CHAPTER 66.

GENERAL MUNICIPALITY LAW.

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whole or any part of a city or village charter shall designate specifically the portion of the charter so amended or repealed, and every charter ordinance which makes the election mentioned in subsection (4) of this section shall designate specifically each enactment of the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 as a class 1 notice, under ch. 985, 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, arranged alphabetically by city and village and summarizing each ordinance, and annually shall issue such a list of charter ordinances filed during the 12 months prior to July 1.

(3a) Every charter ordinance enacted pursuant to s. 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 s. 10.43 (5) and (6) [Stats. 1963].

(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 sub. (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 60 days after its passage and publication. If within such 60 days a petition signed by a number of electors of the city or village equal to not less than 7% 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 s. 9.20 (2) to (6).

(6) Any charter ordinance may be initiated in the manner provided in s. 9.20 (1) to (6), but alternative adoption thereof by the legislative body shall be subject to referendum as provided in sub. (5) of this section.

(7) Any charter ordinance may be submitted to a referendum by the legislative body, in the manner prescribed in s. 9.20 (4) to (6), 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 ch. 62 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 2 years. Any election to change or amend the charter of any city or village, other than a special election as provided in s. 9.20 (4) shall be held at the time provided by statute for holding 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 s. 9.20 shall, submit to the electors in the manner prescribed in s. 9.20 (4) to (6) 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 s. 9.20 (4) to (6), 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.

(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.

(16) Any village having a population of 1,000 or more may proceed under this section to organize as a city of the appropriate class. Such village may by charter or charter ordinance adopted hereunder elect not to be governed by ch. 62 or 66 in whole or in part or may create such system of government as is deemed by the village to be most appropriate for its situation. Such charter or charter ordinance may include provision for the following, without limitation because of enumeration: method of election of members of the council by districts, at-large or by a combination of methods, procedure for election of the first common council, creation and selection of all administrative officers, departments, boards and commissions, powers and duties of all officers, boards and commissions and terms of office. Such charter or charter ordinance shall not alter those provisions of ch. 62 dealing with police and fire departments or ch. 40 [Title XIV] dealing with education. Any village incorporated after August 12, 1959 may not become a city under this subsection unless it meets the standards for incorporation in ss. 66.015 and 66.016.

History: 1965 c. 252, 666 s. 22 (26), (27), (29), (30), (31), (32); 1967 c. 353.

66.013 Incorporation of villages and cities; purpose and definitions. (1) PURPOSE. It is declared to be the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.013 to 66.019 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) DEFINITIONS. As used in ss. 66.013 to 66.019 unless the context requires otherwise:

(a) "Head of the planning function" means the head of the planning function in the department of local affairs and development or such agent as the head of the planning function designates.

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

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

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

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

History: 1963 c. 395; 1967 c. 211 s. 21 (1).

66.014 Procedure for incorporation of villages and cities. (1) NOTICE OF INTENTION. At least 10 days and not more than 20 days before the circulation of an incorpora-

tion petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which said territory is located as a class 1 notice, under ch. 985.

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

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

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state his address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached thereto a scale map reasonably showing the boundaries thereof; set forth facts substantially establishing the standards for incorporation required herein; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

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

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

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

(c) The court may in its discretion, upon notice to all parties who have appeared in the hearing and after a hearing thereon, order the petitioners or any of the opponents to post bond in such amount as it deems sufficient to cover such disbursements.

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

(b) The notice shall contain:

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

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

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

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

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

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

(b) Any action contesting an incorporation shall be placed at the head of the circuit court calendar for an early hearing and determination. The time within which a writ of error may be issued or an appeal taken to obtain review by the supreme court of any judgment or order in any action or proceeding contesting an incorporation is limited to 30 days from the date of the filing of such judgment or order.

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

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.015 are met. If the court finds that the standards are not met, the court shall dismiss

the petition. If the court finds that the standards are met the court shall refer the petition to the head of the planning function and thereupon the latter shall determine whether or not the standards under s. 66.016 are met.

(9) FUNCTION OF THE HEAD OF THE PLANNING FUNCTION. (a) Upon receipt of the petition from the circuit court the head of the planning function shall make such investigation as may be necessary to apply the standards under s. 66.016.

(b) Within 20 days after the receipt by the head of the planning function of the petition from the circuit court, any party in interest may request a hearing. Upon receipt of the request, the head of of the planning function shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

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

(d) Unless the court sets a different time limit, the head of the planning function shall prepare his findings and determination citing the evidence in support thereof within 90 days after receipt of the reference from the court. The findings and determination shall be forwarded by the head of the planning function to the circuit court. Copies of the findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(e) The determination of the head of the planning function made in accordance with the standards under ss. 66.015, 66.016 and 66.021 (11) (c) shall be either:

1. The petition as submitted shall be dismissed;

2. The petition as submitted shall be granted and an incorporation referendum held;

3. The petition as submitted shall be dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the head of the planning function's findings and determination.

(f) If the head of the planning function determines that the petition shall be dismissed, the circuit court shall issue an order dismissing the petition. If the head of the planning function grants the petition the circuit court shall order an incorporation referendum as provided in s. 66.018.

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

(h) Except for an incorporation petition which describes the territory recommended by the head of the planning function under s. 66.014 (9) (e) 3, no petition for the incorporation of the same or substantially the same territory shall be entertained for one year following the date of the denial of the petition or the date of any election at which incorporation was rejected by the electors.

History: 1963 c. 395; 1965 c. 252; 1967 c. 211 s. 21 (1).

NOTE: Chapter 683, Laws 1959, provides in reference to the 1959 revision of incorporation and annexation proceedings by ch. 261, Laws 1959:

"(Chapter 261, laws of 1959) Section 10. The provisions of chapter 261, laws 1959, shall not apply to any incorporation, annexation or consolidation proceedings which were commenced prior to August 12, 1959, nor to any future proceedings to incorporate all or substantially all of the territory for which a certificate of incorporation was issued by the secretary of state prior to February 14, 1957, but which subsequently shall be declared invalid by a court."

66.015 Standards to be applied by the circuit court. Before referring the incorporation petition as provided in s. 66.014 (2) to the head of the planning function, the court shall determine whether the petition meets the formal and signature requirements and shall further find that the following minimum requirements are met:

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

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

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

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

(5) STANDARDS WHEN NEAR FIRST, SECOND OR THIRD CLASS CITY. Where the proposed boundary of a metropolitan village or city is within 10 miles of the boundary of a city of the first class or 5 miles of a city of the second or third class, the minimum area requirements shall be 4 and 6 square miles for villages and cities, respectively.

History: 1967 c. 211 s. 21 (1).

Classification into 4 different types of cities and villages is constitutional. Scharping v. Johnson, 32 W (2d) 383, 145 NW (2d) 691.

66.016 Standards to be applied by the head of the planning function. (1) The head of the planning function may approve for referendum only those proposed incorporations which meet the following requirements:

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

(b) *Territory beyond the core.* The territory beyond the most densely populated square mile specified in s. 66.015 shall have in an isolated municipality an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.021 (1) (b) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses; but the head of the planning function may waiver these requirements to the extent that water, terrain or geography prevents such development. Such territory in a metropolitan municipality shall have the potential for residential or other land use development on a substantial scale within the next 3 years.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.015, any proposed incorporation in order to be approved for referendum must be in the public interest as determined by the head of the planning function upon consideration of the following:

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

(b) *Level of services.* The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.014 (6).

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

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

History: 1967 c. 211 s. 21 (1).

"Compactness" in (1) (a) refers to regularity of shape of the area, not population density. (1) (b) applies to a proposed incorporation of an isolated village even though it refers to "the most densely populated square mile". Scharping v. Johnson, 32 W (2d) 383, 145 NW (2d) 691.

66.017 Review of the action of the circuit court and the head of the planning function. (1) The order of the circuit court made pursuant to s. 66.014 (8) or (9) (f) may be appealed to the supreme court.

(2) The decision of the head of the planning function made pursuant to s. 66.014 (9) shall be subject to judicial review by the circuit court of Dane county as provided in ch. 227.

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

(4) Where an incorporation referendum has been ordered by the circuit court under s. 66.014 (9) (f), such referendum shall not be stayed pending the outcome of further litigation, unless the supreme court, upon appeal or upon the filing of an original action in supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the head of the planning function will be set aside.

History: 1963 c. 395; 1967 c. 211 s. 21 (1).

The scope of the review by the supreme court is the same as that given the circuit court by 227.20. The question of whether the incorporation is in the public interest is a legislative question which the judiciary cannot determine. Scharping v. Johnson, 32 W (2d) 383, 145 NW (2d) 691.

66.018 Referendum procedure. (1) ORDER. The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the order is for a city incorporation referendum the order shall further specify

that 7 aldermen shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards and the number of aldermen per ward by charter ordinance.

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

(3) RETURN. An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.021 (5) insofar as applicable, and the form of the ballot shall be "for a city [village]" or "against a city [village]." The inspectors shall make a return to the circuit court.

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

(5) CERTIFICATION OF INCORPORATION. If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply him with 4 copies of a description of the legal boundaries of the village or city and 4 copies of a plat thereof, of which 2 copies of both shall be forwarded to the highway commission and one copy to the department of taxation. The secretary of state shall issue a certificate of incorporation and record the same.

History: 1963 c. 395.

66.019 Powers of new village or city: elections; adjustment of taxes; reorganization as village. (1) VILLAGE OR CITY POWERS. Every village or city incorporated under this section shall be a body corporate and politic, with powers and privileges of a municipal corporation at common law and conferred by these statutes.

