 1947 c. 362*]

66.07 Sale or lease. Any town, village or city may sell or lease any complete public utility plant owned by it, in manner following:

(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 such plant or against the municipality on account thereof. Such resolution or ordinance shall be published in the official paper at least one week before adoption, or if there is no such paper, in some paper published in the municipality, if any, otherwise it shall be posted in 4 of the most public places in the municipality at least 10 days before adoption. It may be adopted only at a regular meeting and by a majority of all the members of the board or council.

(2) The preliminary agreement shall fix the price of sale or lease, and provide that if the amount fixed by the public service commission shall be larger, the price shall be that fixed by such commission.

(3) The municipality shall submit the preliminary agreement when executed to the public service commission, which shall determine whether the interests of the municipality and of the residents thereof will be best served by the sale or lease, and if it so determine, shall fix the price and other terms.

(4) The proposal shall then 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 public service commission. If a majority voting on the question shall vote for the sale or lease, the board or council shall be authorized to consummate the same, upon the terms and at a price not less than fixed by the public service commission, with the proposed purchaser or lessee or any other with whom better terms approved by the 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 public service commission, the proceedings shall be void. [*Stats. 1945 s. 66.06 (13); 1947 c. 362*]

66.071 In first class cities. All provisions of this section apply to all first class cities.

(1) WATERWORKS. (a) Water rates shall be collected in the manner and by any one whom the council may from time to time determine, and shall be accounted for and paid to such other officials in such manner and at such times as the council may from time to time prescribe. Such persons shall give a bond to cover all the duties in such an amount as may be prescribed by the council. Final accounting shall be made to comptroller and final disposition of money shall be made to city treasurer.

(b) The words "commissioner of public works" in subsection (1) shall be construed to mean and have reference to any board of public works, or commissioner of public works, or other officer of any city having control of the public works therein, and all acts authorized to be done by such commissioner except for the enforcement of regulations approved by the council shall require the approval of the council before they shall have any force or effect.

(c) When the city owns its waterworks, the commissioner of public works shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said waterworks, and, before the actual introduction of water, he shall make by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said waterworks, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or turning off the same for cause, and he shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations.

(d) All water rates shall be due and payable on the first days of January, April, July and October in each year, for the 3 months preceding such days. To all water rates remaining unpaid on the twenty-first day of the month in which they become due, there shall be added a penalty of 5 per cent of the amount of such rates, and if such rates shall remain unpaid for 10 days thereafter, water shall be turned off the premises, subject to the payment of such delinquent rates, and in all cases where the supply of water shall be turned off as above provided, water shall not be again turned on to said premises until all delinquent rates and penalties, and the sum of $2 as expense for turning the water off and on, shall have been paid. On or before each day when such rates become due and payable as aforesaid, a written or printed notice or bill shall be mailed or personally delivered to the owner or occupant of all premises subject to the payment of water rates, directed to the place where such water is consumed, stating the amount due, the time when and the place where such rates can be paid, and the penalty for neglect of payment.

(e) All water rates for water furnished to any building or premises, and the cost of repairing meters, service pipes, stops or stop boxes, shall be a lien on the lot, part of lot

or parcel of land on which such building or premises shall be situated. If any water rates or bills for the repairing of meters, service pipes, stops or stop boxes remain unpaid on the first day of October, in any year, the same shall be certified to the city comptroller of such city on or before the first day of November next following, and shall be by him placed upon the tax roll and collected in the same manner as other taxes on real estate are collected in said city. The charge for water supplied by the city in all premises where meters are attached and connected, shall be at rates fixed by the commissioner of public works and for the quantity indicated by the meter. If in any case, the commissioner of public works shall determine that the quantity indicated by the meter is materially incorrect or if a meter has been off temporarily on account of repairs, the commissioner of public works shall determine in the best manner in his power the quantity used, and such determination shall be conclusive. No water rate or rates duly assessed against any property shall be thereafter remitted or changed except by the council of such city.

(f) The commissioner of public works of any such city may issue a permit to the county in which it is located, to any national home for disabled soldiers, or to any other applicant to obtain water from the waterworks in the said city for use outside of the limits of such city; and for that purpose to connect any pipe that shall be laid outside of the city limits with any water pipe in such city. No such permit shall be issued until the applicant shall first file with the commissioner of public works a bond in such sum and with such surety as the said commissioner shall approve, conditioned that the said applicant will obey all rules and regulations that may from time to time be prescribed by the commissioner of public works for the use of such water; that he will pay all charges fixed by said commissioner for the use of such water as measured by a meter to be approved by said commissioner, which charges, except as to water furnished directly to county or other municipal properties, shall not be less than one-quarter more than those charged to the inhabitants of the city for like use of water; that he will pay to any such city a water pipe assessment if the property to be supplied with water has frontage on any thoroughfare forming the city boundary line in which a water main has or shall be laid, and at the rate prescribed by the commissioner of public works; if the property to be supplied does not front on a city boundary but is distant therefrom, that a main pipe of the same size, class and standard as terminates at the city boundary shall be extended, and the entire cost shall be paid by the applicant for the extension; that such water main shall be laid according to city specifications and under city inspection; that such water main and appliances shall become the absolute property of such city, without any compensation therefor, whenever the property supplied with water by said extension or any part thereof shall be annexed to or in any manner become a part of such city; and that he will pay to any such city all damages whatever that it may sustain, arising in any way out of the manner in which such connection is made or water supply is used. In case of granting a permit to any county or to any national home for disabled soldiers, the commissioner of public works may waive the giving of such a bond. Every such permit shall be issued upon the understanding that such city shall in no event ever be liable for any damage in case of failure to supply water by reason of any condition beyond its control.

(g) The commissioner of public works shall prescribe and regulate the kind of water meters to be used in such city and the manner of attaching and connecting the same, and may in like manner make such other rules for the use and control of water meters attached and connected as herein provided as shall be necessary to secure reliable and just measurement of the quantity of water used; and may alter and amend such rules from time to time as shall be necessary for the purposes named. If the owner or occupant of any premises, where the attaching and connection of a water meter may lawfully be required, shall neglect or fail to attach and connect such water meter, as is required according to the rules established by the commissioner of public works, for 30 days after the expiration of the time within which such owner or occupant shall have been notified by said commissioner of public works to attach and connect such meter, the commissioner of public works may cause the water supply by the city to be cut off from the premises, and it shall not be restored except upon such terms and conditions as the commissioner of public works shall prescribe.

(h) The commissioner of public works may prescribe and regulate the size of connections made with the distribution mains for supplying automatic sprinkler systems and fix an annual charge for such service.

(i) The commissioner of public works may also make rules and regulations for the proper ventilating and trapping of all drains, soil pipes and fixtures hereafter constructed to connect with or be used in connection with the sewerage or water supply of the city. The council may provide by ordinance for the enforcement of such rules and regulations,

and may prescribe proper penalties and punishment for disobedience of the same. The commissioner of public works may also make rules to regulate the use of vent, soil, drain, sewer or water pipes in all buildings in said city, which hereafter shall be proposed to be connected with the city water supply or sewerage, specifying the dimensions, strength and material of which the same shall be made, and may prohibit the introduction into any building of any style or water fixture, tap or connection, the use of which shall have been determined to be dangerous to health or for any reason unfit to be used, and the commissioner of public works shall require a rigid inspection by a skilled and competent inspector under his direction of all plumbing and draining work and water and sewer connections, hereafter done or made in any building in the city, and unless the same are done or made according to rules of the commissioner of public works, and approved by him, no connection of the premises with the city sewerage or water supply shall be allowed.

(j) The said commissioner shall make an annual report to the council of his doings under this section and the state of the water fund and the general condition of said waterworks, and such report after being submitted to the council shall be filed in the office of the comptroller.

(2) UTILITY DIRECTORS. (a) The term "electric plant" as used in this section shall mean a plant for the production, transmission, delivery and furnishing of electric light, heat or power directly to the public.

(b) If the city shall have determined to acquire a street railway and electric plant or either of them, or any other public utility in accordance with the provisions of this section, the mayor of such city, prior to the city taking possession of such property shall appoint, subject to the confirmation of the council, 7 persons of recognized business experience and standing to act as the board of directors for such utility. Two of such persons shall be appointed for a term of 2 years, 2 for a term of 4 years, 2 for a term of 6 years, and one for a term of 8 years. Thereafter successors shall be appointed in like manner for terms of 10 years each. Any such director may be removed by the mayor with the approval of the council for misconduct in office or for unreasonable absence from meetings of the directors.

(c) The directors so appointed shall have power: To employ a manager experienced in the management of street railways and electric plants or other like public utilities and fix his compensation and the other terms and conditions of employment and to remove him at pleasure, subject to the terms and conditions of his employment. To advise and consult with the manager and other employes as to any matter pertaining to maintenance, operation or extension of such utility. To perform such other duties as ordinarily devolve upon a board of directors of a corporation organized under chapter 180 of the statutes and which is not inconsistent with the provisions of this act and of the laws governing cities of the first class. No money shall be raised or authorized to be raised by said board of directors other than from revenues derived from the operation of the utility, except by action of the council.

(d) The manager appointed by the board of directors shall have complete management and control of the utility, subject to the powers herein conferred upon the board of directors and the council and shall have power to appoint assistants and all other employes which he deems necessary and fix their compensation and other terms and conditions of employment, except that the board of directors may prescribe rules for determining the fitness of persons for positions and employment.

(e) The council shall fix the compensation, if any, of members of the board of directors and shall have the powers herein conferred upon it and such other powers as it now possesses with reference to street railways, electric plants and other public utilities. [*Stats. 1945 s. 66.06 (14); 1947 c. 362*]

Note: Twenty-five per cent differential provision in 66.06 (14) (a) 1, Stats. 1937, has no application to charges to be made for water furnished to other municipally owned water utilities by city of Milwaukee. If 25 per cent differential, where applicable, results in rate in excess of that necessary to produce fair return for service in accordance with commission standards, such excess may be considered for purposes of arriving at fair return on value of used and useful property of utility when establishing rates to be charged to customers within city. 27 Atty. Gen. 522.

66.072 Utility districts. (1) Towns, villages and cities of the third and fourth class may establish utility districts and thereafter the expense of highways (not including bridges), sewers, sidewalks, street lighting, and water for fire protection, or either, as board or council shall direct, not chargeable to private property, shall be paid out of the fund of the proper districts.

(2) The fund of each district shall be provided by taxation of the property in such district, upon an annual estimate by the department in charge of public works in cities and villages, and by the superintendent of highways in towns, filed by October first. 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 board or council shall be required to thus establish utility districts and by a like vote districts may be vacated, altered, or consolidated.

(4) Before the vote shall be effective to establish, vacate, alter or consolidate, the procedure prescribed in section 62.18 (2) to (5) shall be had, both as to the plan and the purposes which the district shall embrace, except that the plan need be approved by the state board of health only as to sewers. In towns the superintendent of highways shall perform the duties hereby imposed upon the board of public works and the notice may be given by posting in 3 most public places in said town, one of which shall be in the proposed district, at least 2 weeks prior to such meeting.

(5) The provisions of this section shall not affect the application of the provisions of section 62.18 (18) to any city. [*Stats. 1945 s. 66.06 (15); 1947 c. 362*]

66.073 **Docks and wharves.** Any city council may by ordinance establish dock lines, regulate the construction of piers and wharves extending into any lake or navigable waters, prescribe and control the prices to be charged for pierage or wharfage thereon, prescribe and regulate the prices to be charged for dockage and storage in the city, and lease the wharfing privileges of the rivers and navigable waters at the ends of streets, giving preference to owners of adjoining land. No buildings shall be erected on the ends of streets, and a free passage over the same for all persons, with their baggage, shall be reserved. [*Stats. 1945 s. 66.06 (17); 1947 c. 362*]

66.074 **Ice plants, fuel depots and landing fields.** (1) Any city may enter into any contract which will enable it to purchase, construct, lease or acquire any equipment necessary to secure, manufacture, or sell ice, and to supply ice to itself, its inhabitants and persons doing business therein, or the county in which it is located, and may operate the same.

(2) Any city may by a vote of three-fourths of all the members of the council establish and operate equipment for the purchase, sale and supply of fuel to its citizens, under regulation of the council.

(3) Any city may purchase or lease lands for the use of the public as an aerial landing field, and may construct thereon hangars, shops, and other equipment and maintain such landing field; and may establish and collect uniform fees for use of such field. Neither the city, nor any board, commission or officer thereof, maintaining and operating any aerial landing field, as provided in this subsection, and collecting fees for the use of the same, shall be held liable in damages for injuries done to any person, not an employe of such city, by reason of the maintenance or operation of such landing field. [*Stats. 1945 s. 66.06 (18), (19), (21); 1947 c. 362*]

66.075 **Slaughterhouses.** (1) Authority is hereby given to every county and to every city of more than 5,000 inhabitants to construct and maintain public slaughterhouses upon such conditions and under such regulations as may be imposed by the state department of agriculture.

(2) The county board in each county and the common council in each city shall authorize the construction of such county or municipal slaughterhouse, shall make the necessary appropriation for the purchase of land and the construction and maintenance of such slaughterhouse and shall take proper action to secure the building, establishment and maintenance of such county or municipal slaughterhouse. Provided, that in cities such municipal slaughterhouse shall be maintained and operated by the health department in such city.

(3) All cattle, sheep, swine and goats slaughtered in such slaughterhouse shall be examined by the proper state authorities, and after examination and inspection shall be approved or condemned in accordance with the state laws and the municipal regulations governing the examination and inspection of similar private establishments.

(4) Any person, firm or corporation who shall make use of a county or municipal slaughterhouse, and in such use shall violate any of the terms of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment of not more than one year, or by both such fine and imprisonment in the discretion of the court.

(5) The provisions of this section shall apply only to such counties and to such cities as shall have adopted the same at any general or municipal election at which the question of the establishment of such county or municipal slaughterhouse shall have been submitted to the voters of such county or such city. Such question shall, upon the written petition of electors of such county or such city equal in number to at least 10 per cent of all the votes cast in such county or such city for governor at the last preceding general election, be submitted to the electors of such county or such city at the next ensuing

election, and if a majority of votes cast shall be in favor of the establishment of such slaughterhouse, the provisions of this section shall apply to such county or to such city. [*Stats. 1945 s. 66.06 (20); 1947 c. 362*]

66.076 Sewerage system, service charge. (1) In addition to all other methods provided by law any town, village or city may construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, treatment and disposal of sewage, including the lateral, main and intercepting sewers necessary in connection therewith, or may arrange for such service to be furnished by a metropolitan sewerage district or joint sewerage system, and provide payment for the same or any part thereof from the general fund, from taxation, special assessments, sewerage service charges, or from the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or from any combination of these enumerated methods of financing.

(2) Where payment in whole or in part is to be made by the issue and sale of mortgage bonds or mortgage certificates, such payments shall be made as is provided in section 66.066, the provisions of which section as the same has been and from time to time may be amended or recreated are made a part of this section except as otherwise inconsistent herewith. The term "public utility" as used in said section as the same has been and from time to time may be amended or recreated shall for this purpose include the sewage treatment or disposal plant and the intercepting sewers, accessories, equipment and other property, including land. Such mortgage bonds or mortgage certificates shall not constitute a general indebtedness of the municipality but shall be secured only by the property and revenue of such plant, and the franchise herein provided for.

(3) In the event of a sale of the mortgaged premises on a judgment of foreclosure and sale, the price paid for the same shall 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 said sewage disposal plant and the intercepting sewers and collect sewerage service charges, and for that purpose shall be deemed to have a franchise from the municipality. The term "purchaser" shall include his successors or assigns. The rates to be charged, in addition to the contributions, if any, which the municipality has obligated itself to make towards 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 plant over a period not exceeding 20 years, and in addition to the foregoing the purchaser of the premises shall be entitled to earn a reasonable amount, as determined by the public service commission, on the actual amount of his investment in the premises represented by the purchase price of the premises, plus any additions made to the same by the purchaser or minus any payments made by the municipality on account of such investments. The municipality may at any time by payment reduce such 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. It is further provided that so long as the premises are owned by the private purchaser, the same shall be considered a public utility and be subject to the provisions of chapter 196 of the statutes so far as applicable.

(4) The governing body of the municipality may establish sewerage service charges in such amount as 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 thereof, including the replacement of funds advanced by or paid from the general fund of the municipality.

(5) For the purpose of making equitable rates for all services rendered by the sewerage system to the municipality or to citizens, corporations and other users, the property benefited thereby 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, inclusive of the sewage disposal plant.

(6) Any town, village or city 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 sewage disposal plant and necessary intercepting sewers or any part thereof, or for extending or improving such plant or intercepting sewers, in the manner provided in section 66.066 (4) as the same has been and from time to time may be amended or recreated.

(7) 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 the provisions of section 66.069 (1) or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, so far as applicable.

(8) The governing body of any town, village or city, and the officials in charge of the management of the sewerage system as well as other officers of the municipality, shall be governed in the discharge of their powers and duties under this subsection by the provisions of section 66.069 or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, which are hereby made a part of this section so far as applicable and not inconsistent herewith.

(9) Upon complaint to the public service commission by any user of the service that rates, rules and practices are unreasonable or unjustly discriminatory, or upon complaint of a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewage disposal plant and intercepting sewers or pledge of the income of sewerage service charges, that rates are inadequate, the public service commission shall investigate said complaint, and if sufficient cause therefor appears shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village or city. After such hearing, if the public service commission shall determine 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 shall make such other order respecting such complaint as may be just and reasonable. The proceedings herein shall be governed, as far as applicable, by the provisions of sections 196.26 to 196.405.

(10) Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed in chapter 227.

(11) The word "sewerage" as used in this section shall be considered a comprehensive term, including all constructions for collection, transportation, pumping, treatment and final disposition of sewage.

(12) The authority hereby given shall be in addition to any power which towns, villages or cities now 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 state board of health as prescribed by law. [*Stats. 1945 s. 66.06 (22); 1947 c. 335, 362*]

Note: Public service commission has no jurisdiction under 66.06 (22) (k), Stats. 1939, to hold a hearing for purpose of determining reasonable rates to be charged one municipality by another for sewage service where the service was acquired by order of the state board of health under 144.07. 28 Atty. Gen. 503.

66.077 Refunding village and sanitary district bonds. Any village, or town sanitary district established under section 60.301, which has heretofore undertaken to construct a combined sewer and water system and issued revenue bonds payable from the combined revenues of said system and which is unable to provide sufficient funds to complete the construction of said system and to meet maturing principal of said 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 exceeding 20 years, payable solely from the revenues of said combined sewer and water system and redeemable at par on any interest payment date. Such bonds may be issued as provided in section 66.066 (2) and shall pledge income from hydrant rentals and all sewer and water charges and may contain any covenants authorized by law; provided that if bonds are issued hereunder to refund floating indebtedness, such bonds shall be subject to the prior lien and claim of all bonds issued to refund revenue bonds theretofore issued. [*Stats. 1945 s. 66.06 (23); 1947 c. 362*]

66.078 Parking systems. Any city or village without necessity of a referendum may purchase, acquire, construct, extend, add to, improve, conduct and operate a municipal parking system for the parking of vehicles, including parking lots and other parking facilities, upon its public streets or public grounds and issue mortgage bonds to acquire funds for any one or more of such purposes. The provisions of section 66.066 governing the issuance of mortgage bonds shall apply, so far as applicable, to mortgage bonds issued hereunder. Such municipal parking systems shall constitute public utilities within the purview of article XI, section 3, of the Wisconsin constitution. Mortgage bonds issued under authority hereof shall be payable solely both principal and interest from the revenues to be derived from such parking systems, including without limitation revenues from parking meters or other parking facilities theretofore owned or thereafter acquired. [*Stats. 1945 s. 66.06 (24); 1947 c. 336, 362*]

66.079 Special assessments. (1) Whenever any village or city shall construct or acquire by gift, purchase or otherwise a distribution system or a production or generating plant, or either of them, for the furnishing of light, heat or power to any municipality or its inhabitants or shall make any extensions thereto, such city or village may assess the whole or any part of the cost thereof to the property benefited thereby, whether abutting or not, in the same manner as is provided for the assessment of benefits for sanitary sewers under the provisions of sections 62.16 (6) and 62.18.

(2) Such special assessments may be made payable and certificates or bonds issued as is provided in sections 62.20 and 62.21 and 66.54. In villages or cities where no official paper is published, notice prescribed by sections 62.16 (6), 62.18, 62.20 and 62.21 may be given by posting said notice in 3 public places in said village or city as provided in section 61.41 (4).

(3) The provisions of this section shall not apply to any assessment made prior to September 14, 1929.

(4) Every town, city or village is authorized to construct and install sewers or piping for the purpose of draining subsurface or underground water, and may assess the whole or any part of the cost thereof to the property benefited thereby, whether or not it abuts on the line of such sewer or piping, in the manner provided for the assessment of the cost of sanitary sewers under sections 62.16 (6) and 62.18. Such special assessments may be made payable in certificates or bonds pursuant to, but subject to the limitations of, sections 62.20 and 62.21 and 66.54. In villages or cities where no official paper is published, notice prescribed by sections 62.16 (6), 62.18, 62.20 and 62.21 may be given by posting required notice in 3 public places in said town, city or village as provided in section 61.41 (4). [*1937 c. 211; 1943 c. 553 s. 10; 43.08 (3); Stats. 1945 s. 66.065; 1947 c. 362*]

66.08 **Record of orders and court certificates.** The clerk of every town, village, city and county which is not provided with a book which will serve the purposes hereinafter indicated shall obtain and keep a cancellation book in which he shall enter the number and date of each order drawn upon the treasurer of his town, city, village or county, the page of the record of the proceedings of the body which authorized the issuing of such order, the amount thereof, the name of the drawee, the purpose for which it was allowed and the date of its cancellation. Such book shall be furnished by the clerk of each county to the town, city and village clerks therein; he shall prescribe the form and size thereof and procure the same at the expense of the county; upon their receipt he shall transmit them to such clerks and charge their cost to the municipalities to which they are supplied. Immediately after the close of each term of court in any county the clerk of the court shall file with the county clerk a list of the court certificates drawn on the county treasurer, which list shall specify the number of each certificate, its date, the amount for which it was drawn, the name of the payee and the character of the service performed by him. Said list shall be recorded in a part of the cancellation book set apart for that purpose, which part shall contain a blank column in which shall be entered the date of the cancellation of each certificate. Whenever any town, village, city or county treasurer shall pay or receive in payment of taxes, or for any other purpose equivalent to the payment thereof, any order or court certificate he shall return the same to the proper authorities at their first meeting thereafter, and such evidences of indebtedness shall be canceled by destroying them, and the date of their cancellation shall be immediately entered by the proper clerk in the cancellation book. It shall be the duty of every such clerk on the receipt of such book to enter therein a list of all orders and court certificates which remain outstanding and unpaid.

66.09 **Judgment against municipalities.** (1) When a final judgment for the payment of money shall be recovered against a town, village, city, county, school district, town sanitary district or community centre, or against any officer thereof, in any action by or against him in his name of office, when the same should be paid by such municipality, the judgment creditor, or his assignee or attorney, may file with the clerk thereof a certified transcript of such judgment or of the docket thereof, together with his affidavit of payments made, if any, and the amount due thereon and that the judgment has not been appealed from or removed to another court, or if so appealed from or removed has been affirmed; and thereupon the amount so due, with costs and interest to the time when the money will be available for its payment, shall be added to the next tax levy, and shall, when received, be paid to satisfy such judgment. If the judgment shall be appealed from after filing the transcript with the clerk, and before the tax is collected, the money shall not be collected on that levy. If the clerk shall fail to include the proper amount in the first tax levy, he shall include it or such portion as shall be required to complete it in the next levy.

(2) In the case of school districts, town sanitary districts or community centres, transcript and affidavit 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 or centre.

(3) No process for the collection of such judgment shall issue until after the time when the money, if collected upon the first tax levy as herein provided, would be available for payment, and then only by leave of court upon motion.

(4) If by reason of dissolution or other cause, pending action, or after judgment, the transcript cannot be filed with the clerk therein designated, it shall be filed with the clerk or clerks whose duty it is to make up the tax roll for the property liable. [*1935 c. 522*]

Note: Amount of creditor's judgment against municipality using creditor's money must be placed on next tax roll, and is not within statute limiting leviable county taxes to one per cent. Oconto County v. Townsend, 210 W 85, 246 NW 410.

A provision in the judgment that a tax be levied by the defendant district did not constitute a levy of the tax by the court, the judgment merely declaring the duty which the statute imposes. Wauwatosa v. Union Free H. S. Dist., 214 W 35, 252 NW 351.

This section does not require that the judgment creditor must at all events wait until the money to pay the judgment has actually been collected by the tax levy and then proceed by mandamus to compel payment if payment is refused, the only limitation provided in the statute as to issuing process for the collection of the judgment being that such process shall not issue "until after the time when the money, if collected . . . would be available for payment." State Bank of Florence v. School District, 233 W 307, 289 NW 612.

When a certified transcript of a judgment against a town is filed with the town clerk, it is the clerk's duty to add the amount thereof to the next tax levy, and if he does so, his duty is fully discharged and the judgment creditor cannot compel him to include in future levies unpaid balances remaining because the amount properly levied turned out by reason of tax delinquencies to be insufficient to meet the judgment, the creditor's sole remedy in such case being to enforce collection of his judgment by the use of process against the town as authorized by (3). Nagle v. Clure, 241 W 312, 6 NW (2d) 228.

Mere notice of judgment against town does not change duty of county clerk to pay to town income taxes of railroad company belonging to town. 20 Atty. Gen. 713.

66.091 Mob damage. (1) The county shall be liable for injury to person or property by a mob or riot therein, except that within cities the city shall be liable.

(2) Claim therefor must be filed within 6 months thereafter. Such claim may be allowed in whole or in part, as other claims, and procedure to enforce shall be as for other claims.

(3) The city or county may recover all such claims and costs paid by it, against any and all persons engaged in inflicting the injury.

(4) No person shall recover hereunder when the injury was occasioned or in any manner aided, sanctioned, or permitted by him or caused by his negligence, nor unless he shall have used all reasonable diligence to prevent the same, and shall have immediately notified the mayor or sheriff after being apprised of any threat of or attempt at such injury. Every mayor or sheriff receiving such notice shall take all legal means to prevent injury, and if he refuse or neglect to do so, the party injured may elect to hold such officer liable by bringing action against him within 6 months of the injury.

(5) This section shall not apply to property damage to houses of ill fame when the owner has notice that they are used as such. [*Stats. 1945 s. 66.07; 1947 c. 362*]

Note: Where a delegation of farm strikers was negotiating with a creamery manager, and the assembly was orderly and no threats were made to the manager, a threat made by a man accompanying the delegation to a truck driver of the creamery company did not constitute notice of a threat to the company of interference with its business by a mob; and hence the failure of the company to notify the county sheriff of the threat, the company having no actual knowledge thereof, did not preclude recovery against the county for damages for cream subsequently dumped from a truck by a mob. Portage C. C. Ass'n v. Sauk County, 216 W 501, 257 NW 614.

In an action against a county for damages done to the plaintiff's person and property by rioters, a complaint alleging that a mob of disorderly and riotous persons collected together on the plaintiff's farm and by force and violence prevented a lawful sale, and forcibly removed plaintiff from his farm and carried away certain property, states a cause of action within this section, making counties liable for injuries by "mob or riot." It is not necessary under the statute to show physical injury to or destruction of plaintiff's person or property. Febock v. Jefferson County, 219 W 154, 262 NW 588.

The assignee of a claim for damages to property done by a mob is the proper party to file such claim. The liability of the city is absolute unless exempting conditions therein specified are present and a city must not only endeavor to prevent injury by a mob but must actually prevent it. The efforts of the company in this case to protect its property did not occasion the mob or riot so as to render the city free from liability. Northern Assur. Co. v. Milwaukee, 227 W 124, 277 NW 149.

An action against a city for injuries done to property by a mob during a strike was properly brought by an insurer which had indemnified the owner for its property loss and taken an assignment of its claim which it had under this section, since the action was assignable, being one which survived under section 331.01. Northern Assur. Co. v. Milwaukee, 227 W 124, 277 NW 149.

A crime committed secretly away from public view is not a riot. International Wire Works v. Hanover Fire Ins. Co. 229 W 672, 283 NW 292.

[*66.095 Stats. 1945 renumbered section 85.095 by 1947 c. 183*]

66.10 Official publication. Whenever in sections 66.01 to 66.08, inclusive, publication is required to be in the official paper of other than a city, and there is no official paper, the publication shall be in a paper published in the municipality and designated by the officers or body conducting the proceedings, and if there be no paper published in the municipality, then in a paper published in the county and having a general circulation in the municipality and so designated, and by posting in at least four public places in the municipality, and if there be also no such paper, then by such posting.

66.11 Miscellaneous. (1) DEPUTY SHERIFFS AND POLICE. No person shall be appointed deputy sheriff or police officer of any county or city unless he is a citizen of the United States and shall have resided in this state continuously for one year immediately

preceding. This section shall not affect common carriers, nor apply 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 shall, during the term for which he is elected, be eligible for any office or position which during such term has been created by, or the selection to which is vested in, such board or council, provided that the governing body may be represented on city or village boards and commissions where no additional remuneration is paid such representatives.

(3) PROCESS AGAINST OFFICER. No process against private property shall issue in an action or upon a judgment against a public corporation or an officer in his official capacity, when the liability, if any, is that of the corporation nor shall any person be liable as garnishee of such public corporation.

(4) ORDERS; ACTION; PROOF OF DEMAND. No action shall be brought upon any city, village or school district order until the expiration of thirty days after a demand for the payment of the same shall have been made. If such action is brought and the defendant fails to appear and defend the same judgment shall not be entered without affirmative proof of such demand, and if entered without such proof shall be absolutely void.

(5) NEW OFFICE, TEMPORARY APPOINTMENT. Whenever an elective office is created in a city or village pursuant to law or ordinance, a temporary appointment may be made by the governing body pending the election of the incumbent for the first full term. [*1935 c. 421 s. 3; 1943 c. 66, 193*]

Note: Under (2) member of county board is ineligible to position of public dance supervisor; under 348.28 such contract is void and board member is not entitled to receive compensation for services rendered as public dance supervisor in county. 20 Atty. Gen. 1193.

Member of county board may not be quarry foreman. 24 Atty. Gen. 394.