(2) EXISTING ORDINANCES. Ordinances in force in the territory incorporated or any part thereof, insofar as not inconsistent with chs. 61 and 62, shall continue in force until altered or repealed.

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

(4) FIRST VILLAGE OR CITY ELECTION. (a) Within 10 days after incorporation of the village or city, the clerk of the circuit court with whom the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 6 insofar as applicable. Such papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the clerk of the circuit court by publication in the newspapers selected under s. 66.018 (2) and by posting notices in 3 public places in such village or city, but failure to give such notice shall not invalidate the election.

(b) The election shall be conducted as prescribed by ch. 6, except that no registration of voters shall be required. The inspectors shall make returns to the clerk of the circuit court who shall, within one week after such elections, canvass the returns and declare the result. The clerk shall notify the officers-elect and issue certificates of election. If the first election is on the first Tuesday in April the officers so elected and their appointees shall commence and hold their offices as for a regular term. Otherwise they shall commence within 10 days and hold their offices until the regular village or city election and the qualification of their successors and the terms of their appointees shall expire as soon as successors qualify.

(5) TAXES LEVIED BEFORE INCORPORATION; HOW COLLECTED AND DIVIDED. Whenever a village or city is incorporated from territory within any town or towns, after the assessment of taxes in any year and before the collection of such taxes, the tax so assessed shall

be collected by the town treasurer of the town or the town treasurers of the different towns of which such village or city formerly constituted a part, and all moneys collected from the tax levied for town purposes shall be divided between the village or city and the town or the towns, as provided by s. 66.03, for the division of property owned jointly by towns and villages.

(6) REORGANIZATION AS VILLAGE. If the population of the city falls below 1,000 as determined by the United States census, the council may upon petition of 15 per cent of the electors submit at any general or city election the question whether the city shall reorganize as a village. If three-fifths of the votes cast on the question are for reorganization the mayor and council shall file a certified copy of the return in the office of the register of deeds and the clerk of the circuit court, and shall immediately call an election, to be conducted as are village elections, for the election of village officers. Upon the qualification of such officers, the board of trustees shall declare the city reorganized as a village, whereupon the reorganization shall be effected. The clerk shall forthwith certify a copy of such declaration to the secretary of state who shall file the same and indorse a memorandum thereof on the record of the certificate of incorporation of the city. Rights and liabilities of the city shall continue in favor of or against the village. Ordinances, so far as within the power of the village, shall remain in force until changed.

History: 1965 c. 666 s. 22 (1).

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 have the force of a contract. The ordinance and the result of the referendum shall be certified as provided in s. 66.018 (5); if a town the certification shall be preserved as provided in ss. 60.05 and 66.018 (5), 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. Any consolidation ordinance proposing the consolidation of a town and another municipality shall, within 10 days after its adoption and prior to its submission to the voters for ratification at a referendum, be submitted to the circuit court and head of the planning function in the department of local affairs and development for a determination whether such proposed consolidation is in the public interest. The circuit court shall determine whether the proposed ordinance meets the formal requirements of this section and shall then refer the matter to the head of the planning function in the department of local affairs and development, who shall find as prescribed in s. 66.014 whether the proposed consolidation is in the public interest in accordance with the standards in s. 66.016. The head of the planning function's findings shall have the same status as incorporation findings under ss. 66.014 to 66.019.

History: 1967 c. 211 s. 21 (1).

NOTE: Chapter 683, Laws 1959, provides in reference to the amendment of this section by ch. 261, Laws 1959:

"(Chapter 261, laws of 1959) Section 10. The provisions of chapter 261, laws 1959, shall not apply to any incorporation, annexation or consolidation proceedings which were commenced prior to August 12, 1959, nor to any future proceedings to incorporate all or substantially all of the territory for which a certificate of incorporation was issued by the secretary of state prior to February 14, 1957, but which subsequently shall be declared invalid by a court."

66.021 Annexation of territory. (1) DEFINITIONS. In this section, unless the context clearly requires otherwise:

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

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

(c) "Real property" means land and the improvements thereon.

(d) "Petition" includes the original petition and any counterpart thereof.

(2) METHODS OF ANNEXATION. Territory contiguous to any city or village may be annexed thereto in the following ways:

(a) *Direct annexation.* A petition for direct annexation may be filed with the city or village clerk signed by:

1. A majority of the electors residing in such territory and either a. the owners of

one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory; or

2. If no electors reside in such territory, by a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory.

(b) *Annexation by referendum.* A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by 20 per cent of the electors residing in the territory and the owners of 50 per cent of the real property either in area or assessed value.

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

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

2. A description of the territory proposed to be annexed, sufficiently accurate to determine its location.

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

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

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

(b) The person who causes the notice to be published shall serve a copy of such notice, together with a copy of the scale map required under sub. (4) (a), upon the clerk of each municipality affected within 5 days of the date of publication of the notice. Such service may be either by personal service or by registered mail with return receipt requested.

(4) PETITION. (a) The petition shall state the purpose of the petition and contain a description of the territory proposed to be annexed, sufficiently accurate to determine its location, and have attached thereto a scale map reasonably showing the boundaries of such territory and the relation of the territory to the municipalities involved.

(b) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

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

(5) REFERENDUM. (a) *Notice.* Within 60 days after the filing of the petition, the common council or village board may accept or reject the petition and if rejected no further action shall be taken thereon. Acceptance may consist of adoption of an annexation ordinance. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request therefor with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days after the date of personal service or mailing of the notice required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition requesting a referendum is filed with the town clerk signed by 20 per cent of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed. Any referendum shall be held at some convenient place within the town to be specified in the notice.

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

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

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

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

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

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

(6) QUALIFICATIONS. Qualifications as to electors and owners shall be determined as of the date of filing any petition, except that all qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein. Residence and ownership must be bona fide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(7) ANNEXATION ORDINANCE. (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate such petition and not later than 60 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (11) the governing body shall first review the reasons given by the head of the planning function in the department of local affairs and development that the proposed annexation is against the public interest. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.97 (6a) [(7)].

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

(c) The ordinance for the annexation of territory to a city that operates its schools under the city school system shall provide that the annexed territory is annexed for school purposes and is thereby made a part of the city school district and subject to all of the laws governing the same.

(d) The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of the first class shall not be required to administer the schools in any territory annexed to any such city until July 1 following such annexation.

(8) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state 4 certified copies of a certificate and plat and one copy to each company that provides any utility service in area annexed plus one such copy with the register of deeds, signed by the clerk, describing the territory which was annexed. Failure to file shall not invalidate the annexation but the duty to file shall be a continuing one. The clerk shall certify annually to the secretary of state and to the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) The secretary of state shall forward 2 copies of the certificate and plat to the state highway commission and one copy to the department of taxation.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of

deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.

(9) VALIDITY OF PLATS. Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in s. 236.10 (1) (a), such plat shall be deemed validly approved despite the invalidity of the annexation.

(10) ACTION. (a) No action may be commenced after 60 days from the effective date of any annexation to contest the validity thereof upon any grounds whatsoever, whether denominated procedural or jurisdictional. The validity of any annexation shall, 60 days after the effective date thereof, be conclusively established and may not be attacked collaterally or otherwise questioned.

(b) Any action contesting an annexation except actions pending on November 17, 1957 shall be placed at the head of the circuit court calendar for an early hearing. The time within which a writ of error may be issued or an appeal taken to obtain review by the supreme court of any judgment or order in any action or proceeding contesting an annexation is limited to 30 days from the date of notice of the entry of such judgment or order.

(11) REVIEW OF ANNEXATIONS. (a) *Annexations within populous counties.* No annexation proceeding within a county having a population of 50,000 or more as shown by the last federal census shall be valid unless the person causing a notice of annexation to be published pursuant to sub. (3) shall within 5 days of the publication mail a copy of the notice and a scale map of the proposed annexation to the clerk of each municipality affected and the head of the planning function in the department of local affairs and development. The head of the planning function may within 20 days after receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that in his opinion the annexation is against the public interest. No later than 10 days after mailing the notice, the head of the planning function shall advise the clerk of the town in which the territory is located and the clerk of the village or city to which the annexation is proposed of the reasons the annexation is against the public interest as defined in par. (c). The annexing municipality shall review such advice before final action is taken.

(b) *Annexations of one square mile or more.* Whenever a village or city adopts an ordinance annexing an area of one square mile or more, it shall immediately petition the circuit court of the county in which the village or city is situated for a determination that the annexation is in the public interest and the ordinance shall not be in effect until the court so determines. The court shall obtain an advisory report of the head of the planning function on whether the annexation is in the public interest as defined in par. (c). Notice of the filing of the petition shall be given by the village or city promptly by publication of a class 1 notice, under ch. 985, in the county where the village or city is situated and by certified mail to the clerk of the town from which the territory is sought to be annexed. The town or any elector or owner of real estate in the territory may intervene in the court proceedings within 20 days of the publication of notice of the filing of the petition. The adoption of the ordinance shall constitute prima facie evidence that the annexation is in the public interest.

(c) *Definition of public interest.* For purposes of this subsection public interest is determined by the head of the planning function in the department of local affairs and development after consideration of the following:

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

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

(12) UNANIMOUS APPROVAL. If a petition for direct annexation signed by all of the electors residing in such territory and the owners of all of the real property in such territory is filed with the city or village clerk, and with the town clerk of the town or towns in which such territory is located, together with a scale map and a description of the property to be annexed, showing the boundaries of such territory and the relation of the territory to the municipalities to which annexation is requested, an annexation ordinance for the annexation of such territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (3). In such annexations, subject to the provisions of sub. (11), the

person filing the petition with the city or village clerk and the town clerk shall, within 5 days of such filing, mail a copy of the scale map and a description of the territory to be annexed to the head of the planning function in the department of local affairs and development and the governing body shall review the advice of the head of the planning function, if any, before enacting the annexation ordinance.

(13) REVIEW REQUIREMENTS. The provisions of sub. (12) do not eliminate the necessity for review as required by sub. (11).

History: 1961 c. 78, 483; 1963 c. 353; 1965 c. 252, 444, 666 s. 22 (6) and (10); 1967 c. 77 s. 4; 1967 c. 211 s. 21 (1).

Cross Reference: See 62.071 for special provision for annexations to cities of the first class.

NOTE: Chapter 683, Laws 1959, provides in reference to the 1959 revision of incorporation and annexation proceedings by ch. 261, Laws 1959:

"(Chapter 261, laws of 1959) Section 10. The provisions of chapter 261, laws 1959, shall not apply to any incorporation, annexation or consolidation proceedings which were commenced prior to August 12, 1959, nor to any future proceedings to incorporate all or substantially all of the territory for which a certificate of incorporation was issued by the secretary of state prior to February 14, 1957, but which subsequently shall be declared invalid by a court."

A publication of a notice containing the legal description, but which omitted the customary heading of the description, was sufficient. Madison v. Monona, 10 W (2d) 32, 102 NW (2d) 206.

A map, contained in a notice of intent to annex and in a petition for annexation, and reasonably showing the boundaries of the territory proposed to be annexed, the relation of such territory to the annexing city, and that such territory was contiguous thereto, sufficiently met the requirements of (3) (b) and (4) (a) relating to a "scale map." Madison v. Monona, 10 W (2d) 32, 102 NW (2d) 206.

This section places no restrictions or requirements as to the amount of territory to be included in an annexation, and does not require that the boundaries of such territory be according to any set pattern; and the gerrymandering of the boundaries of the territory proposed to be annexed was discretionary with the petitioners in the instant case. Madison v. Monona, 10 W (2d) 32, 102 NW (2d) 206.

An annexation ordinance, which at most is voidable and not void, continues in effect until declared invalid by proper court determination and, until such time as such ordinance is invalidated, it is effective to pre-empt the field and prevent any other annexation proceeding from being initiated to annex any part of the affected area to some other incorporated municipality. State ex rel. Madison v. Monona, 11 W (2d) 93, 104 NW (2d) 158.

The city's notice of intention to circulate an annexation petition, stating that the city of Madison would cause a petition to be circulated for the purpose of annexing certain lands located in nearby towns, and containing a description which plainly showed that the land bordered the city limits of Madison, and no other village or city, sufficiently satisfied the requirement of (3) (a) 3, that such a notice must contain the name of the municipality to which the annexation is proposed. Town of Madison v. City of Madison, 12 W (2d) 100, 106 NW (2d) 264.

Under (1) (a) a city, as owner of land within an area, may join in a petition for annexation. The city's adoption of an annexation ordinance constituted a nonrejection of the petition. In direct annexation proceedings the city is not required to give notice of nonrejection and then wait 30 days before adopting the ordinance. Town of Madison v. City of Madison, 12 W (2d) 100, 106 NW (2d) 264.

Where a city council did not enact an ordinance for the annexation of territory in a town within 60 days after the petition for annexation had been filed with the city clerk, as required by (7), the annexation ordinance was void and of no effect. Madison v. Blooming Grove, 14 W (2d) 143, 109 NW (2d) 682.

A city may lawfully employ separate annexation proceedings of smaller areas in order to obviate the requirement of (11) (b), of applying to the circuit court for a determination that the annexation is in the public interest, although, if the 2 regions in question were annexed in a single proceeding, the total land would exceed a square mile and therefore necessitate a circuit court review. Scott v. Merrill, 16 W (2d) 91, 113 NW (2d) 846.

Nonregistered persons who otherwise qualify as electors may sign a petition. Whether a person must sign twice as owner and as elector not decided. Brown Deer v. Milwaukee, 16 W (2d) 206, 114 NW (2d) 493.

A signature by a president and majority stockholder of a corporation is not sufficient without a corporate meeting or formal authorization by the board of directors authorizing him to act for the corporation. Objection to the signature may be raised by a third party where the corporation purports to perform a political, as opposed to a business, act. Brown Deer v. Milwaukee, 16 W (2d) 206, 114 NW (2d) 493.

A city cannot dispute a referendum election under 66.021 (2) (b) on the ground that an ineligible person voted, where no appeal was taken under 6.66 to contest the election. The fact that the election inspectors did not attach the affidavit required by 66.021 (5) (e) did not prevent the bar of 6.66 from applying. Burke v. Madison, 17 W (2d) 623, 117 NW (2d) 580.

Although an annexation is effective upon adoption of the ordinance, the court is not precluded from entering interim orders as to its effectiveness or ineffectiveness, but the court cannot enjoin the city from putting it in effect and then modify the order only to allow the city to assess and collect taxes. Town of Fond du Lac v. City of Fond du Lac, 22 W (2d) 525, 126 NW (2d) 206.

A city cannot buy property outside its limits and by contract or coercion then induce residents to sign an annexation petition. An annexation which leaves a noncontiguous island of town territory only to prevent residents therein from voting is invalid. A city can initiate a proceeding under this section despite 66.024. A city may sign a petition even though it became a property owner only for this purpose. Town of Fond du Lac v. City of Fond du Lac, 22 W (2d) 533, 126 NW (2d) 201.

Territory is not contiguous within the meaning of (2) where it is connected only by a narrow strip of land 1700 feet long. Mt. Pleasant v. Racine, 24 W (2d) 41, 127 NW (2d) 757.

Where a corporation by resolution of its board of directors duly authorized its president to sign and its secretary to countersign the annexation petition on its behalf, but the secretary alone executed the same, the defect did not operate to vitiate the petition, since the signing was merely a ministerial act to be done pursuant to actual pre-existing authorization. [Brown Deer v. Milwaukee, 16 W (2d) 206, distinguished.] Mt. Pleasant v. Racine, 28 W (2d) 519, 137 NW (2d) 656.

While annexation procedures are purely statutory, there is a common-law presump-

tion of validity which attaches to an annexation ordinance, assuming that the prescribed procedures have been followed in the adoption of the ordinance, which remains until overcome by proof produced by the party atacking it. Mt. Pleasant v. Racine, 28 W (2d) 519, 137 NW (2d) 656.

Where the state director of the planning function in the department of resource development does not send a report stating that the annexation is against the public interest, it may be assumed that he concluded that the annexation was not, and that in adopting an ordinance of annexation the municipality took the position of the director into account. Mt. Pleasant v. Racine, 28 W (2d) 519, 137 NW (2d) 656.

Legislation which would permit specified municipalities to contract for more strict annexation requirements than those of the statutes would be unconstitutional. 54 Atty. Gen. 3.

Municipal boundary changes. Johnson, 1965 WLR 462.

66.022 Detachment of territory. Territory may be detached from any city or village and be attached to any city, village or town, to which it is contiguous, in the following manner:

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

(2) An ordinance detaching such territory may be enacted within 60 days after the filing of such petition, by vote of three-fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after such enactment, by an ordinance enacted by a vote of three-fourths of all the members of the governing body of the city, village or town to which such territory shall be annexed. The failure of any governing body to adopt the ordinance as provided herein shall be deemed a rejection of the petition and all proceedings thereunder shall be void.

(3) The governing body of any city, village or town involved may, or if a petition signed by 5% of the electors thereof, as determined by the register of voters on the date of filing of such petition, demanding a referendum thereon, be presented to it within 30 days after the passage of either of the ordinances herein provided for, shall cause the question to be submitted to the electors of the city, village or town whose electors petitioned therefor, at a referendum election called for such purpose within 30 days after the filing of such petition, or after the enactment of either ordinance. The governing body of the municipality shall appoint 3 election inspectors who shall be resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment." The inspectors shall certify the results of the election by their affidavits annexed thereto and file a copy with the clerk of each town, village or city involved, and none of the ordinances so provided for shall take effect nor be in force unless a majority of the electors shall approve the same. The referendum election shall be conducted in accordance with chs. 6 and 7 insofar as applicable.

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

History: 1965 c. 92, 252, 666 s. 22 (6).

Cross Reference: See 62.075 for special provision for detachment of farm lands from cities.

66.023 Consolidation or annexation to a city operating under city school plan; taxes. (1) In the absence of an agreement to the contrary under this section, territory in a school district which is annexed to or consolidated with a city operating under the city school plan shall be transferred for school purposes on July 1 following the effective date of the annexation or consolidation.

(2) If an action is brought as provided in s. 66.021 (10) to contest the validity of the annexation or is brought to contest the validity of a consolidation within 60 days of the effective date thereof, or if the validity of an annexation or consolidation to a city operating under the city school plan is being litigated on June 26, 1959, the territory shall be transferred for school purposes on July 1 succeeding the final determination of the litigation. A determination of the litigation shall not be deemed final until the expiration of the appeal period to the state supreme court.

(3) The school district board and the board of education may enter into an agreement that the school district territory shall be transferred to the city for school purposes on a date prior to that provided in this section. Such agreement may also provide that

the school children in the territory shall be educated in the district school, in which event the city shall pay tuition for such children according to law. If the territory is not transferred for school purposes in advance of the time provided herein, the district board and the board of education may nevertheless enter into an agreement to permit the school children in the area annexed or consolidated to attend the city's schools, and the district shall thereupon pay tuition to the city according to law.