Town supervisor is not entitled to compensation for promoting WPA project in absence of any duty to perform such service and may not act as "sponsor" or superintendent of such project where such position is created by town board. 25 Atty. Gen. 700.

Member of county board may not be appointed pension director during term for which he is elected even though he has resigned from county board. 26 Atty. Gen. 52.

See note to 82.07, citing 26 Atty. Gen. 349.

County board may not hire one of its members to work on collection of delinquent taxes. 27 Atty. Gen. 9.

Member of county board is ineligible, during term for which he was elected, to office of additional pension investigator for county, when position was created and appropriation was made therefor during term for which he was elected to county board. Resignation during such period will not make him eligible. 28 Atty. Gen. 6.

One who has been elected to membership on county board but who has refused to qualify is not within provisions of (2). 28 Atty. Gen. 265.

Under 66.11 (2), Stats. 1941, member of county board may not, upon resigning his office, be legally appointed to position as radio operator which is created by such board during his term; nor may he legally be appointed deputy sheriff where duties to be performed under such appointment will be those attached to new position created by board. 30 Atty. Gen. 433.

66.115 Penalties under county and municipal ordinances. Where a statute requires that the penalty under any county or municipal ordinance shall conform to the penalty provided by statute such ordinance may impose only a fine and may provide for imprisonment in case the fine is not paid. [*1947 c. 572*]

66.12 Sanitation; river improvement by county and city. (1) Any county containing a city of the third class may provide for the improvement of the water supply in any river within such county, for the purpose of preservation and protection of the health and safety of the residents of such county, by replacing and restoring the banks of such river and the confinement of the waters of such river to its channel by means of closing all passages from such river, including chutes and sloughs, through which the waters of such river flow, and by such other means as the board of supervisors of such county may deem necessary and proper.

(2) The city council of any city of the third class within such county may by ordinance assume on behalf of said city all liability on account of any and all claims, demands, actions and causes of action of every nature arising from injury to private property on account of flowage, inundation or seepage due to such improvement, and such city council may appropriate such moneys as are necessary to pay, litigate or defend against all such claims.

66.13 Limitation of action attacking contracts. Whenever the proper officers of any city or village, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to such contract has procured or furnished materials or expended money under the terms of such contract, no action or proceedings shall be maintained to test the validity of any such contract unless such action or proceedings shall be commenced within sixty days after the date of the signing of such contract. [*1933 c. 71; 1935 c. 421 s. 3*]

Note: An arrangement by which a city agreed that the plant of a manufacturing company, if moved to the city, should be rent and tax free for a period of five years, and that the city would convey certain real estate to the company free and clear of incumbrances, and would pay the company a certain sum of money, was beyond the power

of the city to make, and for that reason was illegal and void and therefore was not in any legal sense a "contract." Sec. 66.13 refers to a contract which the municipality has power to enter into, and has no application in the case of a so-called contract which the municipality has no power to enter into. Kiel v. Frank Shoe Mfg. Co. 240 W 594, 4 (2d) NW 117.

66.14 Official bonds, premium. Any city, however incorporated, may pay the cost of any official bond furnished by an officer thereof, pursuant to law or any rules or regulations requiring the same, if said officer shall furnish a bond with a surety company or companies authorized to do business in this state, said cost not to exceed the current rate of premium per annum on the amount of said bond or obligation by said surety executed. The cost of any such bond in such city shall be charged to the fund appropriated and set up in the budget for the department, board, commission or other body, the officer of which is required to furnish a bond.

66.145 Requirements for surety bonds of officers and employes in cities of the first class. When any office or position in the service of any city of the first class involves fiduciary responsibility or the handling of money, the appointing officer may require the appointee to furnish a bond or other security to such officer and the said city for the faithful performance of his duty, the amount to be fixed by the appointing officer, with the approval of the mayor, and notice of the mayor's approval shall be given to the city clerk by the mayor. Each bond shall be approved by the city attorney as to the form and execution thereof, and by the common council as to the sufficiency of the sureties therein; provided, however, that any surety company, the bonds of which are accepted by the judge of any court of record in this state, or which is approved by the comptroller of the said city, shall be sufficient security on any such bond, and that the premium on such bond, within the limits fixed by law, shall be paid out of the city treasury. The appointing officer shall immediately after the execution of such bond file the same with the city clerk, and it shall be the duty of the city clerk to require compliance with the terms of this section requiring the filing of bonds with the city clerk by officers and employes, and all such bonds of city officers and employes, duly witnessed and acknowledged, after being approved by the common council, shall be delivered to the city comptroller, who shall have them recorded in the office of the register of deeds and, after such recording by the city comptroller in the office of the register of deeds, the said bonds shall be returned to the city clerk, who shall keep them on file in his office; except that after the recording of the bond of the city clerk by the city comptroller, said bond shall remain on file in the office of the city comptroller. Each bond filed by any surety company shall be accompanied by a duplicate of said bond, which duplicate shall be filed by the clerk with the city comptroller. [*1945 c. 135*]

[*66.15 Stats. 1945 renumbered section 62.13 (11a) by 1947 c. 388*]

[*66.16 Stats. 1945 renumbered section 62.16 (10) by 1947 c. 388*]

66.17 Schools; transportation in Milwaukee county. In any county which has a population of three hundred thousand or more the board of any town or village or the council of any city which does not maintain a high school may provide for the transportation of children living in such town, village or city to any other school in the county which is supported by public funds and which gives courses above the eighth grade attended by such children.

66.18 Liability insurance. Cities and villages are empowered to procure liability insurance covering both the municipal corporation and its officers, agents and employes.

Note: This section, authorizing cities to procure liability insurance covering the city and its officers, agents, and employes, authorizes procuring insurance only to protect from liability, and hence, a policy which, in addition to providing that the insurer would pay on behalf of a city all sums the city should become obligated to pay by reason of liability imposed on a city for injuries arising out of the ownership, maintenance, and use of a park and toboggan slide maintained by the city for recreational purposes, further provided that neither the city nor the insurer would raise the defense of governmental function in an action to recover for negligence of employes of the city, was unauthorized and invalid as a contract for the benefit of a person injured while using the toboggan slide, where the common-law rule of municipal nonliability for negligence in performing governmental functions applied. The city not being liable, the insurer was not liable. Neither the city nor the insurer was estopped from asserting the defense of governmental function. Pohland v. Sheboygan, 251 W 20, 27 NW (2d) 736.

66.19 Civil service system; veterans' preference. (1) Any city or village may proceed under section 61.34 (1), section 62.11 (5) or section 66.01 to establish a civil service system of selection, tenure and status, and said 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, the teaching staff of the board of education and the board of vocational and adult education, employes subject to section 62.13, members of the judiciary, and supervisors. In the case of veterans there shall be no restrictions as to age and except that other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the

United States. Preference is defined to mean that whenever an honorably discharged veteran competes in any examination he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein, excepting that such preference as herein defined shall not be granted to any veteran competing in any such examination who shall not have attained at least a passing grade. Such system may also include uniform provisions in respect to attendance, leave regulations, compensation and pay rolls for all personnel included thereunder. The governing body of any city or village adopting a civil service system under the provisions hereof may exempt therefrom the librarians and assistants subject to section 43.165.

(2) Any town with a population of more than ten thousand inhabitants may proceed under subsection (1) of section 60.29 to establish a civil service system as provided under subsection (1) hereof and in such departments as the town board may determine. Any person who shall have been employed in any such department for more than five years prior to the establishment of such civil service shall be eligible to appointment without examination.

(3) When any town has established a system of civil service, the ordinance establishing the same shall not be repealed for a period of 6 years after its enactment, and thereafter it may be repealed only by proceedings under section 10.43 by referendum vote. [*1937 c. 258; 1939 c. 179, 243; 1939 c. 517 s. 4; 1941 c. 137; 1943 c. 263, 276*]

Note: City school board and local board of vocational and adult education are not compelled to discharge present employes residing outside city where such city has adopted civil service ordinance under this section, requiring city employes to reside within city, but such ordinance should be followed in future selection and discharge of employes so far as possible. 27 Atty. Gen. 358.

Doubt expressed as to whether employes of a board of education, operating under 40.50 to 40.60, come within a civil service ordinance adopted pursuant to 66.19. Library employes considered to come within said section. 28 Atty. Gen. 386.

66.199 Automatic salary schedules. Whenever the governing body of any city or village shall by ordinance adopt a salary schedule for some or all employes and officers of such city and village, other than those subject to sections 40.53 and 41.15, such may include an automatic adjustment for some or all of such personnel in conformity with fluctuations upwards and downwards in the cost of living, notwithstanding the provisions of sections 61.32, 62.09 (6) and 62.13 (7), except that section 62.13 (7) shall be applicable if such automatic adjustment shall reduce basic salaries in effect January 1, 1940. [*1945 c. 480*]

[*66.20 Stats. 1945 renumbered sections 66.20 to 66.209 by 1947 c. 362*]

66.20 Metropolitan sewerage districts. (1) AUTHORIZED. Metropolitan sewerage districts may be created, governed and maintained as is in sections 66.20 to 66.209 provided, in contiguous territory containing two or more of any of the following municipalities: Any city or village in its entirety or any township or part thereof, located in one or more counties, when so situated that common outlet sewers or disposal plants will be conducive to the preservation of the public health, safety, comfort, convenience or welfare.

(2) DEFINITIONS. For the purposes of sections 66.20 to 66.209 the following provisions and definitions are made:

(a) "District" means metropolitan sewerage district.

(b) "Commission" means metropolitan sewerage commission.

(c) "Commissioner" means a commissioner of the metropolitan sewerage district.

(d) "Interception sewer" means one which receives the dry-weather flow from a number of transverse sewers or outlets with or without a determined amount of storm water from a combined system.

(e) "Main sewer" means one which receives one or more branch sewers as tributaries. [*Stats. 1945 s. 66.20 (1), (2); 1947 c. 362*]

Note: County court may organize as district only part of entire area originally proposed. Territory to be detached from that originally proposed in organization of sewer district, is issue of fact to be determined in each case as question arises. Golden v. Green Bay Metropolitan Sewerage Dist. 210 W 193, 246 NW 505.

66.201 Sewage district; court procedure. (1) JURISDICTION. (a) The county court of any county in this state is vested with jurisdiction, power and authority, when the conditions stated in subsection (2) of this section are found to exist, to establish metropolitan sewerage districts.

(b) Where the proposed district is in more than one county, the county court of the county containing the largest assessed valuation within the proposed district shall have jurisdiction.

(2) PETITION. Before any court shall establish a district as outlined in subsection (1):

(a) A petition signed by 5 per cent of the electors voting for governor at the last general election of by the owners of half the property, in either acreage or assessed value,

within the limits of the territory proposed to be organized into such district, shall be filed with the clerk of the county court of the county having jurisdiction.

(b) No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the court may at any time permit the petition to be amended in form and substance to conform to the facts, by correcting any errors in such petition. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed prior to the time of the hearing of the first petition, and shall be considered the same as though filed with the first petition. Every such petition shall be presumed to have been signed and executed by the persons whose signatures appear thereon, until proof to the contrary shall have been made.

(c) The petition shall set forth:

1. The proposed name of said metropolitan sewerage district;
2. The necessity for the proposed work;
3. A general description of territory to be included in the proposed work; and
4. A general outline of the proposed improvements.

(3) BOND. (a) At the time of filing the petition, or at any time subsequent thereto and prior to the time of the hearing on said petition, a bond shall be filed by the petitioners with security approved by the court, sufficient to pay all the expenses connected with the proceedings in case the court refuses to organize the district. If at any time during the proceedings, the court shall deem the bond first executed to be insufficient, it may by order require the execution of an additional bond within a time fixed, but not less than 10 days from the date of such order. Upon failure of the petitioners to execute the same the petition may be dismissed by the court.

(b) In lieu of such bond any municipality or group of municipalities interested in the formation of such district may guarantee the payment of such expense.

(4) HEARING, NOTICE. Immediately after the filing of such petition, the court shall fix a time and place for a hearing on said petition, and shall cause notice by publication to be made of the pendency of the petition and of the time and place of such hearing. Such publication shall be made once a week for 3 consecutive weeks in a newspaper or newspapers of general circulation in the county or counties in which the proposed district is located. The first publication shall be not less than 3 weeks before said hearing. Said court shall also cause notice to be served personally upon the clerk of each municipality having territory in the proposed district, and upon the state health officer at least 3 weeks before said hearing.

(5) OBJECTIONS TO DISTRICT. Any owner of real property, or the governing body of any municipality having territory within the proposed district, wishing to object to the organization thereof shall, on or before the date set for the hearing, file his or their objections to the formation of such district. Such objections shall be limited to questions of jurisdiction or a denial of the statements of the petition. The necessity for the formation of such district shall be heard by the court as an advanced case and without unnecessary delay. [*Stats. 1945 s. 66.20 (3) to (7); 1947 c. 362*]

66.202 **Sewage district; judgment.** (1) Upon the hearing if it shall appear that the purposes of sections 66.20 to 66.209 will be best served by the creation of a district, the court shall, after disposing of all objections as justice and equity require, by its findings, duly entered of record, adjudicate all questions of jurisdiction, establish the boundaries and declare the district organized and give it a corporate name, by which in all proceedings it shall thereafter be known, and thereupon the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out the provisions of sections 66.20 to 66.209.

(2) If the court finds that the territory set out in the petition should not be incorporated into a district, it shall dismiss said proceedings and tax the cost against the signers of the petition. If the district is established, certified bills covering the reasonable costs and disbursements of the petitioners may be presented to the commissioners herein provided for and paid out of the funds of the district.

(3) The state board of health shall be represented at the hearing for the creation of such district and advise with the court.

(4) Should it appear to the court at said hearing that other territory not included in the original petition should be included within the district, the property holders in such additional territory shall be duly notified in such manner as the court shall determine, and a second hearing shall be held at a time and place to be fixed by the court.

(5) The decree of the court, whether for or against the organization of the district, may within 20 days after such decree, be appealed directly to the supreme court by any interested person feeling himself aggrieved, and the question presented upon said appeal shall be determined by such court upon the record made in the lower court.

(6) (a) After 20 days from date of such decree, if no appeal is taken therefrom, the clerk of the court rendering such decree shall transmit to the secretary of state, the secretary of the state board of health, and the register of deeds in each of the counties having lands within the district, copies of the findings and decree of the court incorporating said district. The same shall be filed or recorded in the above mentioned offices in the manner prescribed by law concerning corporations, upon the payment of the requisite fee.

(b) At any time after the copies of the findings and decree of the court incorporating the district shall have been filed and recorded, as herein provided, the owner of any land within the district may, by petition in writing to the commissioners, describing said lands, request that said described lands be detached from the district. When any such petition shall be filed with the commissioners, they shall, except as prescribed in paragraph (e) hereof, fix a time and place of hearing on said petition, which time shall be not less than 30 days from the date of filing the petition, and the secretary of the commission shall give notice thereof by letter to the owner at his post-office address which shall be designated in the petition, and by publication in the official paper of the district once a week for 3 successive weeks.

(c) If upon such hearing the commissioners of the district shall find that the preservation of the public health, safety, comfort, convenience or welfare does not require the continued inclusion of said described lands within the district, an order shall be entered detaching said described lands from the district. If the commissioners do not so find, the petition shall be denied. A copy of the order detaching land from the district shall, within 20 days after such order is made, be filed with the secretary of state, and a copy thereof with the state board of health, and a copy recorded in the office of the register of deeds for each county having land within the district. For the purpose of signing any such petition, the word "owner" shall be deemed to include the guardian, or other legal representative of any minor, or incompetent person owning any such land, and any executor, administrator or other person acting in a representative capacity having legal possession of any such land.

(d) Any owner of land whose petition is denied by the commissioners may, within 30 days from the making of the order denying the petition, appeal therefrom to the county court which established the district. The court shall fix the time and place of hearing of such appeal, which hearing shall be a trial de novo, and the petitioner so appealing shall serve notice thereof in the manner prescribed by the court upon the commissioners of the district; if upon such hearing the court shall find that the preservation of the public health, safety, comfort, convenience and welfare does not require the continued inclusion of the petitioner's lands within the district, an order shall be entered detaching said lands from the district. If the court does not so find, the petition to detach said lands from the district shall be denied. A copy of any order made by the court detaching said lands from the district shall be filed as prescribed for the filing of an order made by the commissioners of the district detaching lands therefrom.

(e) If the land described in the petition is a farm embracing 40 acres or more and is actually used for general farm purposes, the commission may, without hearing, enter an order detaching the land from the district in accordance with the petition, if it appears that the preservation of the public health, safety, comfort and convenience or welfare does not require inclusion of said land within the district. It is the legislative intent that such land under such circumstances should be detached. The order detaching such land shall be made, entered and filed as if such order were made after hearing and with like effect.

(7) Every such district may borrow money and issue its obligations therefor, bearing interest at the rate of not to exceed 6 per centum per annum for a term not exceeding 5 years. At the time any such money is borrowed, and before the obligation therefor shall have been issued, the commissioners shall levy a tax by a resolution similar to that required in subsection (10).

(8) Every such district may issue bonds for the construction and extension of intercepting and main sewers, including rights of way and appurtenances, the acquisition of a sewage disposal site and for the construction and improvement of sewage disposal works. The commissioners in any such district about to issue bonds, shall adopt a resolution stating the amount of said bond, and purpose, or purposes of their issue, and such other and further matter as the commission may deem necessary or useful.

(9) (a) Every such resolution shall be offered and read at a meeting of the commissioners at which all the commissioners are present, and shall be published in the official paper of the district not less than twice during the 30 days next following such reading; and in order to be effective, shall be passed at a meeting of the commissioners at which all are present, held after such publication and within said 30 days. When any such resolution shall be passed, it shall be recorded by being copied at length in a record book kept for that purpose.

(b) Such resolution shall be submitted to a vote of the electors of said district if, within 30 days after the recording thereof, there shall be filed in the office of the secretary of the commission a petition requesting said submission, signed by electors numbering at least 10 per cent of the votes cast for governor in the district at the last general election. When any such petition shall have been filed with the secretary of the commission, he shall immediately notify the clerks of each town, city or village located, or having territory within such district, of the fact that such petition has been filed, calling for a special election upon the proposed bond issue; and in order that the said special election may be held upon the same day throughout the district, the secretary shall, in said notice, fix the date of the holding of such special election. Upon receipt of such notice the clerks of each town, village or city located within such district shall call a special election for the purpose of submitting the resolution for the proposed bond issue to the electors of the municipality for approval. In case a part only of a city, town or village is located within the district, the clerk of such city, town or village shall call a special election to be held upon the date fixed by the secretary of said commission, for that portion of the town, city or village which is included within the district, and such electors at such special election shall have the right to vote at a polling place or polling places, in an adjoining town, city or village which is wholly located within the district; the polling place or places shall be designated by the clerk in the notice of such special election, which notice of election for a part only of the municipality shall be posted in 3 public places in that part of the municipality lying within the district. The proceedings in connection with said special election shall be as provided in section 67.05 (5) of the statutes. The votes shall be counted by the inspectors and a return made thereof to the county clerk of the county in which the office of the commissioners of the district is located, and the return thereof shall be canvassed by the board of county canvassers, and the result of such election determined and certified by said board of county canvassers, and the original certificate thereof shall be filed in the office of the county clerk, and a copy certified by said county clerk shall be by him forwarded to the secretary of the commissioners of the district, and filed in the office of said commissioners, and for this purpose the provisions of sections 6.57 to 6.64 of the statutes, shall control in so far as applicable.

(10) The commissioners shall at the time of, or after the adoption of said resolution, and before issuing any of the contemplated bonds, levy by resolution a direct annual tax sufficient in amounts to pay, and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity.

(11) The commissioners and the district shall be and continue without power to repeal such levy, or obstruct the collection of said tax until all such payments have been made or provided for.

(12) After the issue of said bonds, the commissioners of the district shall, on or before the first day of October in each year, certify in writing to the clerks of the several cities, villages or towns having territory in such district, the total amount of such tax to be raised by each such municipality, and upon receipt of such certificate the clerk of each such municipality shall place the same on the tax roll to be collected as other taxes are collected, and such moneys, when collected, shall be paid to the treasurer of such district.

(13) Every bond so issued by a metropolitan sewerage district shall be a negotiable instrument payable to bearer, or, in case of bonds which are registerable, to bearer or the registered owner, with interest coupons attached payable annually or semiannually; shall be payable not later than the termination of 20 years immediately following the date of the bonds; shall bear interest at a rate not to exceed 6 per centum per annum; shall specify the times and the place, or places, of payment of principal and interest; shall be numbered consecutively with the other bonds of the same issue which shall begin with number one and continue upward, or, if so directed by the governing body, shall begin with any other number and continue upward; shall bear on its face a name indicative of the purpose specified therefor in said resolution; shall contain a statement of the value of all of the taxable property in the district according to the last preceding assessment thereof for state and county taxes, the aggregate amount of the existing bonded indebtedness of such district, that a direct annual irrepealable tax has been levied by the district sufficient to pay the interest when it falls due, and also to pay and discharge the principal at maturity; and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of a single denomination, or two or more denominations.

(14) The bonds shall be executed in the name of the sewerage district by the president and secretary, and shall be sealed with the seal of the district, if it has a seal. The bonds shall be negotiated and sold, or otherwise disposed of, for not less than par and accrued interest, by the commissioners, and such negotiation and sale, or other disposition, may be

effected by disposition from time to time of portions only of the entire issue when the purpose for which the bonds have been authorized does not require an immediate realization upon all of them.

(15) Any such district, when in temporary need, is authorized to borrow money pursuant to the provisions and limitations applicable to cities, of section 67.12 of the statutes. [*Stats. 1945 s. 66.20 (8); 1947 c. 362*]

Note: That appeal in organization of sewer district could be taken only within 20 days after decree did not render statute authorizing such appeal unconstitutional as denial of adequate remedy. Golden v. Green Bay Metropolitan Sewerage Dist. 210 W 193, 246 NW 505.

66.203 Sewage district; commission, appointment, term, oath, duties, pay, treasurer. (1) The district shall be governed by 3 commissioners appointed by the court creating the district, and shall be residents of the district.

(2) At the time of their first appointment one member shall be appointed for a term of 3 years, one for a term of 2 years, and one for a term of one year. Upon the expiration of their several terms of office the county court shall appoint a successor, whose term of office shall be for 3 years and until a successor is appointed and qualified. The county court may remove any member of the commission for cause after notice and hearing and may fill any vacancy.

(3) Each member of the commission shall take and file the official oath.

(4) A majority of such commission shall constitute a quorum to do business, and in the absence of 2 members one member may adjourn any meeting and make announcement thereof. All meetings and records of the commission shall be published.

(5) Such commission, when all of its members have been duly sworn and qualified, shall be a permanent body corporate and shall have charge of all the affairs of the district.

(6) Such commission shall organize by electing one of its members president and another secretary.

(7) The secretary shall keep a separate record of all proceedings and accurate minutes of all hearings.

(8) Each member of the commission shall keep an accurate statement of his necessary expenses and of the services rendered by him together with the dates thereof.

(9) Each member of the commission shall receive as compensation for his actual necessary services $10 per day of 8 hours and proportionately for fractions of days for actual time spent in rendition of services and his actual reasonable expenses. Such compensation and expenses shall be filed as a bill in the court having jurisdiction and when allowed by that court shall be paid by the treasurer of the district out of any moneys in his hands belonging to such district.

(10) The treasurer of the city or village having the largest assessed valuation within the district shall act as treasurer of the district; shall receive such additional compensation therefor as the commission may determine; and shall at the expense of the district furnish such additional bond as the commission may require. Such treasurer shall keep all moneys of the district in a separate fund to be disposed of only upon order of the commission signed by the president and secretary.

(11) The commissioners shall prepare annually a full and detailed report of their official transactions and expenses, and shall file a copy of such statement with the court, the state board of health and the governing bodies of all cities, villages and towns having territory in such district. [*Stats. 1945 s. 66.20 (9); 1947 c. 362*]

66.204 Sewage district; plans, construction, maintenance, operation. (1) The commissioners shall project, plan, construct and maintain in such district intercepting and other main sewers for the collection and transmission of house, industrial and other sewage to a site or sites for disposal selected by them, such sewers to be sufficient, in the judgment of the commissioners, to care for such sewage of the territory included in such district. The commissioners shall project, plan, construct and operate sewage disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district. The commissioners shall also project, plan, construct and maintain intercepting and other main sewers for the collection and disposal of storm water which shall be separate from the sanitary sewerage system.

(2) Except as provided in this section the commissioners shall have the powers and proceed as a common council and board of public works in cities in carrying out the provisions of subsection (1). [*Stats. 1945 s. 66.20 (10); 1947 c. 362*]

66.205 Sewage district; additions. (1) If at any time the commissioners think it desirable to or are petitioned to include other territory in the district, a court proceeding similar to that for the creation of the original district shall be followed, such court proceeding, however, to be only upon the territory to be added and shall in no way affect the

original district. A petition signed by the commissioners shall be deemed sufficient to start proceedings for the annexation of territory to the district.

(2) The commissioners may employ and fix compensation for a chief engineer and assistants, clerks, employes and laborers, or do such other things as may be necessary for the due and proper execution of their duties. In their discretion, the commissioners may employ the chief engineer, agents or employes of any municipality included wholly or partly in the district, as its engineers, agents or employes.

(3) The commissioners or their agents shall have access to all sewerage records of any municipality in the district, and shall require all such municipalities to submit plans of existing systems and proposed extensions. The district shall file with the clerk or other authorized official of each city, village or town having territory within the district a copy of all plans of works to be constructed by the district within such municipality. The district shall also file with each such clerk or other official a copy of all plans of sections of works without the municipality to which the sewerage facilities of such municipality must be connected.

(4) The commissioners or their agents may enter upon the land in any city, village and town in said district for the purpose of making surveys or examinations in the performance of these duties.

(5) The district may enter upon any state, county or municipal street, road or alley, or any public highway within said district for the purpose of installing, maintaining and operating the sewerage system provided for in sections 66.20 to 66.209, and it may construct in any such street, road or alley or public highway, a main sewer, intercepting sewer or any appurtenance thereof, without a permit or a payment of a charge. Whenever such work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and said highway shall be restored to as good condition as existed before the commencement of such work, and all costs incident thereto shall be borne by the district.

(6) The district shall have power to lay or construct and to forever maintain, without compensation to the state, any part of said system of sewerage, or of its works, or appurtenances, 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, and if the same be deemed advisable by the commission, the proper officers of the state are authorized and directed upon the application of the commission to execute, acknowledge and deliver to the commission such easements, or other grants, as may be proper for the purpose of fully carrying out the provisions of sections 66.20 to 66.209.

(7) Whenever necessary in order to promote the best results from the construction, operation and maintenance of the systems provided for in sections 66.20 to 66.209, and to prevent damage to the same from misuse, the commission may make, promulgate and enforce such reasonable rules and regulations for the supervision, protection, management and use of said system as it may deem expedient, and such regulations shall prescribe the manner in which connections to main sewers and intercepting sewers shall be made, and may prohibit discharge into such sewers, of any liquid or solid waste deemed detrimental to the sewerage system herein provided for.

(8) The district may acquire by gift, purchase, lease or other like methods of acquisition or by condemnation, any land or property situated in said district, and all tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, or in any interest, franchise, easement, right or privilege therein, which may be required for the purpose of projecting, planning, constructing and maintaining said main sewers, or any part or parts thereof, or that may be needed for the workings of said sewers when established, and so often as resort shall be had to condemnation proceeding, the procedure shall be that provided for by chapter 32, except that the powers therein granted shall be exercised by and in the name of said district in the place and instead of the county board. Furthermore, land or property may be acquired outside of said district for the purposes of sections 66.20 to 66.209.

(9) Before any city, village or town or any person, firm or corporation connects with or uses any main or intercepting sewer it shall obtain the permission of the commission. Prior to permitting such connection the commission shall investigate or cause to be investigated the sewer system for which such connection is requested and if found in a satisfactory condition such connection shall be permitted. Should such system be found defective in operation, construction, design or supervision the commission shall notify the governing body of the city, village or town, or the person, firm or corporation having such system, what alterations, new constructions or change in supervision or operation it

shall require, and such connection shall not be permitted until all such requirements have been made.

(10) Nothing in sections 66.20 to 66.209 shall be construed as restricting or interfering with any powers of the state board of health as provided by law.

(11) Lands used for agricultural purposes within any such district shall not be subject to assessment under the provisions of sections 66.20 to 66.209, but as soon as such use ceases such lands shall be subject to assessment for benefits in the manner herein provided. [*Stats. 1945 s. 66.20 (11); 1947 c. 362*]

66.206 **Sewage district; special assessments.** (1) The commissioners of any such district are authorized to make a special assessment against property which is served by an intercepting sewer, or main sewer, and may make such assessment at any time after the commissioners shall determine by resolution recorded in the minutes of its meeting to construct such intercepting or main sewer, and either before or after the work of constructing such sewer is done.

(2) The commissioners shall view the premises and determine the amount properly assessable against each parcel of land pursuant to the provisions of 62.18 (9) of the statutes, and shall make and file, in their office, a report and schedule of the assessment so made, and shall file a duplicate copy of such report and schedule in the office of the clerk of the town, village or city wherein such land is situated.

(3) Notice shall be given by the commissioners that such report and schedule is on file in their office and in the office of the clerk of the town, village or city wherein such land is situated, and will so continue for a period of 10 days after the date of such notice; that on the date named therein, which shall not be more than 3 days after the expiration of said 10 days, said commission will be in session at their office, the location of which shall be specified in said notice, to hear all objections that may be made to such report.

(4) Such notice shall be published in the official newspaper of the district, and posted in 3 public places in the town, city or village wherein the land against which such assessment shall have been made is situated.

(5) No irregularity in the form of such report, nor of such notice, shall affect its validity if it fairly contains the information required to be conveyed thereby.

(6) At the time specified for hearing objections to said report, the commissioners shall hear all parties interested who may appear for that purpose, and shall proceed in the manner provided in section 62.16 (6) (f) and (g), and for that purpose shall possess the power by said paragraphs conferred upon the board of public works.

(7) The commissioners may at such meeting, or at an adjourned meeting, confirm or correct such report, and when such report shall have been so confirmed or corrected, it shall constitute and be the final report and assessment of benefits against such lands.

(8) When such final determination shall have been reached by the commissioners, the secretary thereof shall publish notice in the official paper of the district, once in each week for 2 successive weeks, that a final determination has been made as to the amounts assessed against each parcel of real estate.

(9) If the owner of any parcel of real estate affected by such determination and assessments feels himself aggrieved thereby, he may, within 20 days after the date of such determination, appeal to the circuit court of the county in which his land is situate, and the provisions of section 62.16 (6) (k) and (l) shall apply to and govern such appeal; provided, however, that the notice therein required to be served upon the city clerk shall be served upon the secretary of the commission, and the bond therein provided for shall be approved by the secretary of said commission, and the duties therein devolving upon the clerk shall be performed by the secretary of the commission.

(10) The commissioners of any such district may provide that such special assessment may be paid in annual instalments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said instalments shall have been determined, issue special improvement bonds payable only out of such special assessment, and the provisions of section 62.21 or 66.54 of the statutes shall apply to and govern the instalment payments and the issuance of said bonds, including the provisions of said section 62.21 of the statutes relating to the matter of handling and collecting delinquent special assessments, except that the assessment notice shall be substantially in the following form:

INSTALMENT 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 therefor has been determined as to each parcel of real estate benefited thereby, and a statement of the same is on file

with the secretary of the district; that it is proposed to collect the same in .... instalments, as provided by section 62.21 or 66.54 of the statutes, with interest thereon at .... per centum per annum; that all assessments will be collected in instalments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the secretary of the commission a statement in writing that they elect to pay in one instalment, in which case the amount of the instalment shall be placed upon the next ensuing tax roll.

(11) Said instalment assessment notice shall be published in the official paper of the district, and posted in 3 public places in the town, city or village wherein the lands against which such special assessment shall have been made, are situate.

(12) The commissioners of such district shall, on or before the first day of October in each year, certify in writing to the clerks of the several cities, towns or villages, the amount of the special assessment against lands located in their respective city, town or village for the ensuing year, and upon receipt of such certificate the clerk of each such city, town or village shall forthwith place the same on the tax roll to be collected as other taxes and assessments are collected, and such moneys when collected shall be paid to the treasurer of such district. The provisions of law applicable to the collection of delinquent taxes upon real estate, including sale of lands for nonpayment of taxes, shall apply to and govern the collection of said special assessments, and also shall apply to and govern the collection of general taxes levied by the commissioners of any such district.

(13) The provisions of the statutes relating to reassessments shall be applicable to assessments made under the provisions of this section. [*Stats. 1945 s. 66.20 (12); 1947 c. 362*]

66.207 Sewage district; taxation. (1) The commissioners of such district are authorized to levy, on or before the first day of October in each year, a tax upon all the taxable property in the district for the purpose of carrying out the provisions and performing duties under sections 66.20 to 66.209, provided that the amount of any such tax in excess of that required for maintenance and operation and for principal and interest on bonds shall not exceed, in any one year, one mill for each dollar of the assessed valuation of the taxable property in the district, and shall certify in writing to the clerks of the several cities, villages and towns having territory in such district, the total amount of tax assessed against the taxable property in each such municipality lying in whole or in part within the district.

(2) Upon receipt of such report the clerk of each such city, town or village shall forthwith place the same upon the tax roll to be collected as other taxes, and such moneys when collected shall be paid to the treasurer of such district. [*Stats. 1945 s. 66.20 (13); 1947 c. 362*]

66.208 Sewage district; compensation for existing sewers; service charges to state, county or municipality. (1) EXISTING SEWERS TAKEN, COMPENSATION. Should any existing sewer or sewerage disposal plant be taken over by the district, the value of the same shall be agreed upon by the commissioners and the governing body of the municipality owning such sewer or sewerage disposal plant, and such value after approval by the public service commission shall be credited to such municipality. Should the commissioners and governing body of said municipality be unable to agree upon a value, the value shall be determined by and fixed by the public service commission of Wisconsin after a hearing to be had upon application by either party, and upon reasonable notice to the other party, to be fixed and served as said public service commission shall prescribe.

(2) SERVICE CHARGES TO STATE, COUNTY OR MUNICIPALITY. (a) Any such district which shall have constructed, taken over or otherwise acquired a plant for the treatment or disposal of sewage, may charge to the state or county or to any municipality the cost of service rendered thereto by such district in treating or otherwise disposing of sewage at any such plant which is received from any state institution not located within the limits of a city or county institution or premises, or which is collected within the limits of such municipality, and may likewise charge to the state, county or municipality the cost of service rendered to any such state institution, county or municipality in the carrying or transmission of sewage through the sewers of said district, and charge for any other similar service so rendered. The cost of such service shall, in the first instance, be determined and fixed by the commissioners of the district, and shall be paid monthly or annually or at the end of such other periods of time as the said commissioners shall determine; and the municipality or governing body of the institution shall be notified in writing of the amount of the cost of such service, and of the time of payment thereof, by delivering a written statement of the same to the clerk of such municipality, or to said governing body.

(b) If the governing body of such state or county institution or premises, or of the municipality shall not be satisfied with the amount of the cost as fixed by the commis-

sioners, they may, within 30 days, apply to the public service commission, upon reasonable notice to be given to the commissioners of the sewerage district, to be fixed by the public service commission by service on the secretary of the commissioners of the sewerage district, and said public service commission shall, upon hearing, determine and fix the proper amount of the cost of such service.

(c) The state, county or municipality shall pay the amount of the cost of such service to the treasurer of the district from time to time, as shall be fixed and determined by the commissioners of the district, unless the municipality, state or county shall have appealed to the public service commission, in which case payment shall be made within 30 days after the determination of the proper amount by the public service commission, and thereafter from time to time as shall be fixed and determined by the commissioners of the district.

(d) Any municipality making any such payments to any such district, shall have authority to assess the same as a special tax against lands in such municipality which are specially benefited by any such service, or any such municipality may pay the same out of its general fund. [*Stats. 1945 s. 66.20 (14), (15); 1947 c. 362*]

66.209 Sewage district; application of other laws; retirement; election. (1) Sections 59.96 (6) (h) and 66.076 (1), (2) and (4) shall apply to districts organized and existing under sections 66.20 to 66.209.

(2) Any metropolitan sewerage district, by an affirmative vote of the 3 commissioners thereof, may elect to be included in, and be subject to, the provisions of the Wisconsin municipal retirement fund established by sections 66.90 to 66.919. [*Stats. 1945 s. 66.20 (16), (17); 1947 c. 362, 445, 614*]

66.21 Special assessments against railroad for street improvement. (1) Whenever any city or village in this state shall cause any street, alley or public highway within its corporate limits to be improved by grading, curbing, paving or otherwise improving the same, where the cost of such improvement, or a part thereof, shall be assessed against abutting property, and such street, alley or public highway is crossed by the track or tracks of any railroad, operated in whole or in part by steam power, and engaged as a common carrier, the common council or board of public works of such city, or the trustees of such village shall at any time after the completion and acceptance of such improvement by the municipality, cause to be filed with the local agent of the railroad corporation operating such railroad, a statement showing the amount chargeable to such railroad corporation for such improvement, which shall be an amount equal to the cost of constructing said improvement along said street, alley or public highway immediately in front of and abutting its right of way on each side of said 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 said improvement.

(2) The amount so charged against any railroad corporation for improving the street, fronting or abutting its right of way, shall not exceed the average amount per front foot assessed against the remainder of the property fronting or abutting on said street, alley or public highway so improved. The amount arrived at as above set forth and contained in said statement, shall be due and payable by said railroad corporation to the said municipality, causing the same to be filed within thirty days of the date when the same shall be presented to the local representative of said railroad corporation.

66.22 Action to recover assessment. In case any railroad corporation shall fail or refuse to pay to any city or village the amount set forth in any such statement or claim for the making of street improvements, as provided in the preceding section, within the time therein specified, said city or village shall have a valid claim for such amount against said railroad corporation, and may maintain an action therefor in any circuit court within this state to recover the same.

66.23 Improvement of streets by abutting railroad company. Whenever the track or tracks of any railroad, operated in whole or in part by steam power, shall be laid upon or along any street, alley or public highway within any city or village, the corporation operating such railroad or railroads shall maintain and improve such portion of the length of the street as is occupied by its tracks; and said railroad corporation shall grade, pave or otherwise improve such street or portion thereof in such manner and with such materials as the common council of such city, or the village board may by resolution or ordinance determine; provided, however, that the total cost of such improvement shall not exceed three dollars per square yard, and that said railroad corporation shall not be required to pave or improve that portion of said street, alley or public highway occupied by it with different material or in a different manner from that in which the remainder of said street is paved or improved.

66.24 Notice to railroad company; time for construction. (1) When any city or village shall have ordered any street, alley or public highway to be paved, graded, curbed

or improved, as provided in the preceding section, the clerk of such city or village shall cause to be served upon the local agent of such railroad corporation, a notice setting forth the action taken by such city or village relative to the improvement of such street.

(2) If the railroad corporation shall elect to construct said street improvement, it shall within ten days of the receipt of said notice from the clerk of such city or village, file with said clerk notice of its intention to construct said street improvement, and it shall be allowed until the thirtieth day of June thereafter to complete said work, unless said work is ordered after May twentieth of any year, and in that case said railroad corporation shall be allowed forty days from the time the clerk of the municipality presents the notice to the railroad agent, in which to complete said work.

66.25 Construction by municipality; assessment of cost. (1) Whenever any city or village shall order any street, alley or public highway improved, as provided in section 66.23, and notice shall be served on said railroad corporation, as provided in section 66.24, and said railroad corporation shall not elect to construct said improvement as therein provided, or having elected to construct said improvement, shall fail to construct the same within the time provided in section 66.24 the city or village shall at once proceed to let a contract for the construction of said improvement, and cause said street to be improved as theretofore determined, and when said improvement shall be completed and accepted by the city or village, the clerk of said city or village shall present to the local agent of said railroad corporation a statement of the cost of said improvement, and said railroad corporation shall within twenty days of such receipt thereof pay to the treasurer of such city or village the amount as shown by such statement of cost presented as aforesaid; provided, that the railroad corporation shall not be liable to pay for paving, grading or otherwise improving a street, more than three dollars per square yard for pavement or other improvement actually constructed.

(2) In case any railroad corporation shall fail to pay the cost of constructing any pavement or other street improvement as herein provided, the city or village causing the same to be constructed shall have the right to enforce collection of such amount by an action at law against said railroad corporation as provided in section 66.22.

66.26 Effect of sections 66.21 to 66.25, inclusive. Sections 66.21 to 66.25, inclusive, shall not operate to repeal any existing law, but shall provide a method of compelling a railroad corporation to pay its proportionate share of street, alley or public highway improvements in case any city or village shall elect to follow the provisions thereof.

66.27 Forestry land, local acquisition. Any city, village, town, or school district of the state may acquire and own lands for forestry purposes, either within or without the territorial limits of such municipality, and may carry on forestry on such lands, and appropriate, raise and expend money for such purposes.

66.28 Municipal sale of abandoned property. Cities and villages may, at a public auction to be held once a year, dispose of any personal property which shall have been abandoned, or shall have remained unclaimed for a period of thirty days after the taking of possession of the same by the city or village officers. All receipts from such sales, after deducting the necessary expenses of keeping such property and conducting such auction, shall be paid into the city or village treasury.

Note: Automobile taken into possession for city police because of fictitious licensing and stored in sheriff's garage may be sold by city under this section. 26 Atty. Gen. 456.

66.29 Public works, contracts, bids. (1) DEFINITIONS. (a) The word "person" as used in this section shall mean and include any and every individual, copartnership, association, corporation or joint stock company, lessee, trustee or receiver.

(b) The term "municipality" shall mean and include the state and any county, town, city, village, school district, board of school directors, sewer district, drainage district, or any 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.

(c) The term "public contract" shall mean and include any contract for the construction, execution, repair, remodeling, improvement of any public work, building, furnishing of supplies, material of any kind whatsoever, proposals for which are required to be advertised for by law.

(2) BIDDER'S PROOF OF RESPONSIBILITY. Upon all public contracts, by any municipality, board or other public body, every public officer charged with the duty of receiving bids for and awarding of any contract, may within its discretion before delivering any form for bid proposals pertaining thereto to any person, require such person to submit a full and complete statement sworn to before an officer authorized by law to administer oaths, of financial ability, equipment, experience in the work prescribed in said public contract, and of such other matters as the municipality, board, public body or officer

thereof may require for the protection and welfare of the public in the performance of any public contract; and such statement shall be in writing on a standard form of a questionnaire as adopted for such use by the municipality, board or public body or officer thereof, to be furnished by such municipality, board, public body or officer thereof, and shall be filed in the manner and place designated by the municipality, board, public body or such officer thereof, not less than five days prior to the time set for opening of bids. The contents of said statements shall be confidential and shall not be disclosed except upon written order of such person furnishing the same, or in cases of actions against, or by such person or municipality.

(3) PROOF OF RESPONSIBILITY, CONDITION PRECEDENT. No bid shall be received from any person who has not submitted the sworn statement as provided in the preceding sections, provided that any prospective bidder who has once qualified to the satisfaction of the municipality, board, public body or officer, and who wishes to become a bidder upon subsequent public contracts under the jurisdiction of the same, to whose satisfaction the prospective bidder has qualified under the provision of the preceding section, need not separately qualify on each public contract unless required so to do by the said municipality, board, public body or officers.

(4) REJECTION OF BIDS. Whenever the municipality, board, public body or officer is not satisfied with the sufficiency of the answer contained in the questionnaire and financial statement, it may reject said bid, or disregard the same.

(5) CORRECTIONS OF ERRORS IN BIDS. Whenever any person shall submit a bid or proposal for the performance of public work under any public contract to be let by the municipality, board, public body or officer thereof, who shall claim mistake, omission or error in preparing his bid, the said person shall, before the bids are opened, make known the fact that he has made an error, omission or mistake, and in such case his bid shall be returned to him unopened and the said person shall not be entitled to bid upon the contract at hand unless the same is readvertised and relet upon such advertisement. In case any such person shall make an error or omission or mistake and shall discover the same after the bids are opened, he shall immediately and without delay give written notice and make known the fact of such mistake, omission or error which has been committed and submit to the municipality, board, public body or officers thereof, clear and satisfactory evidence of such mistake, omission or error and that the same was not caused by any careless act or omission on his part in the exercise of ordinary care in examining the plans, specifications, and conforming with the provisions of this section, and in case of forfeiture, shall not be entitled to recover the moneys or certified check forfeited as liquidated damages unless he shall prove 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 he was free from carelessness, negligence or inexcusable neglect.

(6) The municipality, board, public body or officer shall have the power to set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character, and classification of workmen to be employed by any contractor, and to classify such contractors as to their financial responsibilty, competency, and ability to perform work and to set up a classified list of contractors pursuant thereto; and such municipality, board, public body or officer thereof shall further have the power to reject the bid of any person, if such person has not been classified pursuant to the said questionnaire for the kind or amount of work in said bid. Whenever such municipality, board, public body or officer shall contemplate the letting of any public contract, pursuant to the provisions of this section, the advertisement for proposals for the doing of the same shall expressly state in effect that the letting is made subject to the provisions of this section and that such municipality, board or public body or officer reserves and has the right to reject any and all bids at any time.

(7) On all contracts the bidder shall incorporate and make a part of his proposal for the doing of any work or labor or the furnishing of any material in or about any public work or contract of the municipality a sworn statement by himself, or if not an individual by one authorized, that he has examined and carefully prepared said proposal from the plans and specifications and has checked the same in detail before submitting said proposal or bid to the municipality, board, department, or officer charged with the letting of bids, and also at the same time as a part of said proposal, submit a full and complete list of all the proposed subcontractors and the class of work to be performed by each, which list shall not be added to nor altered without the written consent of the municipality.

(8) Whenever there is a dispute between the contractor or surety or the municipality as to the determination whether there is a compliance with the provisions of the contract as to the hours of labor, wages, residence, character, and classification of workmen employed by any contractor, the determination of the municipality shall be final, and in case

of violation of said provisions, the municipality may declare the contract in default and request the surety to perform or relet upon advertisement the remaining portion of the contract. [*1933 c. 395; 1935 c. 139; 1939 c. 283; 1945 c. 207*]

Note: The instant bidder, showing the village board his final-estimate sheet, which showed on its face that his mistake of $6,000 in the bid submitted by him occurred because of erroneously setting down on the estimate sheet a "0" for a "6" in the thousand space of the total of a column of figures representing the cost of materials for the work, and explaining that the mistake in the entry on the estimate sheet occurred because the ribbon in his adding machine was worn and gave the figure "6" in the adding-machine slip the appearance of a "0", satisfied the requirement of (5), that a bidder making a mistake in his bid shall submit to the municipality clear and satisfactory evidence of such mistake and that it was not caused by his carelessness in examining the plans and specifications. Krasin v. Almond, 233 W 513, 290 NW 152.

The public policy which insists on competition between bidders for public work and dictates that contracts shall be let to the lowest responsible bidder is violated when prospective bidders enter into an arrangement to exact from each other a percentage of the amount of each contract secured during a given year, and the law casts out as illegal an arrangement to hamper competitive bidding when so limited and so described. Associated Wisconsin Contractors v. Lathers, 235 W 14, 291 NW 770.

Construction work by state agencies is not required by this section to be advertised for bids in the absence of other statutory provision imposing such requirement. 35 Atty. Gen. 84.

66.295 Authority to pay for public works done in good faith. (1) Whenever any city of whatever class, however incorporated, shall have received and shall have enjoyed or shall be enjoying any benefits or improvements furnished under any contract which shall have been heretofore declared as imposing no legal obligation on any such city and which contract was entered into in good faith and has been fully performed and the work has been accepted by the proper city officials, so as to impose a moral obligation upon such city to pay therefor, such city, by resolution of its common council and in consideration of such moral obligation, may pay to the person furnishing such benefits or improvements the fair and reasonable value of such benefits and improvements.

(2) The fair and reasonable value of such benefits and improvements and the funds out of which payment therefor shall be made shall be determined by the common council of such city. Such payments may be made out of any available funds, and said common council shall have authority, if necessary, to levy and collect taxes in sufficient amount to meet such payments.

(3) Where payment for any benefits or improvements mentioned in subsections (1) and (2) of this section shall be authorized by the common council of any city and where special assessments shall have been levied for any portion of such benefits or improvements prior to the authorization of such payment, the city authorities shall proceed to make a new assessment of benefits and damages in the manner provided for the original assessment, except that steps required in the laws relating to the original assessment to be taken prior to the ordering or doing of such benefits or improvements may be taken after the authorization of such payment with the same effect as if taken prior to the ordering or doing of such benefits or improvements. The owner of any property affected by such reassessment may appeal therefrom in the same manner as from an original assessment. On such reassessment full credit shall be given for all moneys collected under an original assessment for such benefits and improvements. [*1941 c. 272*]

Note: The provision in 66.295 (3), Stats. 1941, that where payment for any benefits or improvements mentioned in (1), permitting the recognition of a moral obligation to pay arising out of a prior void contract, is authorized by the common council of any city and where special assessments have been levied for any portions of such benefits or improvements prior to the authorization of such payment, the city authorities shall proceed to make a new assessment of benefits and damages, etc. is an authorization supplementary to the instances in which special assessments are authorized to be made by 62.15 and 62.16, and such provision in (3) is valid. State ex rel. Federal Paving Corp. v. Prudisch, 241 W 59, 4 (2d) NW 144.

66.299 Intergovernmental purchases without bids. Notwithstanding any statute requiring bids for public purchases, any city, village, town, county or other local unit of government may make purchases from another unit of government, including the state or federal government, without the intervention of bids. [*1945 c. 108*]

66.30 [*Renumbered section 66.029 by 1937 c. 432 s. 2*]

66.30 Local co-operation. Any city, village, town, county or school district may, by action of the governing body thereof, enter into an agreement with any other such governmental unit for the joint or co-operative exercise of any power or duty required or authorized by statute, and as part of such agreement may provide a plan for prorating any expenditures involved. [*1939 c. 210*]

66.31 Arrests. Any peace officer of a city, village or town may, when in fresh pursuit, follow into an adjoining city, village or town and arrest any person or persons for violation of state law or of the ordinances of the city, village or town employing such officer. [*1937 c. 432*]

66.315 Peace officers; compensation when acting outside own municipality. (1) Any chief of police or other peace officer of any city, village or town, who shall be required

by command of the governor, sheriff or other superior authority to maintain the peace or to perform police or peace duties outside territorial limits of the city, village or town where employed as such officer, shall be entitled to the same wage, salary, pension, workmen's compensation, and all other service rights for such service as for service rendered within the limits of the city, village or town where regularly employed.

(2) All wage and disability payments, pension and workmen's compensation claims, damage to equipment and clothing, and medical expense, shall be paid by the city, village or town regularly employing such peace officer. Upon making such payment such city, 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. [*1947 c. 380*]

66.32 Extraterritorial powers. The extraterritorial powers granted to cities and villages by statute, including sections 62.23 (2), 66.052, 146.10 and section 236.06, shall not be exercised within the corporate limits of another city or village. Wherever such statutory extraterritorial powers shall overlap, the jurisdiction over said overlapping area shall be equally divided between the municipalities concerned at the respective mid-points so that not more than one municipality shall exercise such power over any area. [*1937 c. 432; 1947 c. 362*]

66.33 Appropriations for Wisconsin Works Progress Administration Projects; validation of appropriations heretofore made. (1) The governing body of any county, town, city or village at any legal meeting is empowered to appropriate an amount of money for the carrying out of any projects which are eligible under the Wisconsin Works Progress Administration. The amount of money appropriated for such purposes shall not in any one year exceed one-half of one per cent of the total valuation of the taxable property in the municipality in the preceding year. The appropriation made under the provisions of this section shall not be subject to any provisions of the statutes relating to tax limitations.

(2) Any appropriation heretofore made by any county, town, city or village for any eligible project under the Wisconsin Works Progress Administration is hereby legalized and validated the same as if specific authority existed therefor. [*1935 c. 476*]

66.35 License for closing-out sales. (1) No person shall conduct in any city a "closing-out sale" of merchandise except in the manner hereinafter provided or in the manner provided by ordinance of such city. Every person shall obtain a city license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other cause, or that for any reason is forced to dispose of stock on hand. Such license is denominated a "closing-out sale license" and such sale a "closing-out sale." Such license must be obtained in advance if such advertisement or representation, expressed or implied, tends to lead people to believe that such sale is a selling out or closing-out sale.

(2) Every person requiring a "closing-out sale license" shall make an application in writing to the city clerk in the form provided by said clerk and attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale and shall have attached thereto an affidavit by the applicant or his duly authorized agent, that the inventory is true and correct to the knowledge of the person making such affidavit. Said affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise. Said inventory shall contain the cost price of the respective articles enumerated therein, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said merchandise and the circumstances of the purchase. Said application shall further specify the name and address of the applicant, and, if an agent, the person for whom he is acting as an agent, the place at which said sale is to be conducted and the time during which the proposed sale is to continue. The license shall specify the period for which it is granted, which time shall not exceed sixty successive days, Sundays and legal holidays excepted, from the date of the license.

(3) The time during which a sale may be conducted may be extended by the mayor if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant shall be filed by said licensee with the mayor. Said application shall state the amount of merchandise, listed in the original inventory, which has been sold and the amount which still remains for sale and shall state the time for which

an extension is requested. No extension shall be granted if any merchandise has been added to the stock, listed in the inventory, since the date of the license, and the applicant shall satisfy the mayor by affidavit or otherwise, as directed by him, that no merchandise has been added to the said stock since the date of the issuance of the license. The mayor may grant or deny the application and if granted the period of the extension shall be determined by said mayor, but shall not exceed thirty days from the expiration of the original license. If said extension is granted, the same shall be issued by the mayor of said city upon the payment of an additional license fee of twenty-five dollars per day for the time during which it is granted.

(4) It shall be unlawful to sell, offer or expose for sale, at any sale for which a license is required by this section, any merchandise not listed in the inventory, required by subsection (2), except that any merchant may, in the regular course of business, conduct a closing-out sale of merchandise and at the same time sell other merchandise, if the merchandise for the sale of which a license is required shall be distinguished by a tag or otherwise so that said merchandise of said class is readily ascertainable to prospective purchasers, and shall not label or tag other merchandise in a manner to indicate to, or lead, a prospective purchaser to believe that said merchandise is of the class or classes for which a license is required. Each article sold in violation of the provisions hereof, shall constitute a separate offense, and any false or misleading statement in said inventory, application or extension application shall constitute a violation of this section.

(5) The city clerk shall verify the details of such inventory as filed in connection with an application for such license and shall also verify the items of merchandise sold during any sale under said license, and it shall be unlawful for any licensee to refuse to furnish on demand to the city clerk, or any person designated by him for that purpose, all the facts connected with the stock on hand or any other information that he may reasonably require in order to make a thorough investigation of all phases of said sale, so far as they relate to the rights of the public.

(6) The fee for such licenses shall be, and the same is hereby fixed, as follows:

For a period not exceeding fifteen days, twenty-five dollars;

For a period not exceeding thirty days, fifty dollars;

For a period not exceeding sixty days, seventy-five dollars;

And a further fee of one dollar per thousand dollars of the price set forth on the inventory.

(7) This section shall not apply to sales by public officers or sales under judicial process.

(8) The city clerk shall on June first and December first of each year pay into the state treasury, twenty-five per cent of all license fees collected under this section. Provided that the provisions of this subsection shall not apply to license fees collected under the provisions of any closing-out sale ordinance of such city.

(9) Any person violating this section shall, for each violation, forfeit not less than $25 nor more than $200. [*1933 c. 219; 1935 c. 550 s. 389; 1943 c. 317; 1947 c. 483*]

Note: License must be obtained to conduct closing-out sale where person has lost his lease and is compelled to move into new location across street and advertise to sell his goods, or part thereof. 22 Atty. Gen. 673.

Municipality under (1) may pass ordinance that supplements statute, but may not pass ordinance in conflict therewith. Where terms of ordinance are less severe in requirements than terms of statute, statute controls. 27 Atty. Gen. 336.

Merchant selling out seasonable merchandise at close of season, is not required to obtain license for "closing-out" sale. 28 Atty. Gen. 471.

66.39 Veterans' housing authorities. (1) VETERANS' HOUSING RESEARCH AND STUDIES. In addition to all the other powers, any housing authority created under sections 66.40 to 66.409 may, within its area of operation, either by itself or in co-operation with the Wisconsin veterans' housing authority, undertake and carry out studies and analyses of veterans' housing needs and of the meeting of such needs and make the results of such studies available to the public and the building, housing and supply industries.

(2) CREATION OF COUNTY VETERANS' HOUSING AUTHORITIES. (a) In each county of the state there is hereby created a public body corporate and politic to be known as the "Veterans' Housing Authority of .... County", (Name of County) hereafter called "county authority"; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the board of supervisors, hereafter called the "governing body", of such county, by proper resolution, shall determine at any time hereafter that there is need for a veterans' housing authority to function in such county. The governing body shall give consideration as to the need for a veterans' housing authority (1) on its own motion or (2) upon the filing of a petition signed by 25 resident veterans of the county asserting that there is need for a veterans' housing authority to function in such county and requesting that its governing body so declare.

(b) The governing body may adopt a resolution declaring that there is need for a veterans' housing authority in the county whenever it shall find that (1) there is a short-

age of safe or sanitary dwelling accommodations for veterans in such county, (2) that such shortage will not be alleviated within a reasonable length of time without the functioning of a veterans' housing authority.

(3) AREA OF OPERATION. The area of operation of the county authority shall include all of the county for which it is created.

(4) PROOF OF POWERS TO ACT. In any suit, action or proceedings involving the validity or enforcement of or relating to any contract of a county authority, such authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of the resolution required by subsection (2) declaring the need for such authority. Each such resolution shall be deemed sufficient if it declares that there is such need for such authority. A copy of such resolution duly certified by the county clerk shall be admissible in evidence in any such action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the governing body of a county adopts a resolution creating a county veterans' housing authority, said body shall appoint 5 person as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years, except that all vacancies shall be filled for the unexpired term, such appointments to be made by the official body making the original appointment. A commissioner may be removed by the body which appointed him by a two-thirds vote of all of the members elected to that body. Commissioners shall be reimbursed for their reasonable expenses incurred in the discharge of their duties. No such commissioner or employe of the authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any veterans' housing project. If any commissioner or employe of the authority owns or controls an interest direct or indirect in any property included or planned to be included in any veterans' housing project he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

(b) The powers of the county authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners of such an authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by a county authority upon a vote of a majority of the commissioners. Meetings of the commissioners of a county authority may be held anywhere within the county.

(c) At the first meeting of the commissioners after their appointment, they shall select one of their members as chairman and one as secretary. The county treasurer shall be the treasurer of the board and his official bond as county treasurer shall extend to cover funds of the authority that may be placed in his charge. He shall disburse money of the authority only upon direction of the commissioners. The county treasurer shall receive no compensation for his services, but he shall be entitled to necessary expenses, including traveling expenses incurred in the discharge of his duties as treasurer of the board. When the office of chairman or secretary of the commissioners becomes vacant for any reason, the commissioners shall select a new chairman or secretary as the case may be. The commissioners may employ technical experts, and such other officers, agents and employes, permanent or temporary, as it may require, and may call upon the district attorney of the county for such legal services as it may require.

(6) ADVANCES BY MUNICIPALITIES TO COUNTY VETERANS' HOUSING AUTHORITIES. The county, or any village, town or city within the county, shall have the power, from time to time, to lend or donate money to the county authority. Any such advance made as a loan may be made upon the condition that the housing authority shall repay the loan out of any money which becomes available to it for the construction of projects.

(7) POWERS OF COUNTY VETERANS' HOUSING AUTHORITIES. Each county veterans' housing authority and the commissioners thereof shall, within its area of operation, have the following functions, rights, powers, duties, privileges, immunities and limitations:

(a) To provide for the construction, reconstruction, improvement, alteration or repair of any veterans' housing project or any part thereof.

(b) To purchase, lease, obtain options upon and acquire by gift, grant, bequest, devise or otherwise, any real or personal property or interest therein.

(c) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a veterans' housing project, or the occupants thereof.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any veterans' housing project and, subject to the limitations contained in sections 66.39 to 66.404, to establish and revise the rents or charges therefor.

(da) To contract for sale and to sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(e) To acquire by eminent domain any real property, including improvements and fixtures thereon.

(f) To own, hold, clear and improve property, cause property to be surveyed and platted in its name; to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable.

(g) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(h) 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.