(4) Between the date of accomplishment of statutory requirements to effectuate a consolidation or annexation of territory to a city operating under a city school plan and the date any such territory becomes a part of such city for school purposes, as provided herein, no portion of the city school tax or taxes levied by the city to repay obligations incurred to finance school facilities shall be levied against the property in said annexed or consolidated territory, and during said period such territory shall continue to vote on school matters within, and pay school taxes for the support of, the district of which it was a part when such consolidation or annexation proceedings were commenced and shall not vote on any matter relating to the city school plan within such city. The school district clerk shall certify to the proper clerk as provided in s. 120.17 (8) the proportion of the school taxes to be levied by the city or town.

(5) This section applies only to cities operating under subch. II of ch. 120.

History: 1961 c. 304; 1967 c. 92.

66.024 Annexation by referendum; court order. As a complete alternative to any other annexation procedure, unincorporated territory which contains electors and is contiguous to a city or village may be annexed thereto in the manner hereafter provided. The definitions in s. 66.021 (1) shall apply to this section.

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

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

(2) PROTEST TO COURT BY ELECTORS; HEARING. (a) If prior to the date set for hearing upon such application, there is filed with the court a petition signed by a majority of the electors residing in the territory or the owners of more than one-half of the real property in assessed value in such territory, protesting against the annexation of such territory, the court shall deny the application for an annexation referendum.

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

(3) DISMISSAL. If for any reason the proceedings are dismissed, the court may, in its discretion, order entry of judgment against the city or village for such disbursements or any part thereof as have been incurred by the parties opposing the annexation.

(4) REFERENDUM ELECTION; WHEN ORDERED AND HELD. (a) If the court, after such hearing, is satisfied as to the correctness of the description of the territory or any survey and that the provisions of this section have been complied with, it shall make an order so declaring and shall direct a referendum election within the territory which shall be described in the order, on the question, whether such area should be annexed. Such order

shall direct 3 electors named therein residing in the town in which the territory proposed to be annexed lies, to perform the duties of inspectors of election.

(b) The referendum election shall be held within 30 days after the entry of the order, in the territory proposed for annexation, by the electors of such territory as provided in s. 66.021 (5), so far as applicable. The ballots shall contain the words "For Annexation" and "Against Annexation". The certification of the election inspectors shall be filed with the clerk of the court, and the clerk of any municipality involved, but need not be filed with the register of deeds.

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

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

(b) If a majority of the votes cast at such referendum election is for annexation, the territory shall be annexed to the petitioning city or village upon compliance with s. 66.021 (8).

(5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim zoning ordinance to become effective only upon approval of the annexation at the referendum election may be enacted by the governing body of the city or village. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred to and recommended by the plan commission prior to introduction. Authority to make such temporary classification shall not be effective when the county zoning ordinance prevails during litigation as provided in s. 59.97 (4a) [59.97 (7)].

(6) APPEAL. Any appeal from the order of the circuit court shall be limited to contested issues determined by such court. Such appeal shall not stay the conduct of the referendum election provided herein, if one is ordered, but the statement of the election results and the copies of the certificate and plat shall not be filed with the secretary of state until the appeal has been determined.

(7) LAW APPLICABLE. Section 66.021 (10) shall apply to annexations under this section.

(8) TERRITORY EXCEPTED. The provisions of this act shall not apply to any territory located in an area for which a certificate of incorporation was issued prior to February 24, 1959 by the secretary of state, even if the incorporation of such territory is later held to be invalid by a court.

History: 1965 c. 252; 1967 c. 189.

This section does not require a public interest determination by the director of planning but it is still subject to the rule of reason and the annexation of 35 square miles by a small village is not reasonable. Elmwood Park v. Racine, 29 W (2d) 400, 139 NW (2d) 66.

The rule of reason as applied to annexations. 50 MLR 149.

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, provided that in the case of noncontiguous territory the use of such territory by the city or village is not contrary to any town or county zoning regulation. 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 4 certified copies thereof in the office of the secretary of state, together with 4 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the highway commission and one copy to the department of taxation.

No implication arises from the existence of this section which would prevent a city, owning property in the territory sought to be annexed, from participating as a property owner in an attempt to annex land to the city under the general annexation procedure provided for in other sections of the statutes. Town of Madison v. City of Madison, 12 W (2d) 100, 106 NW (2d) 264.

66.026 Notice of litigation. Whenever any proceedings under ss. 60.81, 61.187, 61.189, 61.74, 62.075, 66.013 to 66.019, 66.021, 66.022, 66.025 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in such proceedings shall forthwith file with the secretary of state 4 copies of a notice of the commencement of such action. He shall also file with the secretary of state 4 copies of any judgments rendered or appeals taken in such cases. The notices or

copies of judgments as herein required may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the highway commission 2 copies and to the department of taxation one copy of any notice of action or judgment filed with him pursuant to this section.

History: 1961 c. 33.

66.027 Municipal boundaries, fixed by judgment or agreement. Any 2 municipalities whose boundaries are immediately adjacent at any point and who are parties to any action, proceeding or appeal in court for the purpose of testing the validity or invalidity of any annexation, incorporation, consolidation or detachment, may enter into a written stipulation, compromising and settling any such litigation and determining the common boundary line between said municipalities; and the court having jurisdiction of said litigation, whether it is a circuit court or the supreme court, may enter a final judgment incorporating the provisions of said stipulation and fixing the common boundary line between the municipalities involved. Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement setting the boundary lines between themselves. Any agreement changing boundaries of municipalities shall be approved by the governing bodies of the detaching and annexing municipalities and s. 66.021 (8) and (10) shall apply. Any change of civil municipal boundaries under this provision is subject to a referendum of the electors residing within the territory annexed or detached, if within 30 days after the publication of the stipulation or agreement to change boundaries in a newspaper of general circulation in the area proposed to be annexed or detached, a petition for a referendum signed by 20 per cent of the electors of the area to be annexed or detached, is filed with the clerk of the municipality from which the area is proposed to be detached. The referendum shall be conducted as are annexation referenda. If the referendum election is opposed to detachment from the municipality, all proceedings pursuant to this section are void. For the purposes of this section "municipalities" includes cities, villages and towns.

History: 1961 c. 59; 1963 c. 395.

66.029 Town boundaries, actions to test alterations. 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 intervene or be impleaded in any such action.

History: 1963 c. 343.

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. (a) 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. The clerk of any municipality to which territory is transferred as aforesaid, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the supervisor of assessments of the Wisconsin department of taxation having jurisdiction over the land area involved, the latest assessed value of the real and personal property located within said area, and shall make such further reports as may be needed by such supervisor of assessments in the performance of duties required by law.

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

(2c) SCHOOL DISTRICTS. When territory is transferred, in any manner provided by law, from one school district to another school district, there shall be assigned to each

school district involved such proportion of the assets and liabilities of the school districts involved as the equalized valuation of all taxable property in the territory transferred bears to the equalized valuation of all the taxable property of the school district from which said territory is taken, said equalized valuation to be made by the department of taxation upon application by the clerk of the school district or city to which the territory is transferred. The clerk of any school district or city to which territory is transferred as aforesaid, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the supervisor of assessments of the department of taxation having jurisdiction over the land area involved, the latest assessed value of the real and personal property located within said area, and shall make such further reports as may be needed by such supervisor of assessments in the performance of duties required by law.

(2e) OPTIONAL METHOD OF ADJUSTMENT. Two or more school districts, prior to their consolidation, or the attachment of part of their district to another district, may, by identical resolutions adopted by a three-fourths vote of the members of each board concerned, establish an alternate method to govern any adjustment of their assets and liabilities to apply to any subsequent detachment from the enlarged district. The authority of this paragraph shall apply wherever the boards find that the adoption of the resolution is necessary to provide a more equitable method than provided in sub. (2) or (2c). This subsection shall also apply if one or more of the units involved operates under subch. II of ch. 120. The resolutions adopted shall be recorded in the office of the register of deeds.

(2f) SCHOOL DISTRICTS IN MILWAUKEE COUNTY. In counties containing a city having a population of 500,000 or more, 2 or more school districts, prior to their consolidation, or the attachment of part of their district to another district, or subsequent to such consolidation or attachment, may, by identical resolutions adopted by a three-fourths vote of the members of each board concerned, establish an alternate method to govern any adjustment of their assets and liabilities to apply to any prior or subsequent detachment from the district. The authority of this paragraph shall apply whenever the boards find that the adoption of the resolution is necessary to provide a more equitable method than provided in sub. (2) or (2c). This subsection shall also apply if one or more of the units involved operates under subch. II of ch. 120. The resolutions adopted shall be recorded in the office of the register of deeds.

(2m) ATTACHMENT AND DETACHMENT WITHIN 5 YEARS. Whenever territory is attached to or consolidated with a school district or a city operating under the city school plan, and such territory or any part thereof is detached therefrom within 5 years after such attachment or consolidation, the school district or city to which it is transferred shall be entitled, in the apportionment of assets and liabilities, only to the assets or liabilities or proportionate part thereof apportioned to the school district or city as the result of such original attachment or consolidation.

(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.

(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 s. 66.021 (7). 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.

(c) When as a result of any annexation whereby a school district is left without a school building, any moneys are received by such school district as a result of the division of assets and liabilities required by s. 66.03, which are derived from values that were capital assets, such moneys and interest thereon shall be held in trust by such school district and dispensed only for procuring new capital assets or remitted to an operating district as the remainder of the suspended district becomes a part of such operating district, and shall in no case be used to meet current operating expenditures. This shall include any funds in the hands of any district officers on July 1, 1953, resulting from such action previously taken under s. 66.03. The boards involved shall, as part of their duties in

division of assets and liabilities in school districts, make a written report of the allocation of assets and liabilities to the state superintendent of public instruction and any local superintendent of schools whose territory is involved in the division of assets.