(i) To sue and be sued, to have a seal and to alter the same at its pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(j) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.39 to 66.404, to carry into effect the powers and purposes of the authority.

(l) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(m) The bonds, notes, debentures or other evidences of indebtedness executed by an authority shall not be a debt or charge against any county, state or other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this section, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have the power to levy any tax or assessment. Provided, however, that for income tax purposes such bonds, notes, debentures or other evidences of indebtedness shall be deemed obligations of a political subdivision of this state.

(8) Law applicable. So far as applicable, and not inconsistent with this section, section 66.40 (10) to (21) and (24) shall apply to county veterans' housing authorities and to housing projects, bonds, other obligations and rights and remedies of obligees of such authorities, except that bonds of such authorities shall not bear interest in excess of 3 per cent per annum.

(9) Tax exemption on improvements. Veterans' housing improvements on property of an authority are declared to be public property and as long as the same remain under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), all such improvements shall be exempt from all taxes of the state or any state public body; all real estate owned by an authority shall be assessed at no higher value than it was assessed for the tax year next preceding the date on which any such real estate was acquired by the authority and this provision shall continue in force as long as said real estate is under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), provided, however, that the municipality in which a veterans' housing project is located may fix a sum to be paid annually for the services, improvements or facilities furnished to such project by such municipality which sum shall not exceed the amount of the tax which would be assessable against such improvements if they were not exempt from tax.

(10) Reports. Every authority which receives an allotment under section 20.02 (13) shall on or before February 15 in each year file with the Wisconsin veterans' housing authority a report of its activities for the preceding year in the form prescribed and on blanks furnished by the Wisconsin veterans' housing authority. The local authority shall at the same time file a duplicate of such report with the governing body of the sponsoring county or municipality.

(11) Operation not for profit. It is declared to be the policy of this state that each housing authority shall manage and operate its veterans' housing projects in an efficient manner so as to provide veterans with permanent housing at the lowest possible cost and that no housing authority shall construct or operate any such project for profit. With respect to single dwelling unit projects, any veteran who occupies a single dwelling

unit, so long as he occupies such unit, but only within the first 5 years after he begins his occupancy of the unit, shall have an option to purchase that unit at an amount not to exceed the total costs to the housing authority of the land on which said single dwelling unit is located, the improvements and the dwelling unit, less a proportionate amount for such allotment as may be received by the authority under section 20.02 (13) (a) and (b). The purchase contract shall be in such form and on such terms as may be prescribed by the Wisconsin veterans' housing authority. If said veteran occupant desires to exercise his option to purchase he shall notify the housing authority of his intention to exercise that option in writing and he shall be allowed a credit on said purchase price of an amount equal to that portion of the monthly rentals for said unit paid by him that has been credited to or expended for capital retirement or repayment of the principal amount of any mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring the land, improving the land, or constructing the dwelling unit. If said veteran occupant fails to exercise his option to purchase within the prescribed period, he shall continue his occupancy on a rental basis.

(12) MONTHLY COST OF OCCUPANCY BY A VETERAN. Each authority with respect to single dwelling unit veterans' housing projects shall, as soon as the total costs of each dwelling unit including land and improvements have been determined by it, set up a monthly cost of occupancy for said unit. Such cost shall include an amount not exceeding $6 per thousand for interest charges, mortgage insurance and capital retirement or repayment of the principal amount of mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring land, improving the land, or constructing the dwelling unit, and to such basic costs of occupancy may be added the monthly cost of municipal services as determined by the municipality and a reasonable amount for the costs of insurance, operation, maintenance and repair.

(13) TENANT SELECTION. All tenants selected for veterans' housing projects shall be honorably discharged veterans of wars of the United States of America. Selection between veterans shall be made in accordance with rules and regulations promulgated and adopted by the Wisconsin veterans' housing authority which regulation said state authority is authorized to make and from time to time change as it deems proper. Such rules and regulations, however, shall give veterans of World War II preference over veterans of all other wars. Notwithstanding such rules and regulations or any law to the contrary a veteran shall not be entitled to or be granted any benefits under sections 66.39 to 66.404 from a housing authority unless such veteran was at the time of his induction into military service a resident of the state of Wisconsin.

(14) VETERANS' HOUSING. Veterans' housing projects shall be submitted to the planning commission in the manner provided in section 66.404 (3).

(15) SEVERABILITY. Notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder thereof and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. [*1947 c. 362, 412, 614*]

[*66.40 Stats. 1945 renumbered sections 66.40 to 66.404 by 1947 c. 362*]

[*66.40 (45) to (59) as created by 1947 c. 412 renumbered section 66.39 by 1947 c. 362 s. 2*]

66.40 Housing authorities. (1) SHORT TITLE. Sections 66.40 to 66.404 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 such 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 such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions 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 clear, 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 such 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 hereinafter enacted, is declared as a matter of legislative determination.

(3) DEFINITIONS. The following terms, wherever used or referred to in sections 66.40 to 66.404 shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to subsection (4).

(b) "City" means any city. "The city" means the particular city for which a particular housing authority is created.

(c) "Council" means the council or other body charged with governing the city.

(d) "City clerk" and "mayor" shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor respectively.

(e) "Area of operation" includes the city for which a housing authority is created and the area within five miles of the territorial boundaries thereof but not beyond the county limits of the county in which such city is located and provided further that in the case of all cities the area of operation shall be limited to the area within the limits of such city unless the city shall annex the area of operation, but the area of operation of a housing authority shall not include any area which lies within the territorial boundaries of any city for which another housing authority is created by this section.

(f) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of sections 66.40 to 66.404.

(g) "Government" includes the state and federal governments and any subdivision, agency or instrumentality corporate or otherwise of either of them.

(h) "State" shall mean the state of Wisconsin.

(i) "Federal government" shall include the United States of America, the federal emergency administration of public works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(j) "Housing projects" shall include all real and personal property, building and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking (a) to demolish, clear, remove, alter or repair insanitary or unsafe housing, or (b) to provide safe and sanitary dwelling accommodations for persons of low income, or for a combination of said (a) and (b). The term "housing project" may also be applied to 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 work in connection therewith.

(k) "Community facilities" shall 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.

(l) "Bonds" shall mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to sections 66.40 to 66.404.

(m) "Mortgage" shall include 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 thereof.

(n) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(o) "Contract" shall mean 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.

(p) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(q) "Obligee of the authority" or "obligee" shall include 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 or assignees or such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(r) "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.

(s) "Persons of low income" means persons or families who lack the amount of income which is 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.

(t) "State public body" means any city, town, incorporated village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) CREATION OF HOUSING AUTHORITIES. (a) When the council of a city by proper resolution shall declare at any time hereafter 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. Such authority shall then be authorized to transact business and exercise any powers herein granted to it.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if it shall find that insanitary or unsafe inhabited dwelling accommodations exist in the city or that there is a shortage of safe or sanitary dwelling accommodations in the city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said 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 such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such 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 hereunder upon proof of the adoption of a resolution by the council declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the city clerk shall be admissible evidence in any suit, action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the council of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall, with the confirmation of the council, appoint five persons as commissioners of the authority. No commissioner may be connected in any official capacity with any political party nor shall more than two be officers of the city in which the authority is created. The powers of each authority shall be vested in the commissioners thereof in office from time to time.

(b) The commissioners who are first appointed shall be designated by the mayor to serve for terms of one, two, three, four and five years respectively from the date of their appointment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term in the same manner as other appointments. Three commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner if such commissioner has been duly confirmed as herein provided and has duly taken and filed the official oath before entering upon his office. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

(c) When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may call upon the city attorney or chief law officer of the city for such legal services as it may require. An authority may delegate to one or more of its agents or employes such powers or duties as it may deem proper.

(6) DUTY OF THE AUTHORITY AND COMMISSIONERS OF THE AUTHORITY. The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of sections 66.40 to 66.404 and the laws of the state and in

addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

(7) Interested commissioners or employes. No commissioner or employe of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any housing project. If any commissioner or employe of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute 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 shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the city clerk. To the extent applicable, the provisions of section 17.16 relating to removal for cause shall apply to any such removal.

(9) Powers of authority. An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections 66.40 to 66.404, including the following powers in addition to others herein granted:

(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 thereof.

(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 therein.

(c) To act as agent for any government in connection with the acquisition, construction, operation or management of a housing project or any part thereof.

(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 thereof.

(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 therefor.

(f) Within its area of operation to investigate into living, dwelling and housing conditions and into the means and methods of improving such 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 thereon.

(i) To own, hold, clear and improve property, to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable, to procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project.

(j) To contract for sale and sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(k) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(l) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by sections 66.40 to 66.404.

(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 contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(o) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.40 to 66.404, to carry into effect the powers and purposes of the authority.

(p) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(q) The bonds, notes, debentures or other evidences of indebtedness executed by a housing authority shall not be a debt or charge against any city, county, state or any other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this act, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have any power whatsoever to levy any tax or assessment.

(r) To provide by all means available under sections 66.40 to 66.404 housing projects for veterans and their families regardless of their income. Such projects shall not be subject to the limitations of section 66.402.

(10) EMINENT DOMAIN. (a) The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of sections 66.40 to 66.404 after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of chapter 32 or pursuant to any other applicable statutory provisions, now in force or hereafter enacted for the exercise of the power of eminent domain.

(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 said declaration of taking shall be sufficient as it sets forth: (1) a description of the property, sufficient for the identification thereof, to which there may be attached a plat or map thereof; (2) a statement of the estate or interest in said 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 said declaration of taking and the deposit in court to the use of the persons entitled thereto of the amount of the estimated compensation stated in said declaration, title to the property specified in said declaration shall vest in the authority and said property shall be deemed to be condemned and taken for the use of the authority and the right to just compensation for the same shall vest in the persons entitled thereto. Upon the filing of the declaration of taking the court shall designate a day (not exceeding 30 days after such filing, except upon good cause shown) on which the person in possession shall be required to surrender possession to the authority.

(d) The ultimate amount of compensation shall be vested in the manner provided by law. If the amount so vested shall exceed the amount so deposited in court by the authority, the court shall enter judgment against the authority in the amount of such deficiency together with interest at the rate of 6 per cent per annum on such deficiency from the date of the vesting of title to the date of the entry of the final judgment (subject, however, to abatement for use, income, rents or profits derived from such property by the owner thereof subsequent to the vesting of title in the authority) and the court shall order the authority to deposit the amount of such deficiency in court.

(e) At any time prior to the vesting of title of property in the authority the authority may withdraw or dismiss its petition with respect to any and all of the property therein described.

(f) Upon vesting of title to any property in the authority, all the right, title and interest of all persons having an interest therein or lien thereupon, shall be divested immediately and such persons thereafter shall be entitled only to receive compensations for such property.

(g) Except as hereinabove provided with reference to the declaration of taking, the proceedings shall be as is or may hereafter be 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 is or may hereafter be 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 city or 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 commission or other officer or tribunal, if any there be, having regulatory power over such corporation.

(11) ACQUISITION OF LAND FOR GOVERNMENT. The authority may acquire by purchase or by the exercise of its power of eminent domain as aforesaid, 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 de-

termine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such 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.

(13) TYPES OF BONDS. (a) An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the federal government in aid of such project; (2) 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 such bonds; or (3) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or (subject to the limitation hereinafter imposed) 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 shall be liable personally on the bonds by reason of the issuance thereof.

(c) The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of any city or municipality located within its boundaries or of the state and neither the state nor any such city or municipality shall be liable thereon, nor in any event shall they be 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 such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such 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 such bond or the security therefor, to have been issued for a housing project of such character. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

(b) The bonds may be sold at public or private sale as the authority may provide. The bonds may be sold at such price or prices as the authority shall determine provided that the interest cost to maturity of the money received for any issue of said bonds shall not exceed six per centum per annum.

(c) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

(d) The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any such revenues available therefor. All bonds so purchased shall be cancelled. This paragraph shall 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 sections 66.40 to 66.404 shall be 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 such bonds or obligations, the authority shall have power:

(a) To pledge by resolution, trust indenture, mortgage (subject to the limitations hereinafter imposed), or other contract all or any part of its rents, fees, or revenues.

(b) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.

(c) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects.

(d) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

(e) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(f) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(h) To provide for the replacement of lost, destroyed or mutilated bonds.

(i) To covenant that the authority warrants the title to the premises.

(j) To 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 thereof.

(k) To covenant as to the use of any or all of its property, real or personal.

(l) To create or to authorize the creation of special funds in which there shall be segregated (a) the proceeds of any loan or grant or both; (b) all of the rents, fees and revenues of any housing project or projects or parts thereof; (c) any moneys held for the payment of the costs of operations and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) 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 such payments; and (e) any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(m) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(n) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(o) To 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 thereto and the manner in which such consent may be given.

(p) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(q) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so 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 with reference thereto.

(r) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(s) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(t) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of an event of default (as defined in the contract) and to vest in an obligee the right to take possession and to use, operate, manage and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

(u) To vest in a trust or trustees 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 such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(v) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

(w) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the authority may reasonably require.

(x) To make such covenants and to do any and all such acts and things as 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; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the constitution of the state and no consent or approval of any judge or court shall be required thereof; provided, however, that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in subsection (16) hereof.

(16) POWER TO MORTGAGE WHEN PROJECT FINANCED WITH AID OF GOVERNMENT. 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 shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired.

(17) REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employes thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by sections 66.40 to 66.404.

(b) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

(c) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority.

(18) ADDITIONAL REMEDIES CONFERRABLE BY MORTGAGE OR TRUST INDENTURE. Any authority shall have power by its trust indenture, mortgage, lease or other contract to 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 such instrument:

(a) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(b) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

(19) REMEDIES CUMULATIVE. All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such 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 such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon; in such event, any purchaser or purchasers at a sale of the property of an authority pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract.

(21) CONTRACTS WITH FEDERAL GOVERNMENT. In addition to the powers conferred upon the authority by other provisions of sections 66.40 to 66.404, the authority is empowered to borrow money or accept grants from the federal government for or in aid of any housing project which such authority is authorized to undertake, to take over any land acquired by the federal government for the construction or operation of a housing project, to take over or lease or manage any housing project constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require including agreements that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and

intent of this section to authorize every council to do any and all things necessary to secure the financial aid and the co-operation of the federal government in the undertaking, construction, maintenance and operation of any housing project which the authority is empowered to undertake.

(22) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes of the state or any state public body; provided, however, that the city in which a project or projects are located may fix a sum to be paid annually in lieu of such taxes by the authority for the services, improvements or facilities furnished to such project or projects by such city, but in no event shall such sum exceed the amount that would be levied as the annual tax of such city upon such project or projects.

(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. When a housing authority shall have the approval of the council for any project authorized under subsection (9) (a) or (b), said authority shall complete and approve plans, specifications and conditions in connection therewith for carrying out such project, and shall then advertise for bids for all work which said authority must do by contract, such advertisements to be published once a week for 2 consecutive weeks in a newspaper of general circulation in the city in which the project is to be developed. The contract shall be awarded to the lowest qualified and competent bidder. Section 66.29 of the statutes shall apply to such bidding. [*Stats. 1945 s. 66.40 (1) to (24); 1947 c. 309, 362, 581*]

Note: 66.40, as amended by chs. 10 and 15 Spl. S. 1937, relating to public housing projects, is not in violation of sec. 1, art. VIII, Const., relating to uniformity of taxation. Such projects may not be undertaken without approval of city council and act is not in conflict with Wagner-Steagall act. 27 Atty. Gen. 38.

While a housing authority established under section 66.40, Stats. 1945, would have power to sell surplus or unneeded property, it is believed that the legislature did not intend it to have general power to develop housing units for sale rather than for rental. 36 Atty. Gen. 191.

66.401 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 so as 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 such project for profit, or as a source of revenue to the city.

(2) To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be 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:

(a) To pay, as the same become due, the principal and interest on the bonds of the authority;

(b) To meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority;

(c) To 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 such bonds in any one year thereafter and to maintain such reserve. [*Stats. 1945 s. 66.40 (26); 1947 c. 362*]

66.402 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 therein only to persons of low income and at rentals within the financial reach of such 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) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, 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 such person or persons, except that in the case of families with 3 or more minor dependents, such ratio shall not exceed 6 to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) 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) Nothing contained in the housing authorities law, as hereby amended, shall be construed as limiting the power of an authority:

(a) To invest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by said law, as amended, with respect to rentals, tenant selection, manner of operation, or otherwise; or

(b) Pursuant to section 66.40 (16) to vest in obligees the right, in the event of a default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by sections 66.401 and 66.402. [*Stats. 1945 s. 66.40 (27); 1947 c. 362*]

66.403 Housing authorities; co-operation in housing projects. For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property to a housing authority or the federal government;

(2) 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;

(3) Cause services to be furnished to the authority of the character which it is otherwise empowered to furnish;

(4) 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 is otherwise empowered to undertake;

(5) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the federal government respecting action to be taken by such state public body pursuant to any of the powers granted by sections 66.40 to 66.404;

(6) Do any and all things, necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of such housing projects;

(7) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds;

(8) 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 shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction;

(9) In connection with any public improvements made by a state public body in exercising the powers herein granted, such state public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in sections 66.40 to 66.404 may be made by a state public body without appraisal, public notice, advertisement or public bidding. [*Stats. 1945 s. 66.40 (28); 1947 c. 362.*]

66.404 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 section 66.40 (22)), or that 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 which is created for any city becomes authorized to transact business and exercise its powers therein, the governing body of the city, may immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and may appropriate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated may be paid to the authority as a donation. Any city, town or incorporated village located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

(3) PROJECT SUBMITTED TO PLANNING COMMISSION. Before any housing project of the character designated in section 66.40 (9) (a) be determined upon by the authority, or

any real estate acquired or agreed to be acquired for such project or the construction of any of the buildings begins or any application made for federal loan or grant for such project, the extent thereof 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 such planning commission upon the proposed location, extent, and general features of the layout.

(4) CO-OPERATION WITH CITIES, VILLAGES AND COUNTIES. For the purpose of co-operating with and assisting cities, villages and counties, a housing authority may exercise its powers in the territory within the boundaries of any city, village or county not included in the area in which such housing authority is then authorized to function, or in any designated portion of such territory, after the governing body of such city, village or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory or in such designated portion thereof. If a housing authority has previously been authorized to exercise its powers in such territory or designated portion, such a resolution shall not be adopted unless such housing authority finds that ultimate economy would thereby be promoted, and such housing authority shall not initiate any housing project in such territory or designated portion after the adoption of such a resolution.

(5) SEVERABILITY. Notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provision of sections 66.40 to 66.404, or the application thereof to any person or circumstances, is held invalid, the remainder of these sections and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

(6) CONTROLLING STATUTES. In so far as the provisions of sections 66.40 to 66.404 are inconsistent with the provisions of any other law, the provisions of sections 66.40 to 66.404 shall be controlling.

(7) SUPPLEMENTAL NATURE OF STATUTE. The powers conferred by sections 66.40 to 66.404 shall be in addition and supplemental to the powers conferred by any other law. [*1945 s. 66.40 (29) to (34); 1947 c. 362*]

[*66.405 Stats. 1945 renumbered sections 66.405 to 66.425 by 1947 c. 362*]

66.405 Urban redevelopment. (1) SHORT TITLE. Sections 66.405 to 66.425 shall be known and may be cited and 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; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings prevail; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes, that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such 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; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation and reconstruction of such areas by joint action; that 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 such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation and reconstruction of such areas on a large scale basis are necessary for the public

welfare; that the clearance, replanning, reconstruction and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the aid of redevelopment corporations for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

(3) DEFINITIONS. The following terms, as used in sections 66.405 to 66.425, shall, unless a different intent clearly appears from the context, be construed as follows:

(a) "Area" shall mean a portion of a city which its planning commission has found or shall find to be substandard or insanitary, so that the clearance, replanning, rehabilitation or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in subsection (2) and may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is demed necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which such buildings, improvements or real property form a part.

(b) "Assessed valuation" with respect to any local tax on any parcel of real property, shall mean the value of such parcel, including therein buildings and improvements as well as land, as assessed by those charged with assessing the same for such local tax.

(c) "City" shall mean any city in the state.

(d) "Development" shall mean a specific work, repair or improvement to put into effect a development plan and shall include the real property, buildings and improvements owned, constructed, managed or operated by a redevelopment corporation.

(e) "Development area" shall mean that portion of an area to which a development plan is applicable.

(f) "Development cost" shall mean the amount determined by the planning commission to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural and engineering services, legal and incorporation expense, the actual cost, if any, of alleviating hardship to families occupying dwelling accommodations in the development area where such hardship results from the execution of the development plan, the reasonable costs of financing the development, including carrying chargs during construction, working capital in an amount not exceeding 5 per cent of development cost, the actual cost of the real property included in the development, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways, the amount of special assessments subsequently paid, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering and builder's fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, together with such additions to development cost as shall 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 thereto.

(g) "Development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of subsection (5).

(h) "Local governing body" shall mean the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

(i) "Local taxation" and "local tax" shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include assessments for benefit improvements.

(j) "Maximum assessed valuation" shall mean, with respect to any local tax on any parcel of real property, the last assessed valuation of such parcel appearing on the assessment roll prior to the transfer of such parcel to the redevelopment corporation.

(k) "Maximum exemption period" shall mean, with respect to any parcel of real property, the period commencing with the acquisition of such parcel by the redevelopment corporation, or the adoption of the resolution of approval required by subsection (4), whichever is later in time, and lasting for such period, not exceeding 30 years from the date of completion, as certified to by the city department or body having jurisdiction over

buildings and improvements, of the buildings or improvements required to be built on or made to such parcel by the development plan, as may be designated in the ordinance or local law, if any, adopted or enacted by the local governing body pursuant to section 66.409 (1), but not in excess of the period of time during which such parcel of real property is owned by the redevelopment corporation.

(l) "Maximum dividend" shall mean, during the tax exemption period, disbursements to cover all interest and dividends not to exceed 6 per cent of the development cost.

(m) "Maximum local tax" shall mean the local tax on any parcel of real property which would have been payable on such parcel based on the maximum assessed valuation thereof as arrived at under subsection (3) (j).

(n) "Mortgage" shall mean 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" shall mean 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" shall mean the official bureau, board, commission or agency of the city established under the general city law or under a general or special charter and authorized to prepare, adopt and amend or modify a master plan for the development of the city.

(q) "Real property" shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights-of-way, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

(r) "Redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of an area or part thereof, and the provision of such industrial, commercial, residential or public structures or spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

(s) "Redevelopment corporation" shall mean a corporation carrying out a redevelopment plan under sections 66.405 to 66.425. [*Stats. 1945 s. 66.405 (1) to (3); 1947 c. 362*]

[*66.406 Stats. 1945 renumbered section 66.43 by 1947 c. 362*]

66.406 Urban redevelopment; plans, approval. (1) A development plan shall contain such information as the planning commission shall, by rule or regulation require, including:

(a) A metes and bounds description of the development area;

(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, if any;

(e) A statement of the existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(f) A statement of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such 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 such buildings or improvements to be permitted at various stages of the development plan;

(h) A statement of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(i) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(j) A statement of the proposed changes, if any, in streets or street levels and any proposed street closings;

(k) A statement of the character of the existing dwelling accommodations, if any, in the development area, the approximate number of families residing therein, together with a schedule of the rentals being paid by them, and a schedule of the vacancies in such accommodations, together with the rental demanded therefor;

(l) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, 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 corporation during a period of at least one year from the date of the approval of the development plan.

(o) The development plan, and any application to the planning commission or local governing body for approval thereof, may contain in addition such other statements or material as may be deemed relevant by the proposer thereof, 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 the redevelopment of such area or areas.

(2) No development shall be actually initiated until the adoption of a resolution of approval of the development plan therefor 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:

(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 section 66.405 (2);

(b) That the development plan is in accord with the master plan, if any, 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, but in any event 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;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That the public facilities based on whether the development be a residential, industrial or commercial one are presently 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, if any, 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 as a whole;

(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, if any, 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 the carrying into effect of the development plan will not cause undue hardship to such families. The notice of the public hearing to be held by the planning commission prior to approval by it 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.

(h) Any such determination upon approval by the local governing body, shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development p'an relevant to such determination under paragraphs (a) to (g) 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 thereof, may approve a development plan, but no resolution of approval shall be adopted by it unless

and until the planning commission shall first have approved thereof and there has been filed with the local governing body the development plan, the determination by the planning commission, and unless and until the local governing body shall determine:

(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 cause the development to be undertaken, consummated and managed in a satisfactory manner.

(c) Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a resolution of approval of the development plan shall be adopted, the local governing body shall consider those elements of the development plan relevant to such determination under paragraphs (a) and (b).

(5) The planning commission and the local governing body, by a two-thirds vote of the members elect thereof, may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the local governing body shall be approved unless and until an application therefor has been filed with the planning commission by the redevelopment corporation containing that part of the material required by subsection (1) which shall be relevant to the proposed amendment, and unless and until the planning commission and the local governing body shall make the determinations required by subsection (3) or (4) which shall be 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 such standards may be allowed for the accomplishment of the purposes of sections 66.405 to 66.425. Such standards may contain provisions more restrictive than those imposed by applicable planning, zoning, sanitary and building laws, ordinances and regulations.

(7) A local housing authority where such exists under sections 66.40 to 66.404 is hereby authorized to render such advisory services in connection with the preliminary surveys, studies and preparation of a development plan as may be requested by a city planning commission and charge fees for such services on the basis of actual cost. [*Stats. 1945 s. 66.405 (4); 1947 c. 362*]

66.407 Urban redevelopment; limitations on corporations. No redevelopment corporation shall:

(1) Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the approvals required by section 66.406 have been made;

(2) Change, alter, amend, add to or depart from the development plan until the planning commission and the local governing body have approved that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 66.406;

(3) 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, which consent may be withheld only if the sale, transfer or assignment is made for the purpose of evading the provisions of sections 66.405 to 66.425;

(4) Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employes in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employes;

(5) 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 sections 66.405 to 66.425;

(6) Mortgage any of its real property without obtaining the approval of the local governing body;

(7) Make any guarantee without obtaining the approval of the local governing body;

(8) Dissolve without obtaining the approval of the local governing body, which may be given upon such conditions as said body may deem 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. Such approval is to be indorsed on the certificate of dissolution and such certificate is not to be filed in the department of state in the absence of such indorsement;

(9) Reorganize without obtaining the approval of the local governing body. [*Stats. 1945 s. 66.405 (5); 1947 c. 362*]

66.408 **Urban redevelopment.** (1) APPLICATION OF OTHER CORPORATION LAWS TO REDEVELOPMENT CORPORATIONS. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of sections 66.405 to 66.425.

(2) CONSIDERATION FOR ISSUANCE OF STOCK, BONDS OR INCOME DEBENTURES. No redevelopment corporation shall 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.

(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 thereof. Within a reasonable time after the filing of such statement, the planning commission shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

(b) A redevelopment corporation may, at any time, 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 of cost therein may be included in development cost when finally determined by the planning commission, and the amount thereof. The planning commission shall, within a reasonable time after such application, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, the amount thereof as so determined shall be so included in development cost when finally determined.

(4) REGULATION OF REDEVELOPMENT CORPORATIONS. A redevelopment corporation shall:

(a) Furnish to the planning commission from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such commission shall require, each of which shall conform to such standards of accounting and financial procedure as the planning commission may by general regulation prescribe.

(b) Establish and maintain such depreciation and other reserves, surplus and other accounts as the planning commission may reasonably require, including a yearly reserve with respect to each parcel of real property held by the redevelopment corporation against the increase in local taxes after the expiration of the maximum exemption period, which shall be equal to 20 per cent of the difference between the maximum local tax on the real property of the redevelopment corporation and the local tax which would have been payable except for the tax exemption period provided for in section 66.409. [*Stats. 1945 s. 66.405 (6) to (9); 1947 c. 362, 430*]

66.409 **Urban redevelopment; exemption as to local taxation.** (1) A local governing body is hereby authorized, by adopting or enacting an ordinance or local law, to exempt real property held by redevelopment corporations during a maximum exemption period, which shall not exceed 30 years, from any increase in any local tax over the maximum local tax. After the adoption or enactment of such an ordinance or local law, every parcel of real property held by the redevelopment corporation in the city shall be exempt during the maximum exemption period, from that portion of each and every local tax in excess of the maximum local tax. If, during the last year of the maximum exemption period, such exemption is in existence on the day such local tax, or instalment thereof, becomes a lien on such parcel of real property, such exemption shall extend for the full tax year for such local tax and shall not be apportioned because of the expiration of the maximum exemption period during such tax year.

(2) For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, a city is hereby authorized, with the approval of its local governing body, except that if there is a board of estimate in the city, then with the approval of the board of estimate, to contract with a redevelopment corporation to place in one or more groups the various parcels of real property therein. Such a contract may provide that all of the parcels in each group may be deemed to have had a common stated date of acquisition by the redevelopment cor-

poration, regardless of the actual date of acquisition of each parcel contained therein. Such agreed date of acquisition shall thereupon serve as a basis for computing the maximum exemption period for each parcel of real property in the group. Such agreed date of acquisition shall not be later than the date of the actual acquisition of one or more parcels of real property in the group. After the making of any such contract, all of the parcels of real property in any such group shall be treated as a unit for the purposes of the assessment and collection of each local tax, and the maximum exemption period so computed shall be binding with respect to each local tax. [*Stats. 1945 s. 66.405 (10); 1947 c. 362*]

[*66.41 Stats. 1945 renumbered section 66.44 by 1947 c. 362*]

66.41 Urban redevelopment; limitation on payment of interest and dividends. (1) No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

(2) No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section 66.409 any exemption from local taxation on any of its real property, an amount which in the aggregate is in excess of the maximum dividend. [*Stats. 1945 s. 66.405 (11); 1947 c. 362*]

66.411 Urban redevelopment; enforcement of duties. Whenever a redevelopment corporation shall not have substantially complied with the development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by sections 66.405 to 66.425, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission to the city attorney of the city, who may thereupon 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 having such action, failure or omission, or threatened action, failure or omission, established by order of the court or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceeding shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court, shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate. [*Stats. 1945 s. 66.405 (12); 1947 c. 362*]

66.412 Urban redevelopment; transfer of land. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law, the commissioner of banks as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the banking law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan. [*Stats. 1945 s. 66.405 (13); 1947 c. 362, 411*]

66.413 Urban redevelopment; acquisition of land. (1) A redevelopment corporation may whether before or after the development plan has been approved, 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 the redevelopment corporation, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any appropriate general, special or local 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 such 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 such real property, or leased by such city to such corporation, all upon such terms as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) The provisions of sections 66.405 to 66.425 with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law. [*Stats. 1945 s. 66.405 (14); 1947 c. 362*]

66.414 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. Such petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such 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 thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local governing body granting the petition, the redevelopment corporation shall cause to be made 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 such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such resolution or resolutions. The city may conduct any condemnation proceedings either under chapter 32 or at its option, under other laws applicable to such city. When title to the real property shall have vested in the city, it shall convey or lease the same, with any other real property to be conveyed or leased to the corporation by the city in connection with said 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 shall 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 sections 66.405 to 66.425, the award of compensation shall 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 sections 66.405 to 66.425 of the real property in the development area. No allowance shall be made for improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property.