(4) PUBLIC UTILITIES. 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 governing body of such municipality until there has been an apportionment of assets by agreement of the interested municipalities or by an order of the circuit court. After an agreement for apportionment of assets has been entered into between the interested municipalities, or an order of the circuit court shall become final, a copy of such apportionment agreement, or of such order, certified to by the clerks of the interested municipalities, shall be filed with the state department of taxation, the conservation commission, the state highway commission, the state superintendent of public instruction, the department of administration, and with any other officer, board, commission or agency of the state from which the town may be entitled by law to receive funds or certifications or orders relating to the distribution or disbursement of funds, with the county treasurer, with the treasurer of any municipality, or with any other entity from which payment would have become due if such dissolved municipality from which such territory was transferred had continued in existence. Thereafter payments of income taxes under s. 71.14, of occupational taxes on intoxicating liquor under s. 139.13, of forest crop taxes under s. 77.05, of public utility taxes under s. 76.28, of highway state aids under s. 20.395, of state aids for school purposes under ch. 121, and all payments of every kind whatsoever due from a board, commission, officer or agency of the state, from a county, from a municipality, or from any other entity from which payments would have become due if such dissolved municipality from which such territory was transferred had continued in existence, shall be paid to the interested municipality as provided by such agreement for apportionment of assets or by any order of apportionment by the circuit court and such payments shall have the same force and effect as if made to the dissolved municipality from which such territory was transferred.

(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 liabilities 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. When territory attached to a city for school purposes only is detached therefrom, the assets and liabilities of the city for school purposes shall be considered in apportioning the assets and liabilities and such territory may be assigned its proportionate share of the city's indebtedness for school purposes in the manner provided by sub. (2c). 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.

(7a) APPORTIONMENT OF AIDS AND TAXES. If the asset apportioned consists of an aid or tax to be distributed in the future according to population, the apportionment

board shall certify to the officer, agency or department responsible for making the distribution each municipality's proportionate share of such asset as determined in accordance with sub. (2). The officer, agency or department shall thereafter distribute such aid or tax directly to the several municipalities according to such certification until the next federal census.

(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 this section, including review of any alternative method provided for in sub. (2f) and the correctness of the findings thereunder.

(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.

(10) STATE TRUST FUND LOANS. When territory transferred in any manner provided by law from one municipality to another is liable for state trust fund loans secured under chapter 25, the clerk of the municipality to which territory is transferred shall within 30 days of the effective date of such transfer certify a metes and bounds description of the transferred area to the clerk of the municipality from which the land was transferred. Thereupon, the clerk of the municipality from which such territory was transferred shall certify to the commissioners of the public lands: (a) the effective date of such transfer of territory; (b) the last preceding assessed valuation of the territory liable for state trust fund loans prior to transfer of a part of such territory; (c) the assessed valuation of the territory so transferred. Thereafter, the commissioners shall in making their annual certifications of the amounts due on account of state trust fund loans distribute annual charges for interest and principal on any such outstanding loans in the proportion that the assessed valuation of the territory so transferred shall bear to the assessed valuation of the area liable for state trust fund loans as constituted immediately before the transfer of territory, provided, however, that any transfer of territory effective subsequent to May 1 of any year shall not be considered until the succeeding year.

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

(11) DESIGNATING DISTRICTS. Whenever a transfer of territory from one school district to another results in a change in the name of a school district which is liable for one or more state trust fund loans secured under ch. 25, the clerk of the school district to which the territory was transferred shall, within 30 days of the effective date of such transfer, certify to the commissioners of the public lands and the county clerk:

(a) The name of the school district from which territory was transferred;

(b) The effective date of such transfer;

(c) The name of the school district to which the transfer was made immediately prior to the effective date of the transfer;

(d) The name of the school district to which the transfer was made immediately after the effective date of such transfer.

Thereafter, in making their annual certifications of the amounts due on account of state trust fund loans the commissioners of the public lands shall use the new name of the school district, provided that any transfer of territory effective subsequent to May 1 of any year shall not be considered by them until the succeeding year.

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

(13) TAXES AND ASSESSMENT. (a) *General property taxes.* Whenever any territory is annexed, detached or incorporated after April 30 in any year, general property taxes levied against said territory shall be collected by the treasurer of the municipality in which the territory was located on May 1 of such year, and all moneys collected from the tax levied for local municipal purposes shall be allocated to each of the municipalities on the basis of the portion of the calendar year the territory was located in each of the municipalities, and paid accordingly.

(aa) *Apportionment when town is nonexistent.* If the town in which territory was located on May 1 is nonexistent when the city or village determines its budget, any taxes

certified to the town or required by law to be levied against such territory shall be included in the budget of the city or village and levied against such territory, together with the city or village tax for local municipal purposes.

(b) *Special taxes and assessments.* Whenever territory is transferred from one municipality to another by annexation, detachment, consolidation or incorporation, or returns to its former status by reason of court determination, any special tax or assessment outstanding against any property in the territory shall be collected by the treasurer of the municipality wherein the property is located, according to the terms of the ordinance or resolution levying such tax or assessment. Such special tax or assessment, when collected, shall be paid to the treasurer of the municipality which levied the special tax or assessment, or if the municipality is nonexistent, the collecting treasurer shall apply the collected funds to any obligation for which purpose the tax or assessment was levied and which remains outstanding; provided that if no such obligation is outstanding, the collected funds shall be paid into the school fund of the school district in which the territory is located.

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

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

History: 1963 c. 141, 324; 1965 c. 19; 1967 c. 92, 291 s. 14.

66.035 Code of ordinances. The governing body of any city, town, county or village may authorize the preparation of a code, or part thereof, of general ordinances of such municipality. Such code, or part thereof, may be adopted by an ordinance referring thereto and may be published in book or pamphlet form and such publication shall be sufficient even though the ordinances contained therein were not published in accordance with ss. 59.09, 60.29 (9), 61.50 (1) and 62.11 (4) (a). A copy of such code, or part thereof, shall be permanently on file and open to public inspection in the office of the clerk after its adoption and for a period of not less than 2 weeks before its adoption. A code adopted by a county in accordance with the procedure provided in this section prior to April 30, 1965 shall be valid notwithstanding failure to comply with s. 59.09.

History: 1965 c. 32.

66.04 Appropriations. (1) 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.

(2) INVESTMENTS. Any county, city, village, town, school district, drainage district or other governing board as defined by s. 34.01 (4) may invest any of its funds, not immediately needed, in time deposits in any bank, savings bank or trust company which is authorized to transact business in Wisconsin, such time deposits maturing in not more than one year, or in bonds or securities issued or guaranteed as to principal and interest of the United States government, or of a commission, board or other instrumentality 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. Cemetery perpetual care funds, pension funds under s. 62.13 (9) or (10), or endowment funds including gifts where the principal is to be kept intact may also be invested under ch. 320.

(3) CELEBRATION OF HOLIDAYS. A town, county, school board or school district may appropriate money for the purpose of initiating or participating in appropriate celebrations of any legal holiday listed in s. 256.17.

(4) INVESTED FUND PROCEEDS IN POPULOUS CITIES, USE. In any city of the first class, all interest derived from invested funds held by the city treasurer in a custodial capacity on behalf of any political entity, except for pension funds, shall be deemed general revenues of such city and shall revert to the city's general fund, conditioned upon the approval by such political entity evidenced by a resolution adopted for that purpose.

History: 1961 c. 97, 507, 622.

Cross Reference: See also 157.50 (6) as to investment of municipal perpetual care funds.

66.041 Municipal audits and reports. Notwithstanding any other provision of the statutes the governing body of any city or village may require or authorize a financial audit of any municipal activity, including any officer, department, board, commission or function financed in whole or part from municipal funds, or where any portion of the funds thereof are the funds of such city or village. The governing body may likewise require submission of periodic financial reports by any such officer, department, board, commission or function.

66.042 Disbursement from local treasury. (1) Except as otherwise provided in subs. (2), (3), (4) and (5), in every county, city, village, town and school district, all disbursements from the treasury shall be made by the treasurer thereof upon the written order of the county, city, village, town or school clerk after proper vouchers have been filed in the office of the clerk; 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 county, city, village, town or school district treasury except s. 67.10 (2).

(2) Notwithstanding any other provision of law, a county having a population of 500,000 may, by ordinance, adopt any other method of allowing vouchers, disbursing funds, reconciling outstanding county orders, reconciling bank accounts, examining county orders, and accounting therefor consistent with accepted accounting and auditing practices, provided that such ordinance shall prior to its adoption be submitted to the state department of audit, which department shall submit its recommendations with respect thereto to the county board of supervisors.

(3) Except in cities of the first class and counties having a population of 500,000 or more, disbursements from the county, city, village, town or school treasury 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. Unless otherwise directed by ordinance adopted by the governing body, certified copy of which shall be filed with the public depository or depositories concerned, the chairman of the county board, mayor, village president, town chairman or director of the school district, as the case may be, shall countersign all order checks. The governing body may also by ordinance authorize additional signatures. In lieu of the personal signatures of the clerk and treasurer and such other signature as may be required, there may be affixed on such order check the facsimile signatures of such persons adopted by them and approved by the governing body concerned but the use of such facsimile signature shall not relieve any such official from any liability to which he is otherwise subject, including the unauthorized use thereof. Any public depository shall be fully warranted and protected in making payment on any check bearing such facsimile notwithstanding that the same may have been placed thereon without the authority of the designated persons.