(b) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order.

(c) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, 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 commission or other officer or tribunal having regulatory power over such corporation.

(d) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the

premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination.

(e) The term "owner", as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or incumbrance thereon. [*Stats. 1945 s. 66.405 (15); 1947 c. 362*]

66.415 Urban redevelopment; continued use of land by prior owner. (1) When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such 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. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

(2) In the event that 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 such 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, as in this section provided, less the cost and expense incurred by the city for the maintenance and operation of such real property. [*Stats. 1945 s. 66.405 (16); 1947 c. 362*]

66.416 Urban redevelopment; borrowing; mortgages. (1) Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

(2) Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are issued by a redevelopment corporation and secured by a first mortgage on the real property of the redevelopment corporation, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount thereof shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; 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); the commissioner of banks as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

(3) Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

(4) The limits as to principal amount secured by mortgage referred to in subsection (2) shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer 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 real property in the development area, or any part thereof. [*Stats. 1945 s. 66.405 (17); 1947 c. 362, 411*]

66.417 Urban redevelopment; sale or lease of land. (1) The local governing body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to sell or lease such real property to a redevelopment corporation; provided, that the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

(2) Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 60 years with a right of renewal upon such terms) as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) Before any sale or lease to a redevelopment corporation shall be 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 at least 10 days before the date set for the hearing in such publication and in such manner as may be designated by the local governing body.

(5) The deed or lease of such 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 in the event of a violation by the redevelopment corporation of any of the provisions of sections 66.405 to 66.425 relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

(6) A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such 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 granted only for the purposes of its development subject to the restrictions of sections 66.405 to 66.425, for breach of which the city shall have the right to reenter and repossess itself of the real property. [*Stats. 1945 s. 66.405 (18); 1947 c. 362*]

66.418 Urban redevelopment; city lease to, terms. If real property of a city be 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 such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall 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 land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such 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, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including also the construction of subways and conduits, the widening and change of grade of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of sections 66.405 to 66.425. [*Stats. 1945 s. 66.405 (19); 1947 c. 362*]

66.419 Urban redevelopment; aids by city. In addition to the powers conferred upon the city by other provisions of sections 66.405 to 66.425, the local governing body is empowered to appropriate moneys for the purpose of and to borrow or to accept grants from the federal or state governments or any agency thereof for and in aid of the acquisition of any lands required to carry out the plan or the purposes mentioned in section 66.42; and to these ends, to enter into such contracts, mortgages, trust indentures or other agreements as the federal government may require. [*Stats. 1945 s. 66.405 (20); 1947 c. 362*]

66.42 Urban redevelopment; city improvements. For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of any such plan located within the area in which it is authorized to act, any local governing body may upon such terms, with or without consideration, as it may determine:

(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. [*Stats 1945 s. 66.405 (21); 1947 c. 362*]

66.421 Urban redevelopment; appropriations. The city is authorized to appropriate moneys for the purpose of making plans and surveys to carry out such redevelopment, and for any purpose required to carry out the intention of sections 66.405 to 66.425. [*Stats. 1945 s. 66.405 (22); 1947 c. 362*]

66.422 Urban redevelopment; construction of statute. Sections 66.405 to 66.425 shall be construed liberally to effectuate the purposes hereof, and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in sections 66.405 to 66.425 or to exclude other powers comprehended in such general grant. [*Stats. 1945 s. 66.405 (23); 1947 c. 362*]

66.423 Urban redevelopment; severability clause. Notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provision of sections 66.405 to 66.425, or the application thereof to any person or circumstances, is held invalid, the remainder of these sections and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. [*Stats. 1945 s. 66.405 (24); 1947 c. 362*]

66.424 Urban redevelopment; conflict of laws. In so far as the provisions of sections 66.405 to 66.425 are inconsistent with the provisions of any other law, the provisions of these sections shall be controlling. [*Stats. 1945 s. 66.405 (25); 1947 c. 362*]

66.425 Urban redevelopment; supplemental powers. The powers conferred by sections 66.405 to 66.425 shall be in addition and supplemental to the powers conferred by any other law. [*Stats. 1945 s. 66.405 (26); 1947 c. 362*]

66.43 Blighted area law. (1) SHORT TITLE. This section shall be known and may be cited and referred to as the "blighted area law."

(2) FINDING AND DECLARATION OF NECESSITY. It is hereby found and declared that, owing to the age and obsolescent condition or obsolescent or substandard character of existing buildings or the obsolete lot layout or the obsolete character of the existing land uses, or combinations of these factors or causes, portions of certain cities of the state have become blighted, with the consequent decline or stagnation of development, damage and loss to the prosperity of the cities and to taxable values, the impairment of the economic soundness and stability of said cities and with harmful effects upon the health, morals, prosperity and welfare of the inhabitants of said portions of the cities of this state; that said conditions are beyond adequate remedy or control by the police power or regulatory processes; that in order to meet this problem it is, in the judgment of the legislature, necessary to permit cities to modernize the planning and redevelopment of said portions of said cities, and that this cannot be accomplished by the ordinary operations of private enterprise alone without public participation in the planning and in the financing of land assembly for such redevelopment; that, for the economic soundness of this redevelopment and the accomplishment of the necessary social and economic benefits, and by reason of the close interrelationships between the development and uses of any part of an urban area and the development and uses of all other parts, the sound replanning and redevelopment of an obsolete or obsolescing portion of a city cannot be accomplished unless it is done in the light of comprehensive and co-ordinated planning of the whole of the city and its environs; that this comprehensive planning and replanning should proceed vigorously without delay; and to these ends it is necessary to enact the provisions hereinafter set forth; that it is in the public interest to employ the powers of eminent domain and the public credit to acquire blighted, including slum areas, in order that, through such planning and the disposition of the area subject to the plans, said areas may become available for socially and economically sound and wholesome development and redevelopment; and that the acquisition and the assembly of real property and the leasing or sale thereof for redevelopment, pursuant to a project area redevelopment plan as provided in this section, is hereby declared to be a public use.

(3) DEFINITIONS. The following terms whenever used or referred to in this section shall, for the purposes of this section and unless a different intent clearly appears from the context, be construed as follows:

(a) "Local legislative body" means the board of aldermen, 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.

(b) "City" means any city in the state.

(c) "Housing" includes housing, dwelling, habitation and residence.

(d) "Land" includes bare or vacant land, or the land under buildings, structures or other improvements, also water and land under water. When employed in connection with "use", as for instance, "use of land" or "land use", "land" also includes buildings, structures and improvements existing or to be placed thereon.

(e) "Lessee" includes the successors or assigns and successors in title of the lessee.

(f) "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.

(g) "Project area" is an area of such extent and location as may be 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 shall have been or are to be transferred for public uses.

(h) "Purchaser" includes the successors or assigns and successors in title of the purchaser.

(i) "Real property" includes land; also includes land together with the buildings, structures, fixtures and other improvements thereon; also includes liens, estates, easements and other interests therein; and also includes restrictions or limitations upon the use of land, buildings or structures, other than those imposed by exercise of the police power.

(j) In general, "redevelopment" means replanning, clearance, redesign and rebuilding of blighted, including slum areas, but does not exclude the continuance of some of the existing buildings or uses, of which demolition and rebuilding or change of use are not deemed an essential feature of the redevelopment of the area, nor does it exclude the inclusion of parcels of bare land in the project area. For the purposes of this section, "redevelopment" also includes the replanning, redesign and the original development of undeveloped areas which, by reason of street layout, lot layout or other causes, are backward and stagnant and therefore blighted, and for which replanning and land assembly are deemed necessary as a condition of sound development. "Redevelopment" includes open space types of uses, such as streets, recreation and other public grounds, and spaces around buildings, as well as buildings, structures and improvements.

(k) "Redevelopment company" means a private or public corporation or body corporate (including a public housing authority) carrying out a plan under this section.

(l) "Rentals" means rents specified in a lease to be paid by the lessee to the city.

(4) POWER TO ACQUIRE AND ASSEMBLE REAL PROPERTY. (a) Subject to and in accordance with the procedures, conditions and other provisions of this section, the city is hereby granted the power to further the redevelopment of blighted areas within its borders, and the prevention, reduction or elimination of blighting factors or causes of blight, and for that purpose to acquire and assemble real property by purchase, exchange, gift, dedication or eminent domain, and including the power to rent, maintain, manage, operate, repair, clear, transfer, lease and sell such real property.

(b) Condemnation proceedings for the acquisition of real property for said purposes shall be conducted in accordance with chapter 32 or any other laws applicable to such city.

(5) GENERAL AND PROJECT AREA REDEVELOPMENT PLANS. (a) The planning commission is hereby directed to make and, from time to time, develop a comprehensive or general plan of the city, including the appropriate maps, charts, tables and descriptive, interpretive and analytical matter, which plan is intended to 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, and which comprehensive or general 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 shall be requisite, namely:

1. Adoption by the planning commission of the boundaries of the project area proposed by it, submission of such boundaries to the local legislative body and approval thereof by said local legislative body.

2. Adoption by the planning commission and submission to, and, after a public hearing thereon, approval by the local legislative body, of the redevelopment plan of the project area, which shall contain a site and use plan for the redevelopment of the area, including the approximate locations and extents of the land uses proposed for and within the area, such as public buildings, streets, and other public works and utilities, housing, recreation, business, industry, schools, public and private open spaces, and other categories of public and private uses. Such plans shall also contain specifications of standards of population density and building intensity. Any such plan may also specify, by means of specification of maximum rentals or other basis, the character or class of any housing for which the area or part thereof is proposed to be redeveloped.

(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 is directed to confer with such other public officials, boards, authorities and agencies under whose administrative jurisdictions such uses respectively fall.

(d) After a project area redevelopment plan of a project area shall have been adopted by the planning commission and approved by the local legislative body, the planning commission may at any time certify said plan to the local legislative body, whereupon said body shall proceed to exercise the powers granted to it in this section for the acquisition and assembly of the real property of the area. Following such certification, no new construction shall be authorized by any agencies, boards or commissions of the city, in such 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 remodelling 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 shall have been assembled, the city shall have power to lease or sell any or all of the project area to a redevelopment company or to an individual or a partnership. Said area may include streets or parts thereof which, in accordance with the plan, are to be closed or vacated.

(b) Any such lease or sale may be made without public bidding, but only after a public hearing, after 10 days' public notice, by the planning commission upon the proposed lease or sale and the provisions thereof.

(c) The term of such lease shall be fixed by the planning commission and approved by the local legislative body, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to such reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved modifications thereof, and that no use shall be made of any land or real property included in the lease or sale nor any building or structure erected thereon which does not conform to such approved plan or approved modifications thereof. In the instrument or instruments of lease or sale the planning commission, with the approval of the local legislative body, may include such 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 also 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; also, such 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. In the event that maximum rentals to be charged to tenants of housing be specified, provision may be made for periodic reconsideration of such 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 shall have no power to convey the area, or any part thereof, without the consent of the planning commission and the local legislative body, and no such consent shall be given unless

the grantee of the purchaser obligates itself or himself, by written instrument, to the city to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and also that the grantee, his or its heirs, representatives, successors and assigns, shall have no right or power to convey, lease or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications thereof.

(e) In lieu of the lease or sale of a project area as an entirety, the planning commission, with the approval of the local legislative body, shall have the power to lease or sell parts of such area separately to individuals, partnerships or redevelopment companies. Any lessee or purchaser of the whole or any part of a project area shall be required to obligate himself or itself to the city to carry out and conform to the project area plan or portion thereof which, in accordance with the plan, is located on or within the area or part thereof so leased or sold, including all buildings, structures and improvements, and all use or limitations of uses and all other provisions and conditions which the planning commission, with the approval of the local legislative body, may prescribe or impose for the assurance of the carrying out of and conformance to the project area plan within the leased or sold area or part thereof.

(f) The planning commission may, with the approval of the local legislative body, cause to have demolished any existing structure or clear the area of any part thereof, or may specify the demolition and clearance to be performed by a lessee or purchaser and the time schedule for same. 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, in the event that the lease or sale is of parts of an area, the city shall have the power to 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 such outlays from funds or assessments raised or levied for such purposes.

(7) HOUSING FOR DISPLACED FAMILIES. In connection with every redevelopment plan the housing authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. In addition the housing authority and the local legislative body will 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 shall have assembled and acquired the real property of the project area, it shall, as an aid to it in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts thereof, 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, such use value to be based on the planned use; and, for the purposes of this use valuation, it shall cause a use valuation appraisal to be made by the local tax commissioner or assessor; but nothing contained in this section shall be construed as requiring the city to base its rentals or selling prices upon such appraisal.

(9) PROTECTION OF REDEVELOPMENT PLAN. (a) Previous to the execution and delivery by the city of a lease or conveyance to a redevelopment company, or previous to the 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 such company shall contain provisions so defining, limiting and regulating the exercise of the powers of the company that neither the company nor its stockholders, its officers, its directors, its members, its beneficiaries, its bondholders or other creditors or other persons shall have any power to amend or to effect the amendment of 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 the provisions of subsection (10); and no action of stockholders, officers, directors, bondholders, creditors, 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 or individual in any litigation or proceeding in any federal or other court shall effect any release or any impairment or modification

of the lease or terms of sale or of the project area redevelopment plan unless such consent or approval be obtained.

(b) Redevelopment corporations may be organized under the general corporation law of the state and shall have the power to be a redevelopment company under this section, and to acquire and hold real property for the purposes set forth in this section, and to exercise all other powers granted to redevelopment companies in this section, subject to the provisions, limitations and obligations herein set forth.

(c) A redevelopment company, individual or partnership to which any project area or part thereof is leased or sold under this section shall keep books of account of its operations of or transactions relating to such area or part entirely separate and distinct from its or his accounts of and for any other project area or part thereof or any other real property or enterprise; and no lien or other interest shall be placed upon any real property in said area to secure any indebtedness or obligation of the redevelopment company, individual, or partnership incurred for or in relation to any property or enterprise outside of said area.

(10) MODIFICATION OF DEVELOPMENT PLANS. An approved project area redevelopment plan may be modified at any time or times after the lease or sale of the area or part thereof provided that the modification be consented to by the lessee or purchaser, and that the proposed modification be adopted by the planning commission and then 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 such plan, boundaries or modification and, if such recommended changes be adopted by the planning commission and in turn formally approved by the local legislative body, the plan, boundaries or modification as thus changed shall be and become the approved plan, boundaries or modification.

(11) LIMITATION UPON TAX EXEMPTION. Nothing contained in this section shall 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 pursuant to this section by a private redevelopment company, individual or partnership either by lease or purchase shall be exempt from taxation by reason of such 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 such grants or loans.

(13) CONSTRUCTION. This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

(14) SEVERABILITY. Notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provisions of this section or the application thereof to any person or circumstances is held invalid, the remainder of the section and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. [*1945 c. 519; Stats. 1945 s. 66.406; 1947 c. 143, 362*]

66.44 War housing by housing authorities. (1) Any housing authority established pursuant to section 66.40 may undertake the development or administration or both of projects to provide housing for persons (and their families) engaged or to be engaged in war industries or activities and may exercise any of its rights, powers, privileges and immunities to aid and co-operate with the federal government (or any agency thereof) in making housing available for persons (and their families) engaged or to be engaged in war industries or activities; may act as agent for the federal government in developing and administering such housing; may lease such housing from the federal government (or any agency thereof); and may arrange with public bodies and private agencies for such services and facilities as may be needed for such housing; provided, that any such housing shall not be subject to section 66.40 (26) (b) and (27). Without limiting any existing power, the powers of any public body in the state pursuant to section 66.40 (28) may be exercised with respect to such housing. With the consent, by resolution, of the governing body of any city or county adjacent but outside of the

area of operation of a housing authority, the housing authority may exercise its powers under this section within the territorial boundaries of such city or county.

(2) Any project of a housing authority, for which the federal government has heretofore made or contracted to make financial assistance available, may be administered to provide housing for persons engaged or to be engaged in war industries or activities. [*1943 c. 188; Stats. 1945 s. 66.41; 1947 c. 362*]

66.42 [*Renumbered section 66.04 sub. (3a) by 1939 c. 107*]

66.45 **Barriers across streets for play purposes.** The council or board of any city or village may cause streets that are not a part of any federal, state or county trunk highway system, to be set aside for the safety of children in coasting or other play activities, and may obstruct or barricade such streets for such period of time and in such manner as shall most effectively safeguard the children from accidents. The council or board of such city or village shall erect and maintain thereon barriers or barricades, lights or warning signs therefor and shall not be liable for any damage caused thereby. [*1937 c. 419*]

66.50 **Municipal hospital board.** (1) In any city or village, however organized, having a municipal hospital therein, the board of trustees or other governing board of such municipal hospital shall have power and authority, except as otherwise provided by ordinance:

(a) To prescribe rules of order for the regulation of their own meetings and deliberations and to alter, amend or repeal the same from time to time;

(b) To enact, amend and repeal rules and regulations relating to the government, operation and maintenance of such hospital and relating to the employes thereof;

(c) To contract for and purchase all fuel, food and other supplies reasonably necessary for the proper operation and maintenance of such hospital;

(d) To enact, amend and repeal rules and regulations for the admission to and government of patients at such hospital;

(e) To enter into contract for the construction, installation or making of additions or improvements to or alterations of such hospital whenever such additions, improvements or alterations have been ordered and funds provided therefor by the city council;

(f) To engage all necessary employes at such hospital for a period not to exceed one year under any one contract and at a salary not to exceed the sum of twenty-five dollars per week, excluding board and laundry, unless a larger salary be expressly authorized by the city council;

(g) To audit all accounts and claims against said hospital or against said board of trustees and, if approved, such shall be paid by the city or village clerk and treasurer in the manner provided by section 66.042.

(2) All expenditures made pursuant to this section shall be within the limits authorized by the governing body of the municipality. [*1937 c. 432; 1941 c. 129; 1947 c. 362*]

66.51 **Revenue bonds for counties and cities.** (1) Every county, or city, or both jointly, may construct, purchase, acquire, develop, improve or operate a county or city building, or both jointly, for a courthouse, city hall, hospital, armory, library, auditorium and music hall, municipal parking lots, or municipal center, or any combination thereof. The county board, common council of any city, or both jointly are authorized in their discretion for any of its corporate purposes as set forth herein, to issue bonds on which the principal and interest are payable exclusively from the income and revenues of such project financed with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in the financing and construction thereof. Provided, the credit of the county, or city, or both jointly, shall not be pledged to the payment of such bonds, but shall be payable only from the revenues of such project or the funds received from the sale or disposal thereof. If the county board, or common council of a city, or both jointly, so determine, such bonds shall be secured either by a trust indenture pledging such revenues or by a mortgage on the property comprising such project and the revenues therefrom. This subsection shall not apply to municipal parking lots in cities having a population of 500,000 or more and in counties containing any such city.

(2) The bonds or other evidences of indebtedness shall state upon their face that the county, or city, or both jointly, shall not be a debt thereof or be liable therefor. Any indebtedness created by this section shall not be considered an indebtedness of such county or city and shall not be included in such amounts of determining the constitutional five per cent debt limitations.

(3) The provisions of section 66.066 relating to the issuance of revenue bonds by cities for public utility purposes in so far as applicable shall apply to the issuance of revenue bonds under this section. [*1939 c. 395; 1943 c. 262; 1945 c. 454; 1947 c. 362*]

Note: This section is in all probability valid legislation in treating armory as public utility for purposes of financing without creating municipal indebtedness within meaning of sec. 3, art. XI, Const. Legislature has power to make construction and operation of armory proper county purpose. Municipalities may build armories and lease that portion not needed for municipal purposes. 21.61 is applicable to armories financed under ch. 395, Laws 1939. 28 Atty. Gen. 663.

66.52 Employes or officers in military service. (1) The governing body of any city or village may grant a leave of absence to any employe or officer who is inducted or who enlists into the armed forces or the nurses corps of the federal government at a time when the United States is engaged in a war. No salary or compensation of such employe or officer shall be paid, nor claim therefor exist during such leave of absence.

(2) The governing body of any city or village may provide for safeguarding the reinstatement and pension rights, as herein limited, of any employe or officer so inducted or enlisted.

(3) No employe or officer who is appointed to fill the place of any employe or officer so inducted or enlisted shall acquire permanent tenure during such period of replacement service.

(4) If such leave of absence is or has been granted to an elected or appointed official or employe of any city or village, and he has begun his federal service, a temporary vacancy shall be deemed to exist and a successor may be appointed to fill the unexpired term of such official or employe, or until such official or employe returns and files his election to resume his office as hereinafter provided for if the date of such filing be prior to the expiration of such term. Such appointment shall be made in the manner provided by law applicable to such city or village for the filling of vacancies caused by death, resignation or otherwise, except that no election need be held to fill any part of such temporary vacancy. The appointee shall have all the powers, duties, liabilities and responsibilities and shall be paid and receive the compensation and other emoluments pertaining to the office or position, unless otherwise provided by the governing body. Within 40 days after the termination of such federal service such elected or appointed official or employe, upon filing with the clerk his statement under oath of such termination and that he elects to resume his office or position, may resume such office or position for the remainder of the term for which he was elected or appointed. The person temporarily filling the vacancy shall thereupon cease to hold the office.

(5) If any provision of section 66.52 or the application thereof to any person or circumstance is held invalid, the remainder of such subsections or provisions thereof and the application of such provisions to other persons or circumstances shall not be affected thereby.

(6) In cities of the third class with a commission plan of government, in case of temporary or permanent vacancies in the office of mayor, the vice mayor shall temporarily succeed to the office of mayor for the balance of his unexpired term for which he was elected unless sooner terminated as provided in section 17.035 (3). The temporary or permanent vacancy thereby created in the office of councilman may thereupon be filled as provided in section 66.52. The term of the person appointed temporarily to the office of councilman shall not exceed beyond the expiration of the term of the office vacated and such temporary term shall be vacated sooner as provided for in section 17.035 (3). [*1941 c. 171; 1943 c. 242*]

[*66.525 Stats. 1945 repealed by 1947 c. 483*]

66.526 Uniform salaries in first class cities. The common council of any city of the first class, however incorporated, may at any regular or special meeting, at any time during the calendar year, adopt a uniform and comprehensive salary or wage ordinance, or both, based on a classification of officers, employments and positions in the city service and of and including any and all offices and positions whatsoever in the employment of such city, whether previously so classified or not, provided provision has been made in the budget of the current year for the total sum of money required for the payment of salaries and wages for such employment and a tax levied to include the same, with the following exception: That wages may be fixed at any such time by resolution alone and that the common council may, at any time during the calendar year, at any such meeting determine a cost-of-living increment or deduction, to be paid in addition to such wages or salaries, based on a proper finding of the United States bureau of labor statistics. Any such common council may, at any such meeting, provide for overtime pay of employes worked in excess of 40 hours per week. [*1943 c. 386; 1945 c. 306*]

Note: 66.526, Stats. 1943, applies to aldermen as city officials. No statutory or constitutional provision qualifies this section to preclude aldermen from changing their salaries according to its provisions. 33 Atty. Gen. 8.

66.527 Recreation authority. (1) (a) Funds for the establishment, operation and maintenance of a department of recreation may be provided by the governing body of

any town or school district after compliance with the provisions of section 65.90 or such funds must be appropriated following a favorable referendum conducted at any regular election.

(b) The governing body of any town may, upon its own initiative, order such a referendum and shall order such a referendum upon written petition signed by not less than 15 per cent of the total electors whose votes were cast for the office of governor at the last regular election of such town.

(c) The petition for a referendum shall state the amount of money to be raised for the purpose of establishing, operating and maintaining such a recreation department. The amount raised shall not exceed one-tenth of a mill on the assessed valuation of the town.

(d) Following a favorable mill tax referendum, the mill tax necessary to raise the required amount to establish, maintain and operate a department of public recreation shall be levied on the taxable property in any such governmental unit. Thereafter money may be raised for such purpose by following the provisions of section 65.90 as far as applicable. Such moneys levied and collected shall not be used directly or indirectly for any other purpose.

(2) (a) Any such governmental unit may delegate the power to establish, maintain and operate a department of public recreation to a board of recreation, which shall consist of 3 members and shall be appointed by the chairman or other presiding officer of the governing body. The first appointments shall be made so that one member will serve one year, one for 2 years and one for 3 years; thereafter appointments shall be for terms of 3 years.

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

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

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

(3) (a) The public recreation board has the right to conduct public recreation activities on property purchased or leased by any such governing 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 such public authority, body or board, or on private property with the consent of its owner, and such board with the approval of the appointing board, may accept gifts and bequests of land, money or other personal property, and use the same in whole or in part, or the income therefrom or the proceeds from the sale of any such property in the establishment, maintenance and operation of recreational activities.

(b) The board shall annually submit to the governing body a report of its activities and showing receipts and expenditures. Such reports shall be submitted not less than 15 days prior to the annual meeting of such governmental unit.

(c) An audit shall be made of the accounts of such recreational 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 such amount as shall be fixed by the governing body. [*1943 c. 471; 1947 c. 223, 601*]

66.53 **Repayment of assessments in certain cases.** Whenever in any city any contract for improvements has been or may be hereafter declared void by any court of last resort on the following grounds: want of power to make such contract; made contrary to a prohibition against contracting in any other than a specified way; or forbidden by statute, and if the governing body of such city shall not have adopted the resolution referred to in subsection (1) of section 66 295 relating to payment of any person who has furnished any benefits pursuant to said void contract, the governing body of such city may provide that all persons who have paid all or any part of any assessment levied against the abutting property owners by reason of such improvement may be reimbursed the amount of such assessment so paid from such fund as the governing body may determine. [*1941 c. 272; 43.08 (2)*]

66.54 **Special improvement bonds; certificates.** (1) DEFINITIONS. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "Municipality" means county, city, village, town, farm drainage board, sanitary districts, utility districts, and all other public boards, commissions or districts, except

cities of the first class, authorized by law to levy special assessments for public improvements against the property benefited thereby.

(b) "Governing body" means the body or board vested by statute with the power to levy special assessments for public improvements.

(c) "Contractor" means the person, firm or corporation performing the work or furnishing the materials, or both, for a public improvement.

(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 thereby.

(e) "Sinking 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.

(2) METHODS OF PAYMENT FOR PUBLIC IMPROVEMENTS. In addition to the other methods prescribed by law, payment of the cost of any public improvement authorized by the governing body of any municipality on or after July 1, 1943, may be made by any one of the following methods or a combination thereof:

(a) Payment by the municipality out of its general funds.

(b) Payment out of the proceeds of the sale of bonds issued by it, pursuant to section 67.04.

(c) Contractor's certificates, constituting a lien against a specific parcel of real estate.

(d) General obligation—local improvement bonds, or the proceeds thereof.

(e) Special assessment B bonds, or the proceeds thereof.

(3) PRELIMINARY PAYMENT ON COST OF PUBLIC IMPROVEMENTS. Whenever it is determined that the cost of any public improvement about to be made is to be paid, wholly or in part, by special assessments against the property to be benefited by the improvement, the resolution authorizing such public improvement shall provide and require that the whole, or any stated proportion, or no part of the estimated aggregate cost of such public improvement, which is to be levied as special assessments, shall be paid into the municipal treasury in cash. No such public improvement shall be commenced nor any contract let therefor unless and until such payment, if any, required by said resolution, is paid into the treasury of the municipality by the owner or persons having an interest in the property to be benefited, which payment shall be credited on the amount of the special assessments levied or to be levied against benefited property designated by the payer. In the event that a preliminary payment is required by said resolution, the refusal of one or more owners or persons having an interest in the property to be benefited to pay such preliminary payments shall not prevent the making of such improvement, if the entire specified sum is obtained from the remaining owners or interested parties.

(4) DISCOUNT ON CONTRACT PRICE. Every bid hereafter 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 municipality as provided by contract or made on special assessments as hereinafter provided shall be subject to a specified rate of discount. The municipal treasurer shall issue a receipt for every such payment made on any special assessment, stating the date and amount of the cash payment, the discount and the total credit including such discount, on a specified special assessment or assessments. The treasurer shall on the same day deliver a duplicate of such 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.

(5) PAYMENT BY MUNICIPALITY. Whenever any such public improvement has been paid for by the municipality, contractor's certificates as provided for in subsection (6), or general obligation-local improvement bonds as provided for in subsection (9), or special assessment B bonds as provided for in subsection (10) may be issued to the municipality as the owner thereof. All of the provisions of said subsections (6), (9) and (10) applicable to the contractor or to the owner of such contractor's certificates or to such general obligation-local improvement bonds or to such special assessment B bonds shall be deemed to include the municipality which has paid for such improvement and to which such contractor's certificates, general obligation-local improvement bonds or special assessment B bonds have been issued, except as in this section otherwise provided.

(6) PAYMENT BY CONTRACTOR'S CERTIFICATE. (a) Whenever any public improvement has been made and has been accepted by the governing body of the municipality, it may cause to be issued to the contractor for such public improvement, a contractor's cer-

tificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable thereto, describing each parcel. Such certificate shall be substantially in the following form:

$ .... (name of municipality) No. ....

CONTRACTOR'S CERTIFICATE FOR CONSTRUCTION OF ....

(name of municipality)

Issued pursuant to section 66.54 (6) Wis. Stats.

We, the undersigned officers of the (name of municipality), hereby certify that (name and address of contractor) has performed the work of constructing .... in .... benefiting the following premises, to wit: (insert legal description) in the (name of municipality) .... County, Wisconsin, pursuant to a contract entered into by said (name of municipality) with the said (name of contractor), dated ...., and that .... entitled to the sum of .... dollars, being the unpaid balance due for said work chargeable to the property hereinabove described.