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

(5) In cities of the 1st class, municipal disbursements of public moneys 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 s. 119.16 (2). Disbursements of vocational school moneys shall be in the manner provided by s. 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.

(6) Withdrawal or disbursement of moneys deposited in a public depository as defined in s. 34.01 (2) by a treasurer as defined in s. 34.01 (7), other than the elected, ap-

pointed or acting official treasurer of a county, city, village, town or school district, shall be by check signed by the person or persons designated by written authorization of the governing board as defined in s. 34.01 (4). Any such authorization shall conform to any specific statutory provision covering the disbursement of such funds. Any public depository shall be fully warranted and protected in making payment in accordance with the latest authorization on file therewith.

(7) 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 a majority of all members of the governing body of such city or village.

History: 1967 c. 92.

Lump-sum expense allowances, if otherwise proper, may be paid without the filing of itemized claims justifying the amount. Geyso v. Cudahy, 34 W (2d) 476, 149 NW (2d) 611.

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 administration pursuant to s. 16.58 or by a public accountant licensed under the provisions of ch. 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.

History: 1965 c. 659 s. 23 (2) and s. 24 (9).

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.

66.046 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.

A barrier across a street which intersects a highway and is within the highway outer limits is still permissible if it does not obstruct the highway. This section protects the city as well as members of the council. Bendorf v. Darlington, 31 W (2d) 570, 143 NW (2d) 449.

66.047 Interference with public service structure. (1) 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.

(2) Every person intending to excavate, erect a building or structure, make substantial structural changes, or wreck a building or structure shall, before commencing the work, give at least 3 days' notice, not counting Saturdays, Sundays and legal holidays, of such intention in writing to all public utilities whose facilities for serving the public might be affected thereby.

History: 1961 c. 289.

Extent of changes in utilities to enable contractor to work is to be determined by the public authority; the court will not make the determination where parties bypassed the authority. Wisconsin Power & Light Co. v. Gerke, 20 W (2d) 181, 121 NW (2d) 912.

66.048 Viaducts in cities and villages. (1) VIADUCTS, PRIVATE IN CITIES AND VILLAGES. 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 or village board 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 describing the location of the proposed viaduct, shall be given by the city council or village board by publication of a class 3 notice, under ch. 985.

(2) VIADUCTS, REMOVAL OF PRIVATE. A viaduct in any city or village may be discontinued by the city council or village board, 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 or village board by publication of a class 1 notice, under ch. 985, not less than one year before the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days before the date of the hearing.

(3) LEASE OF SPACE BY CITIES AND VILLAGES. (a) Any city or village may lease space over any street, alley or other public place in the city or village 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 or village is of the opinion that such place is not needed 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 or village by the mayor or village president and shall be attested by the city or village 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 or village may condemn the lessee's interest in the leased space by proceeding under ch. 32. After payment of such damages as may be fixed in the condemnation proceedings, the city or village may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition.

History: 1961 c. 182; 1965 c. 252.

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.

66.05 Razing buildings; excavations. (1) (a) The governing body or the inspector of buildings or other designated officer in every municipality, except in towns situated in a county of less than 15,000 population upon complaint of a majority of the members of the town board the circuit court, may order the owner of premises upon which is located any building or part thereof within such municipality, which in its 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 own-

er'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 encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an encumbrance of record cannot be found the order may be served by posting it on the main entrance of the building and by publishing as a class 3 notice, under ch. 985, before the time limited in the order commences to run.

(b) Whenever a municipal governing body, inspector of buildings or designated officer determines that the cost of such repairs would exceed 50 per cent of the assessed value of such building divided by the ratio of the assessed value to the recommended value as last published by the state supervisor of assessments for the municipality within which such building is located, such repairs shall be presumed unreasonable and it shall be presumed for the purposes of this section that such building is a public nuisance.

(c) Acts of municipal authorities under this section shall not increase the liability of an insurer.

(2) (a) If the owner fails or refuses 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 is 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.

(b) Any municipality, inspector of buildings or designated officer may, in his official capacity, commence and prosecute an action in circuit court for an order of the court requiring the owner to comply with an order to raze or remove any building or part thereof issued under this section if the owner fails or refuses to do so within the time prescribed in such order, or for an order of the court requiring any person occupying a building whose occupancy has been prohibited under this section to vacate the premises, or any combination of such court orders. Hearing on such actions shall be given precedence over other matters on the court's calendar. Costs shall be in the discretion of the court.

(c) Any person who rents, leases or occupies a building which has been condemned for human habitation, occupancy or use shall be fined not less than $5 nor more than $50 or imprisoned not more than 30 days for each week of such violation, or both.

(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 per-

sonal 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).

(5m) This section shall not limit powers otherwise granted to municipalities by other laws of this state.

(6) In any town, city or village in any county having a population of 500,000 or more no excavation for building purposes, whether or not completed, shall be left open for more than 6 months without proceeding with the erection of a building thereon. In the event any such excavation remains open for more than 6 months, the inspector of buildings or other designated officer in such town, village or city shall order that the erection of a building on the excavation begin forthwith or in the alternative that the excavation be filled to grade. The order shall be served upon the owner of the land or his agent and upon the holder of any encumbrance of record as provided in sub. (1). If the owner of the land fails to comply with the order within 15 days after service thereof upon him, the inspector of buildings or other designated officer shall cause the excavation to be filled to grade and the cost shall be charged against the real estate as provided in sub. (2). Subsection (3) shall also apply to orders issued under this subsection. This shall not be construed to impair the authority of any city or village to enact ordinances in this field.

(7) The action provided in sub. (1) for razing or removing a building on premises in a town situated in a county of less than 15,000 population shall be commenced by serving summons and complaint upon the owner and occupant of and any holder of an encumbrance of record against the premises and procedure shall be the same in all respects as the procedure in other civil actions so far as applicable. Subsection (3) shall not apply to such actions except the court may, upon a showing of hardship or other good cause, restrain for reasonable periods of time the razing or removal of a building or part thereof and the removal, sale or destruction of any personal property or fixtures therein. Costs shall be in the discretion of the court except as to persons found by the court to be acting maliciously in or about the commencement or prosecution of such action.

(8) (a) Whenever an owner of any building, dwelling or structure in any city or village permits the same, either as a result of vandalism or for any other reason, to deteriorate or become dilapidated or blighted to the extent where windows, doors or other openings or plumbing or heating fixtures or facilities or appurtenances of such building, dwelling or structure are either damaged, destroyed or removed so that such building, dwelling or structure offends the aesthetic character of the immediate neighborhood or produces blight or deterioration by reason of such condition, the building inspector or other designated officer of such city or village shall issue a written notice respecting the existence of such defect; such written notice shall be served on the owner of such building, dwelling or structure as set forth in sub. (1) (a) and shall direct the owner of such building, dwelling or structure to promptly remedy the defect within 30 days following the service of such notice.

(b) If such owner fails to remedy or improve the defect in accordance with the written notice furnished by the building inspector or other designated officer as set forth in par. (a), then after the expiration of the 30-day period specified in the written notice such building inspector or other designated officer shall apply to the circuit court of the county in which such building, dwelling or structure is located for an order determining that such building, dwelling or structure constitutes a public nuisance. As a part of the application for such order from the circuit court such building inspector or other designated officer shall file a verified petition in which shall be recited the giving of such written notice, the defect or defects in such building, dwelling or structure, the owner's failure to comply with the notice and such other pertinent facts as may be related thereto. A copy of the petition shall be served upon the owner as provided in sub. (1) (a) and the

owner shall have 20 days following service upon him in which to reply to such petition. Upon application by the building inspector or other designated officer the circuit court shall promptly set the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence with respect to the petition and the answer shall determine that the building, dwelling or structure constitutes a public nuisance, the court shall promptly issue an order directing the owner of such building, dwelling or structure to remedy the defect and to make such repairs and alterations as may be required. The court shall further set a reasonable period of time in which such defect shall be remedied and the repairs or alterations completed. A copy of such order shall be served upon the owner as provided in sub. (1) (a). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, then such building inspector or other designated officer may proceed to raze the building, dwelling or structure. All costs or disbursements with respect to such razing shall be as provided for in sub. (2) (a).

(c) Either the owner or the city or village may appeal to the supreme court within 30 days from the date of entry of the order of the circuit court and such appeal shall be heard by the supreme court in the same manner as other appeals are heard.

(d) Any building, which under par. (a) either as a result of vandalism or for any other reason is permitted to deteriorate or become dilapidated or blighted to the extent where windows, doors or other openings or plumbing or heating fixtures or facilities or appurtenances of such building, dwelling or structure are either damaged, destroyed or removed so that such building, dwelling or structure offends the aesthetic character of the immediate neighborhood and produces blight or deterioration by reason of such condition, is a public nuisance.

History: 1961 c. 230, 433, 621; 1965 c. 252.

Where a town board, in ordering the razing of a dwelling fully complied with the procedure prescribed, error, if any, by the board in finding in good faith that the dwelling was unfit for habitation and too dilapidated to be repaired, was an error within the jurisdiction of the board, and the exclusive remedy of the owners of the dwelling for relief from the order was the one provided by the statute of applying to the circuit court "within 30 days after service of such order" for an order restraining the inspector of buildings or other designated officer from razing the building. 66.05 does not require as a condition to razing unsafe and insanitary buildings that the town board shall have passed an ordinance on the regulation of homes or other buildings. Fairfield v. Wolter, 10 W (2d) 521, 103 NW (2d) 523.