Now, THEREFORE, if the said sum shall not be paid to the treasurer of (name of municipality) before the first day of December, next, the same shall be extended upon the tax roll of the (name of municipality) against the property above described as listed therein, and collected for, as provided by law.

This certificate is transferable by indorsement but such assignment or transfer shall be invalid unless the same shall be recorded in the office of the clerk of the (name of municipality) and the fact of such recording is indorsed on this certificate. THE HOLDER OF THIS CERTIFICATE SHALL HAVE NO CLAIM UPON THE (name of municipality) IN ANY EVENT, EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS LEVIED FOR SAID WORK AGAINST THE ABOVE DESCRIBED LAND.

This certificate shall bear interest at 6% per annum from its date to January 1 next succeeding. This certificate may be exchanged for the tax sale certificate resulting from the sale of the above described lands for failure to pay the special assessment levied for the work hereinabove described.

Given under our hands at (name of municipality), this .... day of ...., 19...

....
(Mayor, President, Chairman)

Countersigned:
....
Clerk, (name of municipality)

ASSIGNMENT RECORD

Assigned by	to		
....	....	of	....
(Original Contractor)	(name of Assignee)	(Address of Assignee)	(Date and signature of clerk)

(b) Such certificate shall in no event be a municipal liability and shall so state in bold face type printed on the face thereof. Upon issuance of said certificate, the clerk of the municipality shall at once deliver to the municipal treasurer a schedule of each such 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 thereupon notify, by mail, the owner of said parcel as the same appears on the last assessment roll, that payment is due on said certificate at the office of said treasurer, and if such owner shall pay such amount or part thereof so due, said clerk shall cause the same to be paid to the registered holder of said certificate, and shall indorse such payment on the face of said certificate and on his record thereof. The clerk shall keep a record of the names of the persons, firms or corporations to whom such contractor's certificates shall be issued and of the assignees thereof when the fact of assignment is made known to such clerk. Assignments of such contractor's certificates shall be invalid unless recorded in the office of the clerk of the municipality and the fact of such recording be indorsed on said certificate. Upon final payment of the certificate, the same shall be delivered to the treasurer of the municipality and by him delivered to such 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 such certificates.

(c) After the expiration of 90 days from the date of such certificate or any general obligation-local improvement bond or special assessment B bond hereinafter provided for, the same shall be conclusive evidence of the legality of all proceedings up to and including the issue thereof and prima facie evidence of the proper construction of the improvement.

(d) If said certificates are not paid before December 1 in the year in which they are issued, the comptroller or clerk of the municipality shall thereupon include in the

statement of special assessments to be placed in the next tax roll an amount sufficient to pay such certificates, with interest thereon at the rate of 6 per cent per annum from the date of such certificates to January 1 next succeeding, and thereafter the same proceedings shall be had as in the case of general property taxes, except as in this section otherwise provided. Such delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the municipal treasurer or by the county treasurer and remitted to the municipal treasurer on account of such special assessments and all the tax certificates issued to the county on the sale of the property for such special assessment, if the same is returned delinquent, shall be delivered to the owner of the contractor's certificate on demand.

(7) ANNUAL INSTALMENTS OF SPECIAL ASSESSMENTS. (a) The governing body of any municipality may provide that special assessments levied to defray the cost of any public improvement, except sprinkling or oiling streets, may be paid in annual instalments of not more than 10 in number.

(b) The first instalment shall include a proportionate part of the principal of the special assessment, determined by the number of instalments, together with interest on the whole assessment at a rate not exceeding 6 per cent per annum and from such date, not prior to the date of the notice hereinafter provided for, and to such date, not later than December 31, in the year in which same is to be collected as shall be determined by the governing body, and each subsequent instalment shall include a like proportion of the principal and one year's interest upon the unpaid portion of such assessment.

(c) The first instalment shall be entered in the first tax roll prepared after said instalments shall have been determined as a special tax on the property upon which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other municipal tax, except as in this section otherwise provided. One of the subsequent instalments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied.

(d) If any instalment so entered in the tax roll shall not be paid to the municipal treasurer 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 in this section otherwise provided.

(e) Whenever the governing body shall determine to permit any special assessments for any local improvements to be paid in instalments it shall cause a notice to be published in the official paper, if the municipality has one, otherwise it shall cause such notice to be posted in 3 public places in such municipality. Such notice shall be substantially in the following form:

INSTALMENT 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 therefor has been determined as to each parcel of real estate affected thereby and a statement of the same is on file with the .... clerk; it is proposed to collect the same in .... instalments, as provided for by section 66.54 of the Wisconsin statutes, with interest thereon at .... per cent per annum; that all assessments will be collected in instalments as above provided except such assessments on property where the owner of the same shall file with the .... clerk within 30 days from date of this notice a written notice that he elects to pay the special assessment on his property, describing the same, to the .... treasurer on or before the next succeeding December 1. If, after making such election, said property owner shall fail to make the payment to the .... treasurer, the .... clerk shall place the entire assessment on the next succeeding tax roll.

Dated ....

Clerk of (name of municipality)

(f) After the time for making such election shall have expired, any assessment may be paid in full before due, only upon the payment of such portion of the interest to become due thereon as the governing body shall determine.

(g) A schedule of the assessments and instalments thereof shall be recorded in the office of the clerk of the municipality forthwith.

(h) All special assessments and instalments of special assessments which are returned to the county as delinquent by any municipal treasurer pursuant to this section shall be accepted by the county in accordance with the provisions of this section, shall be set forth in a separate column of the delinquent return and shall be plainly distinguished in such return from special assessments or instalments of special assessments issued under laws in effect on and prior to June 30, 1943 which shall continue to be returned as provided in section 62.21.

(8) SPECIAL ASSESSMENT BONDS, INSTALMENTS. In order to provide immediately the cash for the payment of the cost of any public improvement, the municipality may issue bonds payable in instalments of like number as the instalments of the underlying special assessment levied to pay for such public improvement. Such bonds may be:

(a) General obligation-local improvement bonds.

(b) Special assessment B bonds.

(9) GENERAL OBLIGATION-LOCAL IMPROVEMENT BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments as provided in this section and after such instalments have been determined, the governing body may issue general obligation-local improvement bonds as more particularly described in this subsection.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A single issue of such bonds may be used to finance one or more different local improvements for which special assessments are authorized to be made in the same year. The provisions of sections 67.035, 67.06, 67.07, 67.08 and 67.11, where not contrary to the provisions of this section, shall be applicable to such bonds. Such bonds shall mature in the same number of instalments as said special assessments, but the date of maturity of each instalment of said bonds shall be fixed in October, November or December. The first maturity of such bonds may be in the second year following the date of levy of the first instalment of the underlying special assessment. At the time of the authorization of such bonds, the governing body of the municipality shall levy a tax upon all the taxable property of said municipality sufficient to provide for the payment of the principal and interest of said bonds at maturity, which tax levy shall be irrepealable. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof, shall be placed by the municipal treasurer in a special sinking fund, designated and identified for such issue of such bonds, and shall be used only for the payment of said bonds and interest of such issue. The annual instalment of the irrepealable tax levied for the purpose of payment of such bonds and interest thereon, shall be diminished by the amount on hand in such sinking fund on November 1 of each tax levy year after deducting any unpaid interest and principal due in that year, and said amount so on hand in said fund shall be applied to the payment of the next succeeding instalment of principal and interest named on said bonds. Any deficiency in the sinking fund for the payment of such bonds and interest thereon at maturity shall be paid out of the general fund of the municipality and such general fund shall be reimbursed from the collection of such part of the aforesaid irrepealable tax as is actually levied. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) If any instalment of the aforesaid special assessment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection. If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the annual county tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into such special sinking fund for the redemption of such bonds.

(d) If at any sale of taxes by the county treasurer no bid by any person, firm or corporation shall be made for any lot or parcel of land subject to special assessment which was returned to the county treasurer as delinquent, pursuant to paragraph (c) hereof, and said land is bid in by the county, the tax sale certificate evidencing the sale of said land may thereafter upon request therefor by the municipal treasurer duly authorized by the governing body of the municipality, which returned said special assessment as delinquent, be assigned to said municipality in its corporate name, and thereupon said municipality shall be vested with the same rights as are other tax sale certificate purchasers or owners, including the right to take a tax deed in its name, except as in this section otherwise provided.

(e) Whenever such a certificate shall have been so acquired by any municipality, the governing body thereof, to protect its interest, may authorize and direct its treasurer to bid in and become the exclusive purchaser in the corporate name of such municipality of such land at any sale of the same by the county treasurer for any tax or tax lien, and the said municipality shall be vested with the same rights as are other purchasers, except as in this section otherwise provided, and provided further that said municipality shall, before becoming the exclusive purchaser of said land for delinquent taxes or special assessment taxes, purchase, redeem, or acquire by assignment, any outstanding tax sale

certificates of date equal or subsequent to the certificate of tax sale held by the municipality, upon which it bases its right to become such exclusive purchaser. When a tax deed shall be issued to such municipality, the deed may be issued in the same manner in which tax deeds are issued to individuals. The land covered by said deed shall be exempt from further general property taxes until May 1 following the date on which the same is sold by the municipality taking the tax deed and until such sale the municipal clerk shall annually, before May 1, furnish the assessor of said municipality a list of the lands of such municipality exempt from taxation under this paragraph, and such assessor shall mark said lands exempt.

(10) SPECIAL ASSESSMENT B BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments, as provided in this section and after said instalments have been determined, the governing body may issue special assessment B bonds payable out of the proceeds of such special assessments as provided in this section. Such bonds shall in no event be a general municipal liability.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A separate bond shall be issued for each separate assessment and said bond shall be secured by and be payable out of only the assessment against which it is issued. Such bonds shall mature in the same number of instalments as said special assessments. Such bonds shall carry coupons equal in number to the number of special assessments, which coupons shall be detachable and entitle the owner thereof to the payment of principal and interest collected on the underlying special assessments. Such bond shall be signed by the chief executive and the clerk of the municipality and the corporate seal of the municipality shall be affixed thereto and the bond shall contain such recitals as may be necessary to show that it is payable only out of the special assessment on the particular property against which it is issued and the purpose for which same was levied and such other provisions as the governing body shall deem proper to insert.

(ba) Payments of principal and interest shall conform as nearly as may be to the payments to be made on the instalments 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 instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof shall be placed by the municipal treasurer in a special sinking fund designated and identified for such issue of bonds and shall be used only for the payment of said bonds and interest of such issue. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) Such bonds must be registered in the name of the owner thereof on the records of the clerk of the municipality by which said bonds were issued. Upon transfer of the ownership of such bonds the fact of such transfer must be noted upon the bond and on the record of the clerk of such municipality. Any transfer not so recorded shall be null and void and the clerk of the municipality shall be entitled to make payments of principal and interest to the owner of the bond as registered on the books of the municipality.

(d) Principal and interest collected on the underlying special assessments as well as interest collected on the delinquent special assessments and on delinquent tax certificates issued therefor shall be paid by the treasurer of the municipality out of the sinking fund created for the issue of such bonds to the registered holder thereof upon the presentation and surrender of the coupons due attached to said bonds. Whenever such underlying special assessment is not paid and the same is struck off to the county at the tax sale, the registered owner of the bond may surrender his coupon to the county treasurer who thereupon shall assign to him the tax sale certificate underlying such special assessment. If any instalment of the aforesaid special assessment entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality, the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into a special sinking fund created for the payment of such special assessment B bonds.

(11) AREA GROUPING OF SPECIAL ASSESSMENTS. Whenever the governing body determines to issue general obligation-local improvement bonds pursuant to subsection (9) of this section, it may group the special assessments levied against benefited lands and issue such bonds against such special assessments so grouped as a whole. All such bonds shall be equally secured by such assessments without priority one over the other.

(12) DISPOSITION OF SPECIAL ASSESSMENT PROCEEDS WHERE IMPROVEMENT PAID FOR OUT OF GENERAL FUND OR BONDS ISSUED UNDER SECTION 67.04. Whenever special assessments are levied for any public improvements, all amounts collected on such special assessments or received from the county shall be placed in the general fund of the municipality in case the payment for the improvement was made out of its general fund, or in the sinking fund required for the payment of bonds issued under section 67.04 if such improvement was paid out of the proceeds thereof. Such special assessments, when delinquent, shall be returned in trust for collection and the municipality shall have the same rights as provided in subsection (9) (c), (d) and (e).

(13) LIEN OF TAX SALE CERTIFICATES. The lien of any tax sale certificate issued pursuant to this section shall be superior to the lien of all tax sale certificates of prior date but shall be subordinate to the lien of all general property tax sale certificates of the same or a subsequent date not outlawed by limitation. The limitation prescribed by section 75.20 as to tax sale certificates issued to and owned by counties and municipalities shall apply as to all tax sale certificates issued pursuant to the terms of this section to any municipality as defined in subsection (1) (a).

(14) PAYMENT REQUIRED TO OBTAIN TAX DEED. At the time of obtaining a tax deed on a tax certificate based on a special assessment levied under the provisions of section 66.54, the applicant therefor shall be required to pay to the county treasurer a sum equal to the principal amount of city, village or town general and school taxes included in all tax certificates not outlawed by limitation held by the county treasurer, and dated prior to the special tax certificates on which the tax deed is applied for. The county treasurer shall apply such payments as a partial redemption of such respective tax certificates.

(15) SINKING FUND FOR SPECIAL ASSESSMENT B BONDS. Whenever the governing body determines to issue special assessment B bonds pursuant to subsection (10), it may establish in its treasury a fund not less than 15 per cent of the amount of special assessment instalments, due and collectible, for the installation of that particular special improvement. Such fund is to be designated as a sinking fund for the particular bond issue, and shall be maintained until such indebtedness is paid or otherwise extinguished. Any surplus in the sinking fund after all the bonds have been paid or canceled shall be carried into the general fund of the municipal treasury. The source of said fund shall be established either from the general fund of the municipal treasury or by the levy of an irrepealable and irrevocable general tax. Such bonds shall in no event be a general municipal liability. [*1943 c. 278, 574; 1947 c. 538*]

66.60 Special assessments and charges. (1) In addition to all other methods provided by law, any city 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 such property by any municipal work, or improvement; and to provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

(2) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city or village.

(3) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in section 66.54 (3), statutes of 1943.

(4) Prior to the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose or purposes. Such resolution shall describe generally the contemplated purpose or purposes, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, and direct the proper municipal officer or employe to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(5) The report required by subsection (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) An estimate of the proposed compensation to be made for property proposed to be taken or damaged.

(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 such benefits over damages or the net amount of such damages over benefits.

(e) A statement showing the amount of all delinquent taxes or assessments, the amount of assessments levied but not yet delinquent (including assessments levied by any taxing agency) outstanding against each parcel affected.

(f) A statement by the municipal clerk showing the assessed value of land according to the last preceding assessment of each parcel affected.

(g) A copy of the report when completed shall be filed with the municipal clerk for public inspection. Failure to comply with any provision of paragraph (e) shall not affect the validity of any assessment.

(6) (a) 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 thereof, the damages occasioned thereby, 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 or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(b) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall, nevertheless, be computed and shall be paid by the city or village.

(7) Upon the completion and filing of the report required by subsection (4) the city or village clerk shall cause notice to be given 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 thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the governing body and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given either by publication of a copy of the notice at least once in a newspaper published or having a general circulation in such city or village, or such notice shall be posted in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district. The hearing shall commence not less than 10 and not more than 40 days after the publication or posting as provided in this subsection.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may re-refer the report prepared pursuant to subsections (4) and (5) to the designated officer or employe with such directions as it may deem necessary to change the plans and specifications and to accomplish a fair and equitable assessment of benefits or award of damages.

(b) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved and that payment therefor be made as therein provided.

(c) The city or village clerk shall publish the final resolution in a newspaper published or having a general circulation in said city or village, or such resolution shall be posted in not less than 5 public places within the city or village, of which at least 3 shall be within the assessment district.

(d) Upon the publication or posting of this final resolution, any work or improvement provided for therein shall, subject to the provisions of this section, be deemed legally authorized and all awards of damages or compensation and assessments of benefits so provided for shall be deemed duly and legally made, subject to the right of appeal provided for in subsection (13).

(9) Where 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, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Each property owner shall prior to or on the due date have the privilege of paying any portion of a special assessment levied pursuant to this section, in which

event the balance due shall be payable in instalments or shall become delinquent, whichever shall be applicable.

(11) If an assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the governing body shall assess against or award in favor thereof, as the case may be, only the difference between such assessment of benefits and the award of damages or compensation.

(12) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever the governing body shall determine to reconsider and reopen any such assessment of benefits or damages, it is hereby empowered, after giving notice as provided in subsection (7) and after public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending or cancelling such prior assessment shall be given by the clerk as provided in subsection (8) (c).

(13) (a) If the owner or any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to subsections (8) (b), (12) or (14) (b), feels himself aggrieved thereby he may, within 40 days after the date of the notice or of the publication of the final resolution pursuant to (8) (c), appeal therefrom to the circuit court of the county in which such property is situated by causing a written notice of appeal to be served upon the clerk of such city or village and by executing a bond to the city or village in the sum of $150 with 2 sureties or a bonding company to be approved by the city or village clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against him. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the matter before the governing body, with its decision thereon, and shall transmit the same with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) Such appeal shall be tried and determined in the same manner as cases originally commenced in such court, and costs awarded as provided in section 62.25 (1) (d).

(c) In case any contract shall have been made for making the improvement such appeal shall not affect such contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for such improvement, including the assessment on any property represented in such appeal as if such appeal had not been taken.

(d) Upon appeal pursuant to this subsection, the court may, based upon 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 of benefits is excessive or any award of damages is insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment of benefits or the award of damages and affirm same as so modified.

(e) An appeal under this subsection shall be the sole remedy of the owner or any person having an interest in any parcel of land affected by such improvement for the redress of any grievance he may have by reason of the making of such improvement or the making of any assessment of benefits or award of damages therefor whether or not the improvement was made according to the plans and specifications therefor, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of such improvement, the assessment of benefits or the award of damages therefor. The limitation provided for in paragraph (a) shall not apply to appeals based upon fraud or upon latent defects in the construction of the improvement discovered after such period.

(f) It shall be a condition to the maintenance of such appeal that any assessment of benefits appealed from shall be paid as and when the same or any instalments thereof become due and payable, and upon default in making such payment, any such appeal shall be dismissed.

(14) (a) No special assessment of benefits shall be held invalid because the amount thereof is either more or less than the amount required for the work or improvement for which made. If the amount be more than necessary, the excess shall first be credited on the next succeeding unpaid instalment of the assessments already levied against the individual parcels of property and any balance then remaining shall be refunded to the property owners in proportion to those assessments. If the amount assessed be less than necessary, or if the court upon appeal shall award a greater sum or find a lesser sum than that appealed from, the additional amount required may, in the discretion of the governing body, either be paid by the city or village from any funds available therefor or be assessed against the property benefited by the work or improvement and added to the original assessment.

(b) Whenever any such additional assessment is to be made, the governing body upon not less than 10 days' notice of the time and place of meeting either by publication in a newspaper published or having a general circulation in such city or village or by posting in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district, shall meet and hear all parties in interest whose property would be affected by such additional assessment. Thereafter, all the proceedings of any case shall be the same as provided by this section in case of an original assessment, including the right of appeal to the circuit court.

(15) (a) Every such special assessment shall be a lien on the property against which it is levied on behalf of the municipality levying same or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or an interest in such special assessment, from the date of the determination of such assessment by the governing body. The governing body shall provide for the collection of such assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or instalments thereof which 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 shall apply to such special assessment, except as otherwise provided by statute.

(b) Upon the determination of any such special assessment, the clerk shall sign and file in the office of the register of deeds of the county wherein the land against which any benefits are assessed is located a certificate stating the purpose, date, amount and maturity of each unpaid assessment of benefits, and a description of the land upon which it is levied. The register of deeds shall be entitled to a fee of 50 cents for filing each certificate issued pursuant to this paragraph. In the event of a subsequent amendment or cancellation of any such assessment the municipal clerk shall similarly sign and file a like certificate of all such amendments or cancellations.

(16) (a) In addition to all other methods provided by law, special charges for current services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration; snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provision for notice of such charge shall be optional with the governing body except that in the case of street oiling or tarring and the repair of sidewalks, curb or gutters, 20 days' notice shall be given in a newspaper published or having a general circulation in the city or village, or by posting notice in 5 public places in the city or village. Such notice shall specify that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in instalments. If not paid within the period fixed by the governing body, such a delinquent special charge shall become a lien as provided in subsection (15) (a), as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll in the same manner as provided in subsection (15) (a).

(c) Subsection (4) shall not be applicable to proceedings under this subsection.

(17) If any part or parts of this section shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this section, and in such case this section shall be read as if such unconstitutional parts thereof had not been inserted therein.

(18) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statute shall be found to be unconstitutional, the governing body of such municipality may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law. [*1945 c. 269, 506; 1947 c. 388*]

66.61 Emergency powers, cities of the first class. (1) Notwithstanding any other provision of law to the contrary, the common council of any city of the first class is empowered to declare, by ordinance or resolution, an emergency existing within such city whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation or restriction because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of such city. The period of such emergency shall be limited by such ordinance or resolution to the time during which such emergency conditions exist or are likely to exist.

(2) The emergency power of the common council herewith conferred shall include such general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of such city in such emergency and shall include such authority as is necessary and expedient without limitation or restriction because of enumeration and shall include the power to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways, notwithstanding any provisions of chapter 85 or any other provisions of law. The common council may provide penalties for violation of any emergency ordinance or resolution, not to exceed the maximum penalty of $100 fine or, in lieu of payment thereof, 6 months imprisonment, for each separate offense.

(3) In the event because of such emergency conditions the common council shall be unable to meet with promptness, the mayor or acting mayor of any city of the first class shall exercise by proclamation all of the powers herewith conferred upon the common council which within the discretion of the mayor are necessary and expedient for the purposes herein set forth; but such proclamation of the mayor shall be subject to ratification, alteration, modification or repeal by the common council as soon as the common council shall be able to meet, but such ratification, alteration, modification or repeal by the common council shall not affect the prior validity or force or effect of such proclamation by the mayor.

(4) All provisions contravening the provisions of this section are hereby repealed. [*1947 c. 248*]

66.70 Political subdivisions prohibited from levying tax on incomes. No county, city, village, town, or other unit of government authorized to levy taxes shall assess, levy or collect any tax on income, or measured by income, and any such tax so assessed or levied is void. [*1947 c. 18*]

WISCONSIN RETIREMENT SYSTEM

[*66.90 Stats. 1945 renumbered sections 66.90 to 66.919 by 1947 c. 362*]

66.90 Wisconsin retirement fund. (1) PURPOSE. The purpose of this fund is to provide for the payment of annuities and other benefits to employes and to beneficiaries of employes of the state of Wisconsin and municipalities in the state, thereby enabling such employes to provide for themselves and their dependents in case of old age, disability and death, and thereby effecting economy and efficiency in the public service by furnishing an orderly means whereby employes who become aged or otherwise incapacitated may, without hardship or prejudice, be retired from active service.

(2) CREATION OF FUND. A retirement and benefit fund to be operated and maintained in accordance with the provisions of sections 66.90 to 66.919 is hereby created. This fund shall be known as the "Wisconsin retirement fund." [*Stats. 1945 s. 66.90 (1), (2); 1947 c. 206, 362*]

66.901 Definitions. The following words and phrases as used in sections 66.90 to 66.919, unless different meanings are plainly indicated by their context, shall have the following meanings respectively:

(1) FUND. The Wisconsin retirement fund.

(2) MUNICIPALITY. The state of Wisconsin and any city, village, town, county, common school district, high school district, sewerage commission organized under section 144.07 (4) or a metropolitan sewerage district organized under sections 66.20 to 66.209, now existing or hereafter created within the state.

(3) PARTICIPATING MUNICIPALITY. Any municipality included within the provisions of this fund.

(4) EMPLOYE. Any person who:

(a) Receives earnings out of the general funds of any municipality or out of any special fund or funds controlled by any municipality as payment for personal services.

(b) Whose name appears on a regular pay roll of such municipality.

(c) Is employed in a position normally requiring actual performance of duty during not less than 600 hours a year in such municipality, and

(d) Has completed at least 6 months continuous service or 12 months total service for the municipality by which such person is employed when such person otherwise first becomes eligible for participation in the fund.

(5) EXCEPTIONS. The definition of employe shall not include persons:

(a) Who are senior teachers or junior teachers within the meaning of sections 42.20 to 42.54.

(b) Who are contributing to any policemen's or firemen's pension fund by virtue of section 61.65 or section 62.13 (9) or (10), except that any such person may, by written

notice, filed with the city or village clerk, irrevocably renounce all present, future and contingent benefits under the provisions of section 61.65 or section 62.13 (9) or (10), after which such person shall be exclusively under the Wisconsin retirement fund as long as he is otherwise eligible thereunder.

(c) Who are contributing to the conservation warden pension fund created by section 23.14, except that prior to January 1, 1948, any such person may, by written notice filed with both the trustees of the conservation warden pension fund and the conservation commission irrevocably renounce all present, future and contingent benefits under the provisions of section 23.14, in which case, effective January 1, 1948, such person shall be exclusively under the Wisconsin retirement fund as long as he is eligible thereunder.

(i) Who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this fund, provided that no person who is, or shall be, a member of the legislature or other state officer elected by vote of the people, shall be eligible to be included within the provisions of this fund because of service rendered to the state as a member of the legislature or as an elected state officer or be entitled to any credit hereunder because of such service. Any elected person who shall be or shall have been included at his request shall automatically be included during any subsequent term or part thereof which he may serve in the same office or in any other elective office in the same municipality or any other participating municipality, and at all times while he is included shall be subject to the compulsory retirement provisions of section 66.906 (1). Persons so electiong to participate shall be considered employes on the effective date of participation of the employing municipality only if such election is received by the board within 90 days of such effective date and if such person was in the service of such municipality on such effective date. In all other cases any person so electing to participate shall become an employe as of the first day of the month following the receipt by the board of notice of such election. The administrative determination to the effect that the compulsory retirement provisions in section 66.906 (1) apply to all persons who have once elected or shall once elect to be included in accordance with this paragraph is hereby declared to express and confirm the intention of the legislature.

(j) Employes other than those specified in paragraphs (a) and (b) who are included under the provisions of a retirement system existing in the employing municipality on the effective date of participation of such municipality if notice of election by the governing body of such municipality, to exclude such persons from participation in this system has been received by the board prior to the effective date of participation by such municipality.

(6) PARTICIPATING EMPLOYE. Any person included within the provisions of this fund.

(7) PRIOR SERVICE. The period beginning on the first day upon which any participating employe first became an employe of the municipality by which such employe was employed on the effective date of participation of such municipality, and ending on such effective date, excluding all intervening periods during which such employe was separated from the service of such municipality following a resignation, dismissal, lay-off, or expiration of any term of appointment or election as certified by the governing body of such municipality.

(8) CURRENT SERVICE. The period beginning on the day the employe first becomes a participating employe and ending on the day of the latest separation from the service of all participating municipalities, excluding all intervening periods during which such employe shall not receive, nor have a right to receive, earnings from a participating municipality.

(9) EARNINGS. An amount equal to the sum of the total amount of money paid on a regular pay roll by a municipality to an employe for personal services rendered to such municipality and the money value, as determined by rules prescribed by the governing body of the employing municipality, of any board, lodging, fuel, laundry, and other allowances provided for such employe in lieu of money, except that no amount in excess of $350 per month, or an equivalent for any other period, shall be considered for any purposes of this system.

(10) RATE OF EARNINGS. The actual rate upon which the earnings of any employe are calculated at any time, as certified by the governing body of the employing municipality in a written notice received by the board, assuming that, unless otherwise specified, the following are equivalents: 2,000 hours, 250 days, 50 weeks, 12 months, one year.

(11) FINAL RATE OF EARNINGS. The monthly earnings obtained by dividing the total earnings during the period of the 5 consecutive calendar years in which the total earnings of an employe were the highest, by the number of months in such period during which any earnings were received by such employe; provided that the earnings for all calendar

years of prior service of any employe shall be considered as being equal to earnings determined at the rate upon which prior service credits are granted under section 66.904 (1) (a) 1.

(12) ANNUITANT. A person receiving a retirement annuity, beneficiary annuity, reversionary annuity or a disability annuity from this fund.

(13) BENEFICIARY. The person so designated by a participating employe or annuitant in the last written designation of beneficiary on file with the board; or if no person so designated survives, or if no designation is on file, the estate of such employe or annuitant.

(14) ANNUITY. A series of equal monthly payments, payable at the end of each calendar month during the life of an annuitant; the first payment to be made as of the end of the first complete calendar month following the date upon which such annuity shall begin, and the last payment to be made as of the end of the calendar month prior to the month in which the annuitant shall die, except as provided in section 66.906 (3). In addition to the regular monthly amount, the first payment shall include an amount equal to the pro rata portion of such monthly amount for any fraction of a month elapsing between the date such annuity begins and the end of such calendar month, except as provided in section 66.906 (3).

(15) BOARD. The board of trustees of the Wisconsin retirement fund.

(16) GOVERNING BODY. The council or common council in cities, village board in villages, county board in counties, school boards in common school districts or high school districts, joint sewerage commission, or metropolitan sewerage commission, or town board, or any agent duly appointed by any such body and designated in a written notice filed with the board as being authorized to act for any such body in matters pertaining to the fund. For the state of Wisconsin there shall be a governing body for each department, board or commission thereof which governing body shall be, for each such department, board or commission, the respective head thereof, who shall be certified in writing to the board of trustees by the director of the bureau of personnel for the state of Wisconsin.

(17) EFFECTIVE DATE. The date upon which the provisions of this fund become applicable to any participating municipality as provided in section 66.902.

(18) PRIOR SERVICE CONTRIBUTION RATE. The rate at which prior service credits for employes are computed. For municipalities designating rates in accordance with the provisions of section 66.902 the rates shall be the rates so designated; for other municipalities, the rate shall be one times the rate of municipality credits for current service on the effective date of participation of the municipality, except that for the state of Wisconsin the prior service contribution rate shall be 2 times the rate of municipality credits for current service, except as provided in section 66.902 (3) and (4).

(19) EFFECTIVE RATE OF INTEREST. The rate determined from the experience of the calendar year which, after providing for interest requirements at the prescribed rate on the annuity reserves will distribute the remaining interest income for the year to the balances in the additional, normal, municipal and prior service credit accounts of the individual employes.