If an owner so directed to raze or remove a building feels himself aggrieved, he must comply with (3) which affords him the exclusive remedy by which he can obtain a judicial hearing. The term "apply to the circuit court for an order" in 66.05 (3), when construed with 269.27, restricts such application to moving the court by motion for an order, and neither service of a summons and complaint nor the filing thereof within the prescribed time constitutes compliance with the statute. Siskoy v. Walsh, 22 W (2d) 127, 125 NW (2d) 574.

66.051 Power of municipalities to prohibit criminal conduct. The board or council of any town, village or city may:

(1) Prohibit all forms of gambling and fraudulent devices and practices;

(2) Cause the seizure of anything devised solely for gambling or found in actual use for gambling and cause the destruction of any such thing after a judicial determination that it was used solely for gambling or found in actual use for gambling;

(3) Prohibit conduct which is the same as or similar to that prohibited by s. 947.01 or 947.03.

(4) Nothing in this section shall be construed to preclude cities and villages from prohibiting conduct which is the same or similar to that prohibited by chs. 941 to 947.

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 is 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, are deemed within the jurisdiction of the city of Milwaukee. Any town board as to the area within the town not licensed, regulated or prohibited by any city or village pursuant to 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 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 ss. 280.01, 280.02 and 280.07, or as provided in s. 146.125. Sections 97.07 and 97.20 shall

not limit the powers granted by this section. Section 95.72 shall not limit the powers granted by this section to cities or villages but powers granted to towns by this section shall be limited by s. 95.72 and any orders and rules 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.

History: 1961 c. 191 s. 109; 1965 c. 582.

The fact that a nuisance is declared by statute to be a public nuisance does not make it exclusively so. There may be special damage so as to constitute a private nuisance. Boerschinger v. Elkay Enterprises, Inc. 26 W (2d) 102, 132 NW (2d) 258, 133 NW (2d) 333.

Cities and villages may prohibit rendering plants entirely within their limits; towns cannot do so. Towns may impose stricter regulation of such plants than 95.72 does. Boerschinger v. Elkay Enterprises, Inc. 26 W (2d) 102, 132 NW (2d) 258, 133 NW (2d) 333.

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 charged 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 restored to civil rights.

(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.

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

(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" means a dealer other than a brewer or bottler who sells, or offers for sale, malt beverages to another dealer.

(d) "Retailer" means any dealer who sells, or offers for sale, any malt beverages to any person other than a dealer.

(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.

(l) "Dealer" means any person who sells, or offers for sale, any fermented malt beverages.

(3) LABELS. (a) Every brewer shall file with the commissioner of taxation, 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 commissioner shall thereupon register such permit number in the name of said brewer. Every bottler shall make application to the commissioner 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, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or 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 May 24, 1941 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 tapping 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 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 and pay a filing fee of $1; and

5. Acquire within 5 days after May 24, 1941, 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 said date, 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 said date. Any brewer, bottler or wholesaler who repossesses 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 a Class "B" license after said date 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 after said date, 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, security agreement, 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 said date 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, or to any real estate now or hereafter owned in whole or in part by any of the foregoing upon which there is or shall be a hotel of 100 or more rooms. 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 is a party to any violation of this subsection or who receives the benefits thereof shall be equally guilty of a violation thereof.

6. Sell consumable merchandise intended for resale, including the sale or loan of containers thereof, in the regular course of business.

7. Purchase advertising and other services and rights for a fair consideration from any corporate Class "B" licensee who is a member of a regularly established athletic league and whose principal business is the ownership, maintenance and operation of a professional athletic team, playing a regular schedule of games and whose principal source of income is derived from the sale of tickets to games played by such teams.

(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 to dealers. 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 to dealers, or a Class "A" license if such sales are made to persons other than dealers.

(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 2 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% 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 commissioner of taxation, 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 postoffice 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 commissioner of taxation 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 s. 8.15 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 s. 5.64 (2).

Any question so submitted shall be upon a separate ballot. The question 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 commissioner of taxation 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 30th day of June. 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 commissioner of taxation.

(e) No license shall be imposed upon the sale of fermented malt beverages upon any railroad sleeping, buffet or cafe car or steamboat or aircraft 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.

(f) All shipments of fermented malt beverages from outside the state of Wisconsin to a licensed wholesaler in Wisconsin, shall be unloaded into such wholesaler's warehouse in Wisconsin, and said licensed wholesaler shall distribute said malt beverages from such warehouse.

(6) WHOLESALERS' LICENSES. Wholesalers' licenses may be issued only to domestic corporations, to foreign corporations licensed under ch. 180 to do business in this state or to persons of good moral character who 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 to dealers, 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. (a) 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.

(b) 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 licensed under ch. 180 to do business in this state or to persons of good moral character who are citizens of the United States and of the state of Wisconsin and 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. 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 21 years of age or over of good moral character, who are citizens of the United States and of the state, and have resided in this state continuously for not less than one year prior to the date of filing the application. No such license shall be granted for any premises where any other business is conducted, in connection with said licensed premises and no other business may be conducted on such licensed premises after the granting of such license 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 combination sporting goods store and tavern in towns, villages and cities of the fourth class, or to novelty 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 has 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 s. 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 paragraph 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 sub. (15) shall not apply on account of any violations of this paragraph.

(e) It shall be unlawful for any person, licensee or the agent, servant or employe of any licensee, to possess on the premises covered by such license, any alcoholic beverage that is not authorized by law to be sold on such premises.

(8a) RETAIL PURCHASE RESTRICTIONS. (a) No retail licensee under sub. (7) or (8) shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee except upon terms of cash or credit for not exceeding 15 days.

(b) No retail licensee shall receive any malt beverages on consignment or on any basis other than a bona fide sale.

(c) No retail licensee shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee if at the time of such receipt, purchase or acquisition he is indebted to any licensee for fermented malt beverages received, purchased, acquired or delivered more than 15 days prior thereto.

(d) For the purpose of this subsection, a person holding both a wholesale and retail license is deemed a retailer.

(f) No class "A" or class "B" retailer's license shall be issued for a term beginning on or after July 1, 1956, to any person having any indebtedness to any licensee of more than 15 days' standing. In each application for a license for a term beginning on or after

July 1, 1956, the applicant shall state whether or not he has any indebtedness to any licensee which has been outstanding more than 15 days.

(g) No brewer, bottler or wholesaler shall be subject to any penalty as the result of any sale of fermented malt beverages to a retail licensee, when purchased by said retail licensee in violation of this subsection.

(h) Any retail licensee who violates this subsection shall be subject to the suspension or revocation of his retail license under sub. (17) and the penalties prescribed in sub. (15) (a), except that he shall not be imprisoned.

(i) Volume discounts to Class "A" licensees are prohibited when these discounts, rebates or refunds are based upon the licensees purchases from a manufacturer, rectifier or wholesaler over a period of time on a series of transactions. Discounts are permissible only when based upon a quantity of the product purchased in a single transaction, a single delivery and a single invoice. Such permissible discounts shall be available to all Class "A" licensees.

(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.

(g) No fermented malt beverages shall be sold, dispensed, given away, or furnished to any person under the age of 21 years who is not a resident of this state and is a resident of any state bordering on Wisconsin which prohibits the sale of fermented malt beverages to any person under the age of 21 years unless he is accompanied by parent or guardian or spouse. For the purposes of this subsection, students may be deemed residents of the municipality in which they reside while attending school and members of the armed services may be deemed residents of the municipality in which they are stationed at the time.

(10) CLOSING HOURS. (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. (except during that portion of 1959 and each year thereafter for which the standard of time is advanced under s. 175.095 the closing hours shall be between 2 a.m. and 8 a.m. unless the local governing body issuing such license establishes or has established an earlier closing hour and on January 1 when the closing hours shall be between 3 a.m. and 8 a.m.) Under this subsection no fermented malt beverages shall be sold, dispensed, given away or furnished directly or indirectly to any person under the age of 21 years at any time between the hours of 1 a.m. and 8 a.m.

(b) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, 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 par. (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, and which shall not be required of any person or for any purpose other than to comply with par. (b). Said operator's license shall be issued only to persons 21 years of age or over, of good moral character, who 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 has an operator's license and who is responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No member of the immediate family of the licensee under the age of 21 years shall serve as a waiter, or in any other manner, any fermented malt beverages to customers unless an operator 21 years of age or over is present upon and in immediate charge of the premises. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he possesses an operator's license, or unless he is under the immediate supervision of the licensee or a person holding an operator's license, who is 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 June 30 of the year for which issued, except for cities of the first class in which such license shall expire on December 31.

(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 but any city, village or town may by ordinance prohibit the selling, dispensing, giving or furnishing fermented malt beverages to anyone under 21 years of age when not accompanied by parent or guardian or spouse, and all such ordinances duly enacted before August 5, 1955 and otherwise valid are hereby declared to be valid. This subsection does not give any municipal corporation the power to enact an ordinance forbidding persons between the ages of 18 and 21 years from acting as check-out clerks or delivery personnel in grocery stores licensed to sell fermented malt beverages or from preventing such check-out clerks from including fermented malt beverages in the items which they are permitted to sell or preventing such delivery personnel from delivering fermented malt beverages from the licensed premises to the cars or homes of customers.

(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 commissioner of taxation 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.

(17) REVOCATION ON COMPLAINT OF COMMISSIONER OF TAXATION. (a) Upon complaint in the name of the state filed by the commissioner of taxation, or any of his duly authorized employes, 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 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 not less than 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 commissioner of taxation relating to such applicant and license has been mailed to the commissioner of taxation at Madison, Wisconsin.

(19) PRESENCE IN PLACES OF SALE PROHIBITED; PENALTY. Every keeper of any place, of any nature or character, whatsoever, for the sale of any fermented malt beverage under a "Class B" retailer's license, who shall directly or indirectly suffer or permit any person of either sex under the age of 18 years, unaccompanied by his or her parent or guardian, who is not a resident, employe or a bona fide lodger or boarder on the premises controlled by the proprietor or licensee of such place, and of which such place consists or is a part, to enter or be on such licensed premises for any purpose, excepting the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages, shall, for every such offense, be liable to a penalty not exceeding $250, besides costs, or imprisonment not exceeding 60 days; and any such person so entering or remaining as aforesaid, who is not a resident, employe or a bona fide lodger or boarder on such premises, or who is not accompanied by his or her parent or guardian, shall also be liable to a penalty of not more than $20, besides costs. This subsection shall not apply to hotels, drug stores, grocery stores, bowling alleys, premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, parks owned or operated by agricultural societies receiving state aid, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a "Class B" license and a restaurant permit where the principal business conducted therein is that of a restaurant. It shall be presumed where such premises are so operated under both a "Class B" license and a restaurant permit, that the principal business conducted therein is that of the sale of fermented malt beverage, until such presumption is rebutted by competent evidence. The provisions of sub. (15) providing for punishment of violators of this section by fine and imprisonment shall not apply to this subsection. This prohibition shall apply to any person who is not a resident, employe or a bona fide lodger or boarder on such premises, after the legal hour for closing.

(20) PROCURING FOR OR FURNISHING TO PERSON UNDER 18; PENALTY. Any person who shall procure for, sell, dispense, give away or furnish fermented malt beverages to any person under the age of 18 years not accompanied by parent or guardian or spouse shall be punished by a fine of not more than $500, or by imprisonment in the county jail or house of correction not to exceed 60 days, or by both such fine and imprisonment.

(21) PEDDLING PROHIBITED. No person shall peddle any fermented malt beverage from house to house by means of a truck or otherwise where the sale is consummated and delivery made concurrently.

(22) FURNISHING TO NONRESIDENT PERSONS UNDER 21. No person shall sell, dispense, give away or furnish any fermented malt beverages to any person under the age of 21 years who is not a resident of this state and is a resident of any state bordering on Wisconsin which prohibits the sale of fermented malt beverages to any person under the age of 21 years, and no such person shall possess any fermented malt beverages, unless he is accompanied by parent or guardian or spouse. For the purposes of this subsection, students may be deemed residents of the municipality in which they reside while attending school and members of the armed services may be deemed residents of the municipality in which they are stationed at the time.

(23) LICENSES TO COUNTRY CLUBS. All "Class B" licenses issued to clubs, as defined in s. 176.01 (8), that are operated solely for the playing of golf or tennis, which are commonly known as country clubs, and are not open to the general public, and including yachting clubs, shall be issued by the commissioner of taxation if no such licenses are issued by the governing body, for an annual fee of $10 which shall be paid to the treasurer of the town, city or village in which such club is located. The provisions of sub. (17), relative to the revocation of licenses shall apply to all licenses issued by the commissioner hereunder, and, except as herein provided, all provisions of this chapter relating to "Class B" licenses for the sale of malt beverages shall apply to licenses issued to country clubs by the commissioner.

(24) RESTRICTIONS ON SALE TO AND POSSESSION BY UNEMANCIPATED MINORS. (a) Except as otherwise herein provided, whoever sells or furnishes fermented malt beverages to any unemancipated minor not accompanied by his parent or guardian or a chaperone, for consumption outside of a building or permanent structure covered by a retail Class "B" fermented malt beverage license may be fined not more than $500 or imprisoned not more than 30 days or both. If a license for a picnic or similar gathering is issued pursuant to sub. (8) (b), an unemancipated minor not accompanied by his parent or guardian or a chaperone may be sold or furnished and may possess fermented malt beverages within such confines as the licensing authority expressly designates on the face of the license.

(b) Any unemancipated minor, not accompanied by his parent or guardian or a chaperone, who possesses fermented malt beverages outside of licensed premises specified in par. (a) may be fined not more than $500 or imprisoned not more than 30 days or both and the court also shall restrict or suspend the motor vehicle operating privilege as provided in s. 343.30 (6).

(c) It is the legislative intent to require that consumption or possession of fermented malt beverages by unemancipated minors outside of Class "B" licensed premises be under the supervision of their parents, guardians or chaperones.

(d) "Chaperone" in this subsection means a mature, responsible adult who is present to insure propriety at a gathering of young persons.

(e) This subsection does not prevent a minor in the employ of a licensee or permittee from possessing fermented malt beverages for sale or delivery to customers.

(f) This subsection does not apply to sale, furnishing, or possession of fermented malt beverages to or by minors on premises operated by the state for the sale of fermented malt beverages for on-premise consumption.

History: 1961 c. 33, 238, 347, 523; 1963 c. 113, 141, 143, 246; 1965 c. 8, 334, 666 s. 22 (3); 1967 c. 226.

Cross Reference: See 176.05 (24) for requirement that Class "B" malt beverage license be obtained for public places (exceptions specified) which permit consumption of beer on the premises.

Seller of beer to minor is not liable for damages to a third person alleged to have resulted from intoxication. History of civil damage statutes discussed. Farmers Mut. Automobile Ins. Co. v. Gast, 17 W (2d) 344, 117 NW (2d) 347.

An ordinance limiting the issuance of Class "A" fermented malt beverage licenses to one for every 2,500 inhabitants in the city is not inconsistent with 66.054, Stats., delegating to municipalities the power to regulate the issuance of such licenses, although the statute contains no provision limiting the number of licenses to be issued; and the ordinance is a reasonable exercise of the municipal police power. Odelberg v. Kenosha, 20 W (2d) 346, 122 NW (2d) 435.

The fact that there is no barrier between a bowling alley and a bar does not mean that minors can be allowed to loiter in the bar area. State v. Ludwig, 31 W (2d) 690,

143 NW (2d) 548.
Discussion of interpretation of "guardian" in (24). 52 Atty. Gen. 303.
Minors who are members of the armed services stationed in Michigan may not be furnished with fermented malt beverages in Wisconsin by reason of (22) regardless of where their permanent residence is located. 53 Atty. Gen. 40.
Drive-in restaurant which holds a Class "B" fermented malt beverage license cannot sell or furnish such beverage to unemancipated minors not accompanied by parent, guardian, or chaperon for consumption outside of licensed building. 53 Atty. Gen. 161.
Liability of vendor of intoxicating liquors in a civil action. 1964 WLR 153.

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.

66.057 Tavern-keeper shall require proof of age. (1) Any person in premises operating under a Class "A" or 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 any 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 sub. (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 at least 18 years of age desiring such certificate-card shall make application therefor to the register of deeds of any county or the clerk of the city, village or town of his residence or election commission thereof. The applicant shall pay a fee of $1 and in cities of the first class $1.25 and furnish his individual photograph and such proof of the date of his birth as the register of deeds or such clerk or commission may 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 and shall cause said certificate-card to be enclosed in a hermetically sealed, transparent, tamper-proof cover. No extra charge shall be made for the cover but the fee shall include the cost thereof. The commissioner of taxation shall prescribe the form of the certificate-card, the size of the photograph to be furnished by the applicant and the manner or 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 required.

(3) It is unlawful for any person to misrepresent or misstate his age or the age of any other person or to misrepresent his age through the presentation of any document purporting to show such person to be of legal age to purchase fermented malt beverages.

(4) Every retail Class "A" and retail Class "B" licensee shall cause a book to be kept and such licensee or his employe, or both, shall require any person who has shown documentary proof of age, which substantiates his age to allow the legal purchase of fermented malt beverages, to sign such book if the age of such person is in question. The book shall show the date of the purchase, the identification used in making the purchase, the address of the purchaser and his signature.

(5) The establishment of the following facts by a person making a sale of fermented malt beverages to a person not of legal age shall constitute prima facie evidence of innocence and a defense to any prosecution therefor:

(a) That the purchaser falsely represented in writing and supported with other documentary proof that he was of legal age to purchase fermented malt beverages.

(b) That the appearance of such purchaser was such that an ordinary and prudent person would believe him to be of legal age to purchase fermented malt beverages.

(c) That the sale was made in good faith and in reliance upon the written representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase fermented malt beverages.

History: 1965 c. 263.
See note to 176.32, citing West Allis v. Megna, 26 W (2d) 545, 133 NW (2d) 252.

66.058 Mobile home parks. (1) DEFINITIONS. For the purposes of this section:

(a) "Licensee" means any person licensed to operate and maintain a mobile home park under this section.

(b) "Licensing authority" means the city, town or village wherein a mobile home park is located.

(c) "Park" means mobile home park.

(d) "Person" means any natural individual, firm, trust, partnership, association or corporation.

(e) "Mobile home" is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50 per cent of the assessable value of the house trailer.

(f) "Dependent mobile home" means a mobile home which does not have complete bathroom facilities.

(g) "Nondependent mobile home" means a mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year round facilities.

(h) "Unit" means a mobile home unit.

(i) "Mobile home park" means any plot or plots of ground upon which 2 or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

(j) "Space" means a plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.

(2) LICENSE AND REVOCATION OR SUSPENSION THEREOF. (a) It shall be unlawful for any person to maintain or operate within the limits of any city, town or village, any mobile home park unless such person shall first obtain from the city, town or village a license therefor. All such parks in existence on August 9, 1953 shall within 90 days thereafter, obtain such license, and in all other respects comply fully with the requirements