(20) PRESCRIBED RATE OF INTEREST. The rate of interest to be used for all calculations of the rates of normal contributions and amounts of annuities and benefits, as determined and certified by the board on the basis of the probable average effective rate of interest earnable on investments on a long term basis. For prior service obligation purposes, and until the board certifies otherwise for other purposes, such rate shall be 3 per cent per annum compounded annually. [*Stats. 1945 s. 66.90 (3); 1947 c. 99, 206, 362, 556*]

Note: Policeman in city of fourth class which becomes participating municipality under municipal retirement fund, who otherwise qualifies as employe under 66.90 (3) (d), Stats. 1943, is not excluded from said fund by (3) (e) unless such policeman is then included in policemen's pension fund created by ordinance passed pursuant to 62.13 (9) (e). 32 Atty. Gen. 448.

Contributions to municipal retirement fund made by probationary policeman should be refunded to him because he was a member of the police department and should have been included in the police pension fund under 62.13 (9) and excluded from Wisconsin municipal retirement fund under 66.90 (3) (e) 2, Stats. 1945. 35 Atty. Gen. 8.

An elected county official who is included within the Wisconsin municipal retirement fund at his own request in conformity with 66.90 (3) (e) 3, Stats. 1945, cannot later withdraw therefrom. 35 Atty. Gen. 21.

66.902 **Municipalities included and effective dates.** (1) Any municipality, except a city of the first class, a county having a population of 500,000 or more and the state of Wisconsin, shall be included within, and shall be subject to, the provisions of this fund by so electing, in accordance with this section. The effective date of participation of any such municipality shall be January 1 of the year after the year in which proper official notice of election to be included has been received by the board. The state of Wisconsin is hereby included, effective January 1, 1948. A municipality which has not elected to participate but some of whose employes will be included within and be subject to this

fund on or after January 1, 1948 shall be included within and be subject to this fund effective January 1, 1948 as though such municipality had elected to participate herein, except that, until such municipality does actually so elect and such election becomes effective, its employes included within and subject to this fund shall be only those specified by sections 61.65 (6), 61.65 (7), 62.13 (9) (e), 62.13 (9a), 62.13 (10) (f) and 62.13 (10) (g).

(2) Election by a municipality to be included within the provisions of this fund, shall be made in accordance with section 66.01 by cities and villages, section 59.073 by counties, section 40.99 by common school or high school districts, section 144.07 (4) (g) by joint sewerage systems, section 66.209 (2) by metropolitan sewerage districts and 60.29 (37) by towns. The governing body of any municipality so electing shall immediately submit a certified notice of such election to the board. Such notice must:

(a) Be in writing;

(b) Indicate the date of such election and the date and results of any referendum held pursuant to section 66.01 or 60.29 (37) on such inclusion;

(c) Include a certification of the prior service contribution rate, if any, selected as being applicable to the employes of the municipality; and

(d) Be officially certified by the clerk of the municipality, or in the case of a joint sewerage system or a metropolitan sewerage district by the secretary of the commissioners thereof.

(3) Municipalities other than the state of Wisconsin electing to participate may also elect to provide prior service credits at rates equal to 2, 1½ or one times the rates of municipality credits for current service provided such basis is specifically designated in the notice of election to participate in the fund, as being applicable to all employes included as of the effective date. Each employe of the state of Wisconsin who becomes a participating employe effective January 1, 1948 pursuant to section 66.903 (1) (a) 4 shall be given prior service credit for state service prior to January 1, 1948 in accordance with section 66.904 (1) (a) 1 at the rate of 2 times the municipality credit for current service, minus the required contribution and interest credited thereto transferred from the state employes' retirement fund and included as an additional credit of such employe pursuant to section 66.904 (1) (a) 4, provided that in the computation of such prior service credit:

(a) No credit shall be given for state service as a teacher for which the state made a state deposit under the provisions of sections 42.20 to 42.54.

(b) In the case of an appointed officer who did not elect to become a member of the state employes' retirement system at his earliest opportunity to do so, there shall be deducted from such prior service credit the sum which would have been to the credit of such appointed officer had he elected to become a member of such system at such earliest opportunity and made the required contributions thereunder from such time to December 31, 1947.

(c) In the case of a state employe or an appointed state officer who did elect to become a member of the state employes' retirement system, a part of whose prior service antedates July 1, 1943 and who reentered state service on or after July 1, 1943, there shall be deducted from his prior service credit, the additional credit of such person plus such further sum as would have been to his credit under the state employes' retirement system had his entire state service been continuous immediately preceding January 1, 1948, excepting only sums contributed thereto in excess of the required 3 per cent of salary and interest on such excess.

(d) In the case of a state employe who first entered the state service on or after July 1, 1943 and who withdrew sums which he had deposited under the state employes' retirement system there shall be deducted from his prior service credit the additional credit of such person plus such further sums as he withdrew under the state employes' retirement system, excepting only sums contributed thereto in excess of the required 3 per cent of salary and interest on such excess.

(e) Credit shall be given for periods during which the employe was not paid by the state but was paid by a county or other political subdivision of the state, or by the federal government or an agency thereof, under a co-operative arrangement whereby such employe, in the interests of the state, and while directly or indirectly under the control of the state department, board or commission by which he had been employed, was assigned by such state department, board or commission to duties with such county, city or other political subdivision of the state or the federal government or an agency thereof, provided that such employe was paid by the state for services performed for the state immediately before and immediately after any such period.

(f) A participating employe of the state of Wisconsin on the effective date who entered the service of the United States in civilian war emergency employment on or after January 1, 1942, and who was, at the time of such entry an employe of this state, and who on November 16, 1946, and in accordance with an act or acts of Congress was trans-

ferred to the service of this state shall receive credit as prior service for the time so spent in civilian war emergency employment between said dates.

(g) An employe who entered the services of the United States in civilian war emergency employment on or after January 1, 1942, and who was not, at the time of such entry, an employe of this state, and who, on November 16, 1946, and in accordance with an act or acts of Congress was transferred to the services of this state and became a member of the state employes' retirement system shall receive credit for such period of service in civilian war emergency employment with the United States if, prior to January 1, 1948, such person shall have made a single sum deposit in the employes' savings fund equal to the sum of the deposit which he would have been required to make therein for any period between July 1, 1943 and November 15, 1946, both dates inclusive, that said person was in the service of the United States in civilian war emergency employment, as though said person had been a member of the state employes' retirement system for such period.

(4) Each conservation warden who becomes a participating employe under the Wisconsin retirement fund effective January 1, 1948 by election pursuant to section 66.901 (5) (c) or effective January 1, 1950 pursuant to section 66.903 (1) (a) 3 shall be given prior service credit for state service prior to such respective effective date at the rate of 2 times the municipality credit for current service for such wardens as provided in section 66.903 (2) (a) 1, minus the sum of the additional contribution credited to such warden pursuant to section 23.15 (1). [*Stats. 1945 s. 66.90 (4); 1947 c. 206, 362, 556*]

66.903 **Employes included; effective dates; contributions by employes.** (1) EMPLOYES INCLUDED AND EFFECTIVE DATES. (a) All persons subject to sections 66.90 to 66.919 shall be included within, and shall be subject to, the provisions of this fund, beginning upon the dates hereinafter specified:

1. All such persons who are employes of any municipality on the effective date of participation of such municipality as provided in section 66.902, beginning upon such effective date.

2. All such persons who become employes of any participating municipality after the effective date of participation of such municipality as provided in section 66.902, beginning upon the date any such person becomes an employe.

3. All members of the conservation warden pension fund who shall be on a leave of absence, or who shall be contributing to said fund, on December 31, 1949, except those who will be retired thereunder effective at the end of December, 1949, shall become participating employes hereunder effective January 1, 1950 and shall be governed by the provisions of sections 66.90 to 66.919.

4. All members of the state employes' retirement system who shall be on a leave of absence from the state service on January 1, 1948 or who shall be contributing to said system on December 31, 1947, except those who will be retired under said system effective January 1, 1948, pursuant to section 42.71 (1) (c) shall become participating employes hereunder effective January 1, 1948 and shall be governed by the provisions of sections 66.90 to 66.919.

(b) Every leave of absence granted by a participating municipality to a participating employe shall automatically terminate at the end of 2 years for the purposes of this fund if not previously terminated by the participating municipality, and after such termination such person shall not be eligible for a disability annuity or his estate or beneficiaries for the $500 death benefit until reemployed by a participating municipality.

(2) CONTRIBUTIONS BY EMPLOYES. (a) Each participating employe shall make contributions to the fund as follows:

1. Normal contributions of 5 per cent of each payment of earnings, excepting any part of such earnings in excess of $350 per month or an equivalent for any other period, paid to any such employe by any participating municipality, provided, however, that the normal contribution rate on said earnings for such employes who are conservation wardens, policemen, including the chief and all other officers, and firemen, including the chief and all other officers, shall be 7 per cent. Any county which shall be or become a participating municipality may require that after a date specified by it but not earlier than January 1, 1948 the normal contribution rate for such of its participating employes as then are or may become deputy sheriffs, undersheriffs or traffic policemen shall be 7 per cent: but no prior service credit may be granted to any such participating employe upon the basis of a 7 per cent contribution.

2. Additional contributions of such percentage of each payment of earnings paid to any such employe by a participating municipality as shall be elected by the employe.

3. In every municipality which shall have become a participating municipality prior to January 1, 1948, employe and municipality contributions shall be required only upon that part of the earnings of any participating employe not to exceed $250 per month,

or an equivalent for any other period, which are included in any report of earnings submitted to the fund for any month prior to January 1948. In every such municipality, any prior service credit to any person who is a participating employe on the effective date of this act shall be recomputed pursuant to section 66.904 (1) (a) 1 when necessary to give such person the benefit of a prior service credit based upon earnings in excess of $250 but not over $350 per month, and the prior service credit of each such person shall be increased accordingly, effective as of the same date as the original prior service credit granted to such person.

(b) Normal contributions shall continue at the percentages specified in this subsection until the first day of the year following any year in which the board certifies that the rates shall be changed. Thereafter, the rates shall be those designated in the last certification of the board.

(c) The normal contribution rates shall be the uniform rates to the closest one-half per cent, which should be in effect in order generally to provide, on the basis of the available average experience, average retirement annuities of approximately one-half of 50 per cent of final earnings for an employe hereafter first becoming an employe of any participating municipality at the age of 30 and continuing as an employe until retirement at age 65.

(d) Each rate of additional contribution shall be a multiple of one-half per cent and shall not exceed twice the normal contribution rate applicable to the employe. The selected rate shall be applicable to all earnings beginning on the first day of the second month following receipt by the board of written notice of election to make such contributions. Additional contributions shall be made concurrently with normal contributions and shall continue at the elected rate until the end of the calendar year in which written notice of discontinuance or change is received by the board.

(e) All normal contributions and all additional contributions shall be deducted from each corresponding payment of earnings paid to each participating employe and shall be due and be deposited in the offce of the board by the employing municipality not later than the end of the month in which the earnings are paid. The deductions from earnings of participating employes of the state of Wisconsin and the duplicate monthly report of earnings required by the fund shall be due and be deposited in the office of the board by the respective departments, boards or commissions in which such employes are employed not later than the end of the month in which the earnings are paid.

(f) Whenever any employe becomes subject to the old-age and survivors insurance benefit provisions of the federal social security act any contribution required by this subsection shall be reduced by the amount of the contribution made by such employe pursuant to said old-age and survivors insurance benefit provisions. [*Stats. 1945 s. 66.90 (5), (6); 1947 c. 99, 206, 362, 556*]

Note: Where a person is a full-time employe of a participating municipality which pays his full salary, the normal employe contribution under 66.90, Stats. 1943, for such employe should be based upon the gross salary paid him, even though the city is reimbursed for one-half of such salary under a contract between the city and county. 33 Atty. Gen. 65.

66.904 Credits to employes; credits for service men. (1) CREDITS TO EMPLOYES. (a) For the purpose of determining the amount of any annuity or benefit to which an employe or beneficiary shall be entitled, each participating employe shall be credited with the following amounts, as of the dates specified:

1. For prior service, each participating employe who is an employe of a participating municipality on the effective date, shall be credited, as of such date, with a prior service credit of an amount equal to the accumulated value, as of such date, of the contributions which would have been made during the entire period of prior service of such employe, in accordance with section 66.902 (3). Assuming the earnings of such employe to have been uniform during such period of prior service and equal to the monthly earnings obtained by dividing the total earnings during the period of the 3 calendar years immediately preceding the effective date, by the number of months in such period during which any earnings were received by such employe, the rate of contribution to have been the prior service contribution rate applicable to such employe, the contributions for each calendar year to have been made at the end of such year, and the contributions to have accumulated with interest at the rate of 3 per cent per annum compounded annually.

2. For current service, each participating employe shall be credited with the following amounts as of the dates specified: (a) Additional credits of amounts equal to each payment of additional contributions received from such employe, as of the date the corresponding payment of earnings is payable to the employe; (b) normal credits of amounts equal to each payment of normal contributions received from such employe, as of the date the corresponding payment of earnings is payable to the employe; (c) municipality

credits of amounts equal to each normal credit of each employe, as of the date of each corresponding normal credit.

3. For reentrance into service upon termination of an annuity in accordance with the provisions of section 66.906 (2) (c), or of section 66.907 (2) (f), each employe so reentering shall be credited, as of the date such annuity is terminated, with additional, normal, municipality and prior service credits of amounts equal to the then present value of the portion of the terminated annuity which was originally provided by the corresponding type of credit.

4. When any person who was a member of the state employes' retirement system on December 31, 1947 becomes a participating employe under the Wisconsin retirement fund, the board of trustees of said latter fund shall certify such fact to the state annuity and investment board which shall forthwith certify to the said board of trustees the total sum to the credit of such person in said former system, including an equitable amount of interest from July 1, 1947, which shall be determined by the state annuity and investment board and by it credited to the respective accounts, indicating the amount attributable to regular contributions and interest, and the amount attributable to additional contributions and interest which board of trustees shall thereupon credit the amount attributable to regular contributions and interest and the amount attributable to additional contributions and interest, as an additional credit to an account which shall be established forthwith for such participating employe in the Wisconsin retirement fund. The portion of such additional credit which is attributable to regular contributions and interest under the state employes' retirement system shall not be available to provide a reversionary annuity under section 66.907 (1) or be payable as a death benefit in addition to the $500 death benefit provided for by section 66.908 (2) (a) and in all other respects shall be treated as normal credits except that no corresponding municipality credit therefor shall be given pursuant to section 66.904 (1) (a) 2 (c). Whenever the state annuity and investment board shall make such a certification, it shall forthwith transfer, by cash payment or sale or assignment of securities from the state employes' retirement fund to the Wisconsin retirement fund, assets equal in value to the total of the amounts so certified. The state annuity and investment board may make a correctional or supplementary certification and corresponding transfer of assets at any time.

5. Whenever the state annuity and investment board shall make a certification to the Wisconsin retirement fund in accordance with subdivision 4 hereof for a participating employe of the state of Wisconsin, it shall forthwith transmit to the Wisconsin retirement fund all designations of beneficiary forms filed by such employe under the state employes' retirement system; the last of such designations filed with the state annuity and investment board by the participating employe and so transmitted shall be and remain the designation of beneficiary form in effect for such employe under the Wisconsin retirement fund until such employe shall file a new one with said fund.

7. Notwithstanding the provisions of section 66.901 (4) (b), prior service credit may be given to each participating employe who is or was an employe of a participating municipality on the effective date for periods during which he served such municipality, or an officer of such municipality, on a fee basis, if such participating employe is otherwise eligible for such prior service credit. The governing body of any participating municipality which shall exercise the right hereby granted to give prior service credit for either or both of said kinds of service, shall certify to the fund all such periods of service and the fees received by such participating employe during such periods, which fees shall be considered earnings for the purpose of calculating the amount of such prior service credit. Notwithstanding the provisions of section 66.901 (4) (b), any participating municipality also may include as participating employes persons performing services of which the participating municipality receives the benefit but who are paid for such services by an officer of such municipality; prior service credit for such service rendered prior to the effective date of participation by the municipality shall be computed, for any such person so included, upon the basis of the compensation certified by the participating municipality as being the usual compensation of any such person for such services; current service credit for such service rendered after such inclusion shall be computed upon the basis of the compensation received by any such person for such services as certified upon the pay rolls submitted by such participating municipality.

(b) The credits of each individual participating employe shall be accumulated in a separate account for each type of credit, and interest shall be credited thereon as follows:

1. All balances at the beginning of each year remaining in such accounts at the end of the year shall be improved with interest, at the end of each year, at the effective rate of interest for the year.

2. All amounts credited to employes during the year because of reentrance into the service in accordance with paragraph (a) 3 or because of certifications in accordance

with paragraph (a) 4 remaining in such accounts at the end of the year shall be improved with interest at the end of such year for each full month elapsing between the date of credit and the end of the year, at one-twelfth of the effective rate of interest for the year.

3. All balances at the beginning of any year, and all amounts credited to employes during the year in accordance with paragraph (a) 3, not remaining in such accounts at the end of the year because of the granting of annuities or benefits during the year, shall be improved with interest, on the first day of the month in which the first annuity or benefit payment is due, for each full month elapsing between the first day of the year or the date of credit, as the case may be, and the first day of the month in which such first annuity or benefit payment is due, at one-twelfth of the effective rate of interest for the preceding year.

4. Upon the granting of a retirement annuity, a disability annuity, a death benefit or a separation benefit, because of any employe, all the individual accumulated credits of such employe shall thereupon be terminated.

(c) Whenever, pursuant to section 62.13 (10) (g) a fireman shall become a participating employe after the effective date in any municipality, such fireman and such municipality shall, within one year thereafter make respectively the normal contributions and municipality contributions which normally would have been made for such employe after the effective date, and thereupon such fireman shall be credited, as of the effective date with such prior service credits, if any, as would normally have been credited to him.

(d) In computing the prior service credit of a person who was an employe on the effective date there shall be included all previous service for such municipality, including service as an elective or appointive official or as an employe, if such service or employment conformed to the requirements of section 66.901 (4).

(2) PRIOR SERVICE CREDITS FOR SERVICE MEN. (a) Prior service credits pursuant to subsection (1) (a) 1 shall be granted for periods of service in the armed forces of the United States during World War II, which shall include such service subsequent to September 16, 1940, to any person who was an employe on the effective date of participation by such municipality and who left the service of such municipality to enter such armed forces. Such credit shall be granted as of the date the employe resumes employment with the municipality pursuant to section 16.276 or 21.70. Credit shall also be granted for service during World War I to any person who was employed by the municipality at the time of his entrance into the armed forces of the United States, if such employment was resumed within 90 days after discharge from the armed forces and continued until the effective date of participation of the municipality with total interruptions thereafter of not to exceed 2 years.

(b) In each such case the earnings computed under subsection (1) (a) 1 shall be adjusted to reflect any salary increase or salary adjustment which would have altered the rate of earnings during the period of the 3 calendar years immediately preceding the effective date if such employment had not been interrupted by service in the armed forces. Whenever because of service in the armed forces an employe shall have no earnings as computed under subsection (1) (a) 1, then the rate of earnings shall be computed by dividing the earnings during the last 12 calendar months of municipal employment by 12, and such rate of earnings shall be adjusted as provided in this paragraph.

(c) The provisions of this subsection shall be effective, as to any municipality now or hereafter included in this fund, as of the date of participation of each such municipality.

(3) CURRENT SERVICE CREDITS FOR SERVICE MEN. (a) Current service credit shall be granted for that period of service spent in the armed forces of the United States, between the effective date of participation by the employing municipality and the date when the employe resumed employment with the municipality pursuant to section 16.276 or 21.70, such credit to be given as of such latter date, but such credit shall be granted only to a person who was an employe on the effective date of participation by such municipality, who left the service of such municipality to enter such armed forces and who entered such armed forces prior to January 1, 1948.

(b) The participating municipality shall grant such current service credit by making for such participating employe the municipality contributions which it would have made for such employe had he continued in the service of such municipality during such period. In each such case the assumed earnings of such employe, upon which such municipality contributions must be based, shall be computed in the manner provided for computing earnings under subsection (2) (b).

(c) The provisions of this subsection shall be effective, as to any municipality now or hereafter included in this fund, as of the date of participation of each such municipality. [*Stats. 1945 s. 66.90 (7), (7a); 1947 c. 99, 206, 362, 377, 556, 577; 43.08 (2)*]

66.905 Contributions by municipalities. (1) Each participating municipality shall make contributions to the fund as follows:

(a) Municipality contributions of the percentages, as specified in this section, of each payment of earnings made to each participating employe. Such contributions shall be made by the state of Wisconsin from the respective funds from which the salaries are paid to the employes for whom such contributions are being made; the heads of the respective state departments, boards and commissions which make the salary deductions in accordance with section 66.903 (2) (e) shall, at the time that said salary deductions are sent to the board, by applying the municipality contribution rate of the state of Wisconsin to the appropriate portion of the earnings of the respective employes of that department, board or commission, determine the amount of the corresponding municipality contribution to be made by the proper fund of the state of Wisconsin and shall indicate the amount of such contribution on the monthly pay roll report submitted in duplicate to the fund. For the purpose of determining rates the conservation department shall be considered a separate municipality. The fund shall transmit one copy of such monthly pay roll report to the director of budget and accounts together with a voucher or vouchers for payment to the Wisconsin retirement fund, from the appropriate state funds, of the amounts payable thereto as indicated by the copy of the pay roll reports so submitted. Thereupon the director of budget and accounts shall promptly approve such voucher or vouchers for payment and the state treasurer shall forthwith issue his check or checks therefor to the Wisconsin retirement fund.

(b) Advance contributions of such amounts as shall be determined by any such municipality for the purpose of reducing any existing obligation of such municipality for prior or current service.

(2) Each such percentage shall be the rate computed as necessary to provide, as of the beginning of such year, the total of the following:

(a) The uniform annual amount required, at 3 per cent interest per annum, to amortize, over the remainder of the period of 40 years following the effective date, the amount, as of the beginning of such year, of the obligation for the prior service credits granted to the employes of the municipality.

(b) The amount of the single premium required, because of earnings paid to employes of any such group, to provide all municipality credits granted during such year; adjusted by the uniform annual amount required, at the prescribed rate of interest, to amortize or to refund, as the case may be, over 10 years, the amount, as of the beginning of such year, of any then existing obligation for, or surplus applicable to, the municipality credits previously granted to the employes of the municipality.

(c) The amount of the one-year term premium required to provide the excess, if any, of the present value of the disability benefits expected to be granted during such year to the employes of such municipality, over the available accumulated credits of such employes.

(d) The amount of the one-year term premium required to provide the excess, if any, of the death benefits expected to be granted during such year on account of the employes of such municipality, over the available accumulated credits of such employes.

(e) The amount required to provide that proportion of the total administrative expense for the year, adjusted for any surplus or deficiency existing as of the end of the previous year which the number of employes in the municipality, as of the beginning of such year, is of the total number of employes then in all municipalities.

(3) Computations of the rates of municipality contributions for the following calendar year shall be made prior to the regular meeting of the board each December, from the information available at the time of making such computation and on the assumption that the employes in each municipality at such time will continue in service until the end of such calendar year at their respective rates of earnings in effect at such time. Such rates shall become effective, after certification by the board, as of the beginning of the calendar year to which they are applicable and shall remain in effect during such year.

(4) The amount of each municipality contribution shall be determined by applying the proper percentage rate of contribution to the total of all earnings paid to employes of the municipality on each pay day, and all such amounts shall be due and be deposited in the office of the board by the municipality not later than the end of the month in which the earnings are paid. [*Stats. 1945 s. 66.90 (8); 1947 c. 99, 206, 362, 556*]

66.906 Compulsory retirement; annuities. (1) COMPULSORY RETIREMENT. Any participating employe, except an appointed state officer, who shall have attained age 65 or more on the effective date shall be retired at the end of his first month as a participating employe and any participating employe who attains the age of 65 shall be retired at the end of the month in which such age is attained, unless in either case:

(a) At such time, the amount of the retirement annuity to which a person who was an employe of any municipality on the effective date is entitled shall be less than 25 per cent of the final rate of earnings of such employe, in which event such employe shall be retired at the end of the first month in which the amount of such annuity equals or exceeds 25 per cent of such final rate of earnings; or,

(b) Written notice is received by the board certifying that the governing body of the municipality by which such employe is employed has, because of some special qualification of the employe, specifically authorized such employe to continue in employment for a period not to exceed one year beyond such date, or not to exceed one year beyond the date of expiration of any previous certification date, or until the end of the current term if chosen for a definite term, in which event such employe shall be retired at the expiration of the period designated in the last certification for such continuance on file with the board. The employment of a participating employe who is an appointed state officer less than 65 years of age on January 1, 1948 or a state employe who is the head of a state department, board or commission may be continued only upon receipt by the board of such a written notice from his appointing officer, board or commission who or which shall act as the governing body under this paragraph for the sole purpose of granting such continuances.

(2) RETIREMENT ANNUITIES. (a) The following described persons shall be entitled to retirement annuities, beginning on the dates hereinafter specified:

1. Any participating employe who, regardless of cause, is separated from the service of all municipalities at any time after the accumulated credits of any such employe are sufficient to provide an annuity of at least $10 per month beginning upon the attainment of age 65 in the case of an employe who is separated prior to age 65, or upon the date of separation of any employe who is separated on or after the attainment of age 65.

2. Such annuities shall begin on the date specified by the employe in the written application therefor, provided such date is not prior to the date of separation from the last participating municipality by which such employe was employed, and provided such date is not more than 60 days prior to the date of receipt of such application by the board; and provided the credits of the employe are sufficient as of such date to provide an annuity of at least $10 beginning immediately; and provided the employe has attained the age of 55; and provided the employe is not entitled to receive earnings from any municipality on or after such date.

(b) The amount of any retirement annuity shall be determined in accordance with the prescribed rate of interest in the approved actuarial tables in effect at the time the annuity begins, and shall be the sum of the following:

1. The annuity which can be provided, on the date such annuity begins, from the total accumulated additional and normal credits of the employe at such time not used to provide a reversionary annuity, and

2. The annuity which can be provided, on the date such annuity begins, from the total accumulated municipality and prior service credits of the employe at such time; subject, however, to the limitation that in no event shall any annuity arising out of the total of the accumulated municipality and prior service credits, exceed either of the following: (a) The amount which, when added to the annuity provided, on the date such annuity begins, from the accumulated normal credits of the employe at such time, will equal 50 per cent of the final rate of earnings of the employe, or (b) the amount of the annuity which could have been provided at age 65 from the accumulations at age 65, or on the effective date of participation for employes who are over age 65 on such date, assuming the employe as then exactly age 65, from the total municipality and prior service credits of the employe, assuming that the prior service credits of such employe had been accumulated on the basis of a contribution rate equal to the sum of the rates of normal and municipality credits as they were on the effective date of participation of such employe.

(c) Notwithstanding the fact that any annuity is payable for life, if any annuitant receiving a retirement annuity enters the service of any municipality the annuity payable to such annuitant at that time shall be terminated as of the end of the month prior to the date upon which such person entered such service.

(d) If any employe elects a reversionary annuity in accordance with section 66.907 (1), the amount of the retirement annuity to which such employe would otherwise be entitled shall be reduced to the amount which can be provided from the total accumulated credits remaining after deduction of those required to provide the reversionary annuity.

(3) ALTERNATIVE RETIREMENT ANNUITIES. (a) Notwithstanding any other provision of sections 66.90 to 66.919, any participating employe who is eligible to receive an ordinary retirement annuity under section 66.906 (2) may elect, in lieu of such annuity, to take the actuarial equivalent thereof as a retirement annuity payable monthly for the life

of the participating employe as the annuitant, with a guaranty of 180 monthly payments, and in the event of his death before 180 monthly payments have been made, the remainder of the 180 monthly payments shall be continued to one beneficiary or divided as specified by the participating employe, and equally if not specified, between 2 or more beneficiaries designated by such employe, until payments shall have been made for 180 consecutive months after such annuity began.

(b) Upon the death of the annuitant who was the participating employe before payment has been made for 180 months, the then present value of the remainder of such payments shall be paid as a death benefit under section 66.908 to the estate of such annuitant where such estate was designated as the beneficiary or where no beneficiary was designated or where no designated beneficiary survives.

(c) In the event of the death of any designated beneficiary prior to the death of the annuitant who was the participating employe, then upon the death of the latter, the then present value of the benefit, if any, which would have been payable to such deceased beneficiary had he survived, shall be payable as a death benefit under section 66.908, unless an alternate beneficiary survives.

(d) Upon the death of any designated beneficiary after he has become entitled to receive monthly payments hereunder, the then present value of the remainder of his benefit shall be paid as a death benefit under section 66.908.

(e) Whenever a participating employe elects to take an annuity provided for under this subsection, then upon the death of such employe, no death benefit shall be payable under the provisions of section 66.908 (2) (c). [*Stats. 1945 s. 66.90 (9), (10); 1947 c. 99, 206, 362, 556; 43.08 (2)*]

Note: Where a city, which is a participating municipality under 66.90, Stats. 1943, pays the full salary of a participating employe who works half time for the city and half time for the county, and is reimbursed by the county for one-half of said salary, the normal employe's contribution should be based upon the net salary rather than the gross salary paid by the city. If said employe retires as a city employe under 66.90 but continues to work for the county, such employe would not be prevented from receiving his retirement annuity because of 66.90 (10) (c). 21.70 (2) does not require participating municipality, under 66.90, to calculate and make payments upon contingent liability for municipality contributions for former employe now in armed forces, until such employe is restored to his former position or a similar one. Where a city has two persons employed full time for fire inspections, repair work on fire equipment and answering fire calls, such city has a paid fire department, and, under 62.13 (10), Stats. 1943, must have a firemen's pension fund; said employes are not eligible for inclusion in the Wisconsin municipal retirement fund. 33 Atty. Gen. 23.

66.90 (9), Stats. 1945, did not impair the authority which a municipality had to dispense with the services of an employe. 34 Atty. Gen. 278.

Except as provided in 66.90 (9) (a) and (b), Stats. 1945, an elected county official who is included within the Wisconsin municipal retirement fund at his own request is obliged to retire upon attainment of age 65. Because of 66.90 (6) (a) 3, any salary over $250 per month which actually is paid must be disregarded in determining "25 per cent of the final rate of earnings" under 66.90 (9) (a). An elected county official included within the municipal retirement fund at his own request may be continued in service beyond the compulsory retirement age of 65 by the county board or its agent in accordance with 66.90 (9) (b). 35 Atty. Gen. 21.

66.907 Reversionary annuities; disability annuities. (1) Reversionary annuities. (a) Any employe entitled to an annuity may elect to provide a reversionary annuity for a beneficiary, provided, that at the time such disability or retirement annuity begins the accumulated additional credit of such employe is sufficient to provide a reversionary annuity for the designated beneficiary of the employe of at least $10 per month and the remaining credits of such employe are sufficient to provide an immediate annuity of at least $10 per month for the employe.

(b) Any such election shall become effective only:

1. If written notice thereof by the employe is received by the board together with the application of the employe for the annuity, and

2. If the amount of the reversionary annuity specified in such notice for the beneficiary is not less than $10 nor more than that which can be provided at the time, by the accumulation of additional credits.

(c) The amount of such reversionary annuity shall be that specified in the notice of election to have such annuity paid.

(d) Any such reversionary annuity shall begin on the date the last payment of the employe annuity is payable because of death, provided the beneficiary is alive at such time. If the beneficiary does not survive the employe annuitant, no reversionary annuity shall be payable, but only the death benefit as provided in section 66.908.

(2) Disability annuities. (a) The following described persons shall be entitled to disability annuities, beginning on the dates hereinafter specified:

1. Any participating employe who has not attained age 65 and irrespective of the amount of accumulated credits at the time, is separated from the service of all participating municipalities, and who at such time is totally disabled, either mentally or physically, by a disability which is likely to be permanent.

2. Such annuities shall begin on the date such disability occurred, unless written application for such benefits is not received by the board within 60 days of such date, in which case, benefits shall begin to accrue on the day 60 days prior to the receipt of such application, or unless all earnings have not ceased to be payable to such employe on such date, in which case, benefits shall begin on the day following the day for which the last payment of earnings to such employe is made by any employing municipality.

(b) A participating employe shall be considered totally and permanently disabled only after the board shall have received:

1. Written certification by at least 2 licensed and practicing physicians approved or appointed by the board, that the employe is totally and likely to be permanently disabled, for performance of the duties of any position, and

2. Written certification by the governing body of each of the employing municipalities that such employe has been separated from the service because of a total disability of such a nature as to reasonably prevent performance of the duties of any position and as a consequence is not entitled to any earnings from such municipality.

(c) The amount of any disability annuity shall be the greater of the following:

1. The amount that can be provided from the total accumulated credits of the employe on the date such annuity begins excluding credits used to provide a reversionary annuity if any; or

2. The sum of the amount of the annuity that can be provided from the accumulation of additional credits not used to provide a reversionary annuity on the date the disability annuity begins plus the lesser of the following amounts: 25 per cent of the final rate of earnings, or the amount of the annuity that could be provided at age 65, from the accumulation of normal, municipal, and prior service credits which would be available at such time, had the employe continued in the service at the final rate of earnings until such time and had the rate of interest during such period been the effective rate for the year previous to the year in which the disability annuity began.

(d) Any annuitant receiving a disability annuity of which more than $10 per month was provided by other than accumulated credits of the employe at the time such annuity began and because of a disability, the nature of which is such that recovery is possible, shall be examined by at least one licensed and practicing physician appointed by the board at least once a year during any period such annuitant shall receive such annuity and prior to age 65. A certified report of such examination which shall indicate whether or not the annuitant is still totally and permanently disabled, shall be filed by each such physician in writing with the board.

(e) If the report of any such physician indicates that the annuitant has recovered from disability and is able to perform the duties of any regular position, or if the annuitant refuses to submit to such examination, the disability annuity shall terminate as of the end of the month previous to the date of determination by the board of such recovery or refusal. Thereupon, if the annuity which can be provided on such date of termination from the present value of the portion of the terminated disability annuity originally provided by accumulated credits of the employe:

1. Is equal to at least $10 beginning immediately, such annuitant shall be entitled to a retirement annuity of the amount which can be so provided, beginning upon the date of termination of the disability annuity, or

2. Is equal to less than $10 beginning immediately, such annuitant shall be for the purposes of this fund, classified as an employe and shall be credited as of the date of termination of the disability annuity with additional, normal, municipality and prior service credits of amounts equal to the then present value of the portion of the terminated annuity which was originally provided by the corresponding type of credit.

(f) Notwithstanding the fact that any annuity granted is for life, if any annuitant receiving a disability annuity enters the service of any municipality, the annuity payable to such employe at that time shall be terminated as of the end of the calendar month prior to the date upon which such person entered such service.

(g) Notwithstanding any provisions to the contrary, if any disabled employe receives, or is entitled to receive, any award under or by virtue of the workmen's compensation act as the result of the disability because of which the disability annuity was granted, the disability payments due hereunder shall be permanently withheld by the fund to an amount equal to the total of any such awards. [*Stats. 1945 s. 66.90 (11), (12); 1947 c. 99, 206, 362, 556*]

66.908 Death benefits. (1) The following described persons shall be entitled to death benefits, in the form and at the times hereafter specified:

(a) The beneficiary of any participating employe or of any annuitant on the date of death of the employe or annuitant.

(b) Such death benefits shall be paid in the form of a single cash sum except where an annuity is payable under the provisions of section 66.909.

(c) Whenever any death benefit is payable in a single cash sum, it shall be paid to the beneficiary as soon as practicable after receipt by the board of: 1. A certified copy of the death certificate of the employe or annuitant; 2. a written application of the beneficiary for such benefit, and 3. such additional evidence as the board deems necessary or desirable.

(2) The amount of the death benefit shall be:

(a) Upon the death of any employe while in the employment of any participating municipality, or during the period following the termination of the employment of any employe eligible on the date of termination for a retirement or disability annuity from whom the board had received an application for such respective annuity within 30 days of the date of termination of employment, but who died before such application was acted upon by the board, the sum of: 1. The accumulated normal credits of such employe on the date of death, or $500, whichever is the greater, and 2. the accumulated additional credits of such employe on the date of death.

(b) Upon the death of an employe after such employe has been separated from the service of all participating municipalities but before becoming an annuitant, except as provided in paragraphs (a) and (c), the sum of the accumulated additional and normal credits of such employe on the date of death.

(c) Upon the death of a person granted or receiving a disability or retirement annuity, unless a reversionary annuity begins at such time in which case upon the death of the annuitant receiving the reversionary annuity, the excess of the sum of the accumulated additional and normal credits of such annuitant which were used at the time the annuity began, to provide the disability or retirement annuity and the reversionary annuity, over the sum of all annuity payments to which he had become entitled prior to his death. Such death benefit shall be at least $500 less the sum of all annuity payments to which he had become entitled prior to his death.

(d) Upon the death of an annuitant receiving a beneficiary annuity, the excess of the death benefit which was used to provide the annuity, over the sum of all annuity payments to which such beneficiary had become entitled prior to his death. [*Stats. 1945 s. 66.90 (13); 1947 c. 99, 362*]

66.909 Beneficiary annuities. (1) If the amount of any death benefit is sufficient to provide an immediate annuity of at least $10 for the beneficiary, the death benefit shall be paid in the form of annuity of such amount as can be provided from the death benefit on the date such annuity begins, provided:

(a) The beneficiary is the widow of the employe or annuitant, or

(b) The beneficiary is other than the widow of the employe or annuitant, but such beneficiary has specified in the application for the death benefit, or the employe prior to his death has so specified in a written notice received by the board, that such benefit shall be paid as an annuity.

(2) Whenever any death benefit is payable in the form of an annuity, such annuity shall begin on the day following the date of death of the employe or annuitant provided the board has received:

(a) A certified copy of the death certificate of the employe or annuitant, and

(b) A written application of the beneficiary for such benefit.

(3) The amount of any beneficiary annuity shall be that which can be provided from the death benefit on the date such annuity begins in accordance with the prescribed rate of interest and the approved actuarial tables in effect at the time. [*Stats. 1945 s. 66.90 (14); 1947 c. 206, 362, 556*]

[*66.91, created Spl. S. 1946 c. 1, renumbered section 66.92 by 1947 c. 362*]

66.91 Separation benefits. The following described persons shall be entitled to separation benefits at the times hereinafter specified:

(1) Any participating employe who is not employed by a participating municipality and who at the time of application therefor would not be entitled to either a retirement or disability annuity beginning immediately.

(2) Such separation benefits shall be paid in the form of a single cash sum as soon as practicable after receipt by the board of both a written application by the employe for such benefits, and a written notice from the last employing municipality certifying that such employe has been separated from the service. The amount of any separation benefit shall be the sum of the accumulated additional credits and normal credits of the employe as of the date of separation from the service. [*Stats. 1945 s. 66.90 (15); 1947 c. 99, 206, 362*]

Note: Regular policeman who contributed to Wisconsin municipal retirement fund while serving as probationary policeman is not entitled to separation benefit under 66.90 (15), Stats. 1945, because he is still in the service of the municipality. 35 Atty. Gen. 8.

66.911 **Board of trustees.** (1) This fund shall be construed to be a trust and shall be administered by a board of trustees, consisting of a maximum of 9 persons, each of whom shall be designated as a trustee. Each trustee appointed from a city or village shall be appointed from a different county. Each trustee appointed from a county or town shall be appointed from a different county. Each finance trustee, and each employe trustee shall be a participating employe.

(2) The board shall consist of representatives of various groups as follows:

(a) One trustee shall be a member of the governing body of a participating city or village and shall be designated as the city or village trustee. The first such appointee shall serve until January 1, 1949.

(b) One trustee shall be a chief executive of a participating city or village and shall be designated as the executive trustee. The first such appointee shall serve until January 1, 1948.

(c) One trustee shall be a principal finance officer of a participating city or village and shall be designated as the finance trustee. The first such appointee shall serve until January 1, 1947.

(d) One trustee shall be an employe of a participating city or village and shall be designated as the municipal employe trustee. The first such appointee shall serve until January 1, 1946.

(e) One trustee shall be a member of the governing body of a participating county or town and shall be designated as the county or town trustee. The first such appointee shall serve until January 1, 1950.

(f) One trustee shall be chairman of a participating county board or town chairman of a participating town and shall be designated as the chairman trustee. The first such appointee shall serve until January 1, 1949.

(g) One trustee shall be a deputy county clerk of a participating county and shall be designated as the clerk trustee. The first such appointee shall serve until January 1, 1948.

(h) One trustee shall be an employe of a participating county or town and shall be designated as the county employe trustee. The first such appointee shall serve until January 1, 1947.

(i) One trustee shall be the commissioner of insurance who shall serve ex officio, or such experienced actuary in the insurance department as the commissioner shall designate in a written designation filed with the board, which actuary shall be and serve as trustee until such designation shall have been revoked by the commissioner.

(j) Prior to the time when the total number of participating county employes is equal to 60 per cent of the total number of participating city and village employes, the county or town trustee and the clerk trustee designated in paragraphs (e) and (g) shall not be appointed. At such time when the total number of participating county employes equals 60 per cent of the total number of participating city and village employes, the remaining trustees provided in paragraphs (e) and (g) shall be appointed as hereinbefore provided.

(3) After the original appointment, the term of office of each trustee other than the commissioner of insurance shall begin on January 1 and shall continue for a period of 5 years and until a successor has been appointed and qualified, or until a prior resignation, death, incapacity or disqualification. Any trustee shall be disqualified and cease to be a member of the board upon losing the status upon which his appointment as a trustee was based. Vacancies shall be filled in the original manner for the unexpired term.

(4) Each trustee shall be appointed by the governor. In the case of the city or village trustee and of the executive trustee such appointments shall be made from a list of 5 names for each vacancy submitted by the executive committee of the League of Wisconsin Municipalities. In the case of the county or town trustee and of the chairman trustee the appointment shall be made from a list of 5 names, for each vacancy submitted by the executive committee of the Wisconsin County Boards' Association. Each such list shall be submitted to the governor not more than 30 days after the effective date of the provisions contained in this section and within 30 days following any vacancy or the expiration of any term requiring such list. All appointments shall be made within 30 days after receipt of any such list or prior to 30 days before the expiration of any term of a trustee not requiring such list. Each trustee shall be notified in writing of his appointment.

(5) All trustees shall serve without compensation, but shall be reimbursed for any reasonable traveling expenses incurred in attending meetings of the board and for the

amount of any earnings withheld by an employing municipality because of attendance at any board meeting.

(6) Each trustee shall be entitled to one vote on any and all actions before the board for consideration at any board meeting, and the concurring votes of a majority of all the trustees shall be necessary for every decision or action by the board at any of its meetings. No decision or action shall become effective unless presented at a regular or duly called special meeting of the board. [*Stats. 1945 s. 66.90 (16); 1947 c. 99, 206, 362*]

66.912 **Powers and duties.** (1) The board shall have, in addition to all other powers and duties arising out of sections 66.90 to 66.919 not otherwise in this section specifically reserved or delegated to others, the following specific powers and duties. The board is authorized and directed to:

(a) Hold not less than 4 regular meetings each year and such special meetings as may be called by the executive director upon the written request of at least 3 trustees. Notice of each meeting shall be mailed to each trustee at least 5 days prior to each meeting. All meetings of the board shall be open to the public and shall be held in the offices of the board, or in such other place designated in the notice of the meeting.

(b) Consider and pass on all applications for annuities and benefits, authorize the payments of all annuities and benefits and suspend any such payment, all in accordance with the provisions of sections 66.90 to 66.919.

(c) Prepare and approve a budget of operating expenses for each calendar year prior to the beginning of such year.

(d) Compel witnesses to attend meetings and to testify upon any necessary matter concerning the fund and allow fees not in excess of the statutory provisions.

(e) Certify all normal employe and municipality contribution rates and the prescribed rate of interest as authorized in writing by the actuary and notify all participating municipalities thereof.

(f) Request such information from any participating employe or from any participating municipality as shall be necessary for the proper operation of the fund.

(g) Determine the length of prior service from such information as is available. Any such determination shall be conclusive as to any such period of service unless within 2 years of the issuance of the first individual statement to any employe the board shall reconsider any such case and change the determination.

(h) Establish an office at the capital city in quarters to be provided by the state director of purchases. All books and records of the fund shall be kept in such office.

(i) Appoint an executive director for the purpose of managing the office and carrying out the technical administrative duties of the fund.

(j) Appoint an actuary for the purpose of carrying out all the necessary actuarial requirements of the fund.

(k) Employ such additional actuarial, clerical, medical, legal and other employes as shall be required for the efficient administration of the fund.

(l) Determine and fix the compensation to be paid to the executive director, actuary and other employes.

(m) Have the accounts of this fund audited at least annually by a certified public accountant or by the department of state audit.

(n) Submit an annual statement to the governing body of each participating municipality, and to any participating employe upon request, as soon after the end of each calendar year as possible. Such statement shall include a balance sheet, showing the financial and actuarial condition of the fund as of the end of the calendar year, a statement of receipts and disbursements during such year, a statement showing changes in the asset, liability, reserve and surplus accounts during such year, a detailed statement of investments showing, as of the end of such year, the title of each security, purchase price, coupon rate, effective interest rate, amortized book value, maturity date, and amount of due and accrued interest, and such additional statistics as are deemed necessary for a proper interpretation of the condition of the fund.

(o) Submit an individual statement to any participating employe upon reasonable request of such employe. Such statement shall indicate the amount of accumulations of each type to the credit of such employe as of the end of the latest date practicable.

(p) Accept any gift, grant or bequest of any money or property of any kind, for the purposes designated by the grantor if such purpose is specified as providing cash benefits to some or all of the participating employes or annuitants of this fund; or, if no such purposes are designated for the purpose of distribution to all of the participating employes at the end of the year in the same proportion as the interest at the effective date is allocated for the year.

(q) Determine and direct the state annuity and investment board and the state treasurer as to the limitations on the amounts of cash to be invested in order to maintain such cash balances as may be deemed advisable to meet current annuity, benefit and expense requirements and the general policy to be followed with respect to investments of the fund.

(r) Keep in convenient form such data as shall be necessary for all required calculations and valuations as specified by the actuary.

(s) Keep a permanent record of all the proceedings of the board.

(t) Establish such rules and regulations not inconsistent with the provisions of the statutes as are deemed necessary or desirable for the efficient administration of the fund.

(u) Generally carry on any other reasonable activities which are deemed to be necessary to carry out the intent and purpose of this fund in accordance with the provisions of sections 66.90 to 66.919.

(v) Delegate all technical and administrative duties and such other powers and duties, other than those designated in subsections (a), (b), (c), (i), (j), (l) and (q) of the powers and duties of the board, as may from time to time be deemed desirable.

(2) The executive director shall be in charge of the technical administration of the fund and shall have such additional powers and duties as are properly delegated by the board.

(3) The actuary shall be the technical advisor of the board and in addition to general advice shall specifically be responsible for, and it shall be his duty:

(a) To make a general investigation immediately upon the establishment of the fund and at least once every 3 years thereafter of the experience of the fund as to mortality, disability, retirement, separation, interest and employe earnings rates and to certify as a result of each such investigation, the tables to be used for computing annuities and benefits and for determining the premiums for disability and death purposes, and the rates of normal contributions in accordance with section 66.902, and the prescribed rate of interest.

(b) To determine the proper rates of municipality contributions in accordance with section 66.905.

(c) To make an annual valuation of the liabilities and reserves required to pay both present and prospective benefits.

(d) To compute and certify the actuarial figures on the annual financial statements of the board.

(e) To certify the amounts of each annuity and benefit granted by the board, and

(f) Advise the board on any matters of an actuarial nature affecting the soundness of the fund or requiring any changes for more satisfactory operation.

(4) The attorney-general of the state of Wisconsin shall be the legal advisor and shall prosecute or defend, as the case may be, all actions brought by or against the board.

(5) The state treasurer shall be the treasurer of the fund and shall be responsible for the proper handling of all the assets of the fund in accordance with the provisions of sections 66.90 to 66.919. The treasurer shall furnish the board a corporate surety bond of such amount as the board may designate, which bond shall indemnify the board against any loss which may result from any action or failure to act on the part of such treasurer or any of his agents. All reasonable charges incidental to the procuring and giving of such bond shall be paid by the board. [*Stats. 1945 s. 66.90 (17); 1947 c. 99, 300, 362*]

66.913 Investment of assets. (1) The assets of the fund, in excess of the amount of cash required for the current operations as determined by the board, shall be invested and reinvested as provided by section 25.17 (2) and (2a).

(2) All securities purchased with assets of the fund or safekeeping receipts therefor shall be kept by the state treasurer in boxes or portfolios clearly marked to indicate the ownership of such securities and receipts by the fund.

(3) Any uninvested cash shall be maintained by the state treasurer in a separate bank account in the name of the fund. [*Stats. 1945 s. 66.90 (18); 1947 c. 206, 362*]

66.914 Funds. (1) All money received by the board shall immediately be deposited with the state treasurer for the account of the fund. All disbursements shall be made only upon certification of the executive director pursuant to authorization by the board as properly recorded in the official minute books of the meetings of the board, except that disbursements for securities purchased and the payment of accrued interest thereon and for any other investments shall be made upon certification of the director of investments of the state annuity and investment board.

(2) All investments and other evidences of title to property of the fund when received shall also be deposited with the state treasurer who shall provide adequate safe deposit facilities for their preservation and who shall have custody of all the assets of the fund.

(3) The assets of the fund shall be mingled in one fund, and no particular person or municipality shall have any right in any specific item of cash, investment or other property other than an undivided interest in the whole as provided by sections 66.90 to 66.919.

(4) The fund may refund any money paid in error into the fund. To effect such a refund the executive director shall certify to the director of budget and accounts the name of each person or municipality entitled to a refund and the amount thereof. Thereupon, and notwithstanding section 20.06, the director of budget and accounts shall draw his warrant for the amount and in favor of the person or municipality so certified, and the state treasurer shall pay the same and charge it to the appropriation made by section 20.90. [*Stats. 1945 s. 66.90 (19); 1947 c. 9, 99, 362*]

66.915 Obligations of municipalities. (1) For the purposes of determining the municipality contribution rates and the amounts of the obligations of municipalities, each participating municipality shall be charged with the following amounts, as of the dates specified:

(a) For prior service, a prior service obligation of an amount equal to the present value on the effective date of participation, of all prior service credits granted to the employes of such municipality in accordance with section 66.904 (1) (a) 1, as of such effective date.

(b) For current service, a current service obligation of an amount equal to the present value at the end of the year, of all municipality credits granted during such year to the employes of such municipality, in accordance with section 66.904 (1) (a) 2, as of the end of each year.

(2) As each municipality contribution becomes due, in accordance with section 66.905 (1) (a), it shall be prorated in the same proportion that the amount for each purpose under section 66.905 (2), is of the total of all amounts under such subsection for the corresponding year. The proportions applicable to the prior service obligation, and the current service obligation shall be credited to the corresponding account of the participating municipality from which it is receivable. The proportions of such contributions applicable to disability, death and expense shall not be credited to the municipality required to make such contributions, but shall be credited to the respective surplus accounts maintained for disability, death and expense purposes.

(3) As any payment is received by the fund in accordance with section 66.905 (1) (b), it shall be credited to the prior service obligation or the current service obligation, as the case may be, of the municipality from which it is received, as of the date of receipt.

(4) The surplus or deficiency arising during the year in the prior service credit and municipality credit reserves because of mortality variations and other limitations upon the granting of annuities and benefits, shall be credited or charged, as the case may be, at the end of the year with interest to the end of the year, to the prior service obligation or current service obligation account, as the case may be, of the participating municipality previously charged with the amounts from which any such reserves were accumulated.

(5) Interest for the year, at the prescribed rate, shall be charged or credited as the case may be, at the end of each year, on the average balances at the beginning of each month in the prior service obligation account and on the balances at the beginning of the year in the current service account. Interest, at the rate of one-twelfth of the effective rate then in effect, for each month or fraction thereof, shall be charged to the current service account, at the end of the year, or on accounts receivable from any municipality, except the state of Wisconsin, for both employe and municipality contributions which are not received by the fund within the calendar month following the due date. Any such interest chargeable on employe and municipality contributions from a department, board or commission of the state of Wisconsin, shall be payable if the monthly pay roll report provided for by section 66.903 (2) (e) shall not be received by the fund on or before the 20th day of the calendar month following the due date; when any such interest is payable the board of trustees shall certify the amount thereof with an explanation of such charge, together with a voucher in payment therefor to the director of budget and accounts who shall forthwith approve such voucher and charge the same to the appropriation of the department, board or commission which failed to submit its pay roll report to the board of trustees on time. The state treasurer shall forthwith issue his check or checks therefor to the Wisconsin retirement fund.

(6) At the end of the year in which the prior service obligation of any municipality is completely amortized, any balance remaining in such account shall be transferred to the current service account of such municipality and thereafter all surpluses and deficiencies arising because of the granting of annuities or benefits or because of variations in mortality in the reserve requirements for prior service credits, shall be credited or charged, as the case may be, to the current service obligation account of such municipality.

(7) Separate accounts shall be maintained for each participating employe and for each municipality. All transactions affecting the employes of any municipality shall be entered in the account applicable to such municipality and no such transactions shall affect the accounts of any other municipality. [*Stats. 1945 s. 66.90 (20); 1947 c. 99, 206, 362, 556*]

66.916 Surpluses. (1) For the purpose of determining and properly segregating surpluses arising out of the operations of this fund which are to be retained for future variations as distinguished from those which are currently allocated to the participating municipalities, the following surplus accounts shall be created and shall be charged and credited as follows:

(a) All surpluses or deficiencies arising during the year because of mortality variations in the reserves for all annuities previously granted shall be credited or charged, as the case may be, to an annuity payment surplus account. Whenever the balance in such account, whether surplus or deficiency, exceeds 15 per cent of the reserves for all annuities granted, the tables used for the determination of annuities shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(b) All surpluses or deficiencies, arising because the municipality contributions for disability purposes provide either more or less than the amounts required to pay disability benefits and to meet the normal credits granted to disabled employes, shall be credited or charged, as the case may be, to a disability benefit surplus account. Whenever the balance in such account, whether a surplus or deficiency, exceeds 100 per cent of the average annual disability payments during the 3 preceding calendar years, the tables of disability premiums shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(c) All surpluses or deficiencies, arising because the municipality contributions for death purposes provide more or less than the amounts required to pay the death benefits in excess of those provided by the additional and normal contributions, shall be credited or charged, as the case may be, to a death benefit surplus account. Whenever the balance in such account, whether a surplus or deficiency, exceeds 100 per cent of the average annual death payments, payable from death premiums, during the 3 preceding calendar years, the tables of death benefit premiums shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(d) All surpluses or deficiencies, arising because the municipality contributions for expense purposes provide more or less than the amounts required to pay the expenses of the fund, shall be credited or charged, as the case may be, to an expense surplus account. Whenever a balance exists in such account, it shall be included in the basis used for determining the municipality contributions for expense purposes as indicated in section 66.905.

(2) For purposes of determining the interest income for any year, all investments shall be carried at a book value such that yield to maturity, computed as an interest rate compounded annually or semiannually, as the case may be, will remain uniform. No adjustments shall be made in investment valuations for ordinary current market price fluctuations; but reserves may be provided for possible losses as determined by the board. All investment expenses shall be charged to income resulting from interest and profits on investments.

(3) The balances at the beginning of any year in the disability and death surplus accounts shall be charged or credited, as the case may be, with interest at the prescribed rate as of the end of each year.

(4) The balance at the beginning of any year in the annuity payment account, as adjusted by transfers thereto and payments therefrom, shall be credited with interest at the prescribed rate as of the end of each year. [*Stats. 1945 s. 66.90 (21); 1947 c. 99, 206, 362, 556*]

66.917 Authorizations. (1) Each participating municipality shall be:

(a) Authorized and directed to deduct all normal and additional contributions from each payment or earnings payable to each participating employe who is entitled to any earnings from the municipality. All such contributions shall be due and be deposited in the office of the board not later than the end of the month in which the earnings are paid.

(b) Authorized and directed to pay to the board concurrently with each remittance of employe contributions, the corresponding municipality contribution out of the general fund or any special fund from which the earnings, from which the corresponding employe contributions were deducted were paid.

(2) Each participating employe shall, by virtue of the payment of any contributions to this fund, receive a vested interest in the annuities and benefits provided in sections 66.90 to 66.919 and each such employe in consideration of such vested interest in this fund shall be deemed to have agreed and authorized the deduction of all contributions

payable to this fund in accordance with sections 66.90 to 66.919 from the payments of earnings by the employing municipality.

(3) Payment of earnings less the amounts of contributions provided in sections 66.90 to 66.919 shall be a full and complete discharge of all claims for payment for services rendered by any employe during the period covered by any such payment. [*Stats. 1945 s. 66.90 (22); 1947 c. 99, 206, 362*]

66.918 Assignments. (1) All annuities and other benefits payable under the provisions of this fund and all accumulated credits of employes in the fund shall be unassignable and shall not be subject to execution, garnishment or attachment; provided that:

(a) The board in its discretion may pay to the wife of any annuitant or participating employe such portion, or all, of the annuity or separation benefit payable to such annuitant or employe as any court of equity may order, or as the board may consider necessary for the support of the wife or children of such annuitant or employe in the event of the disappearance or unexplained absence of such employe, or of his failure to support such wife or children.

(b) The board may retain out of any annuity or benefit such amount as the board in its discretion may determine, for the purpose of reimbursing the fund for any money paid to any annuitant or employe through misrepresentation, fraud or error.

(2) In all cases in which any amounts become payable to a minor or to a person adjudged insane or mentally incompetent, the board in its discretion may waive guardianship proceedings, and pay such amounts to the person providing for, or caring for, such minor, or to the wife, parent or blood relative providing for, or caring for, such insane or incompetent person.

(3) Any action, decision or determination of the board shall be reviewable only by a writ of certiorari, and any party to such certiorari proceedings shall have the right of appeal from the decision of the reviewing court.

(4) The board and the fund shall be held free from any liability for any money retained or paid in accordance with the provisions of this section and the employe shall be assumed to have assented and agreed to any such disposition of money due. [*Stats. 1945 s. 66.90 (23); 1947 c. 206, 362*]

66.919 Separability of provisions. If any section, subsection, paragraph, sentence or clause of sections 66.90 to 66.919 is, regardless of cause, held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences and clauses shall continue in force and effect and shall be construed thereafter as being the entire provisions of this fund. [*Stats. 1945 s. 66.90 (24); 1947 c. 362*]

66.92 Housing for veterans; authority to promote; state co-operation. (1) Any county, city, village or town or agency thereof may appropriate money, grant the use of land, buildings or property owned or leased by it, or take such other action as may be deemed advisable or necessary to promote and provide housing for veterans and servicemen.

(2) In the event that an agency created or designated by a county or municipality to administer anything authorized under this section is unable to secure satisfactory and acceptable bid or bids the agency may nevertheless negotiate necessary contracts authorized by the sponsoring county or municipality subject to the approval of the county or municipality.

(3) The state department of veterans' affairs is authorized and directed to furnish any county, city, village, town or agency thereof with information and assistance to facilitate housing for veterans and servicemen and said department shall call upon the state planning board for assistance in carrying out the purpose of this subsection. The state planning board shall furnish such assistance when requested and the salaries and expenses therefor shall be paid out of the appropriation for the state department of veterans' affairs. [*Spl. S. 1946 c. 1; 1947 c. 362*]

Note: 66.91 (3), Stats. 1945, does not authorize the department of veterans' affairs to furnish and pay for assistance to local housing authority in the form of drafting of blueprints and preparation of specifications and material requirements for specific buildings to be erected in the locality in connection with veterans' housing program. The board of veterans' affairs may assist municipalities of this state or their agencies in planning and executing building programs by furnishing information of a general educational nature relative to such programs. 35 Atty. Gen. 394.

66.91 (1), Stats. 1945, gives county board power to enact resolution providing that the county make certain buildings owned by it available for housing veterans attending certain educational institutions located in the county. Power to provide housing includes power to furnish kitchen facilities. County board has no power to enact resolution providing that the county enter on a project whereby county would supply meals or food to those veterans to whom it furnishes housing as provided in 66.91 (1). 35 Atty. Gen. 432.

66.93 Sites for veterans' memorial halls. Any city, town or village may donate to any organization specified in section 70.11 (28) land upon which is to be erected a memorial hall to contain the memorial tablet specified in said section. [*1947 c. 195*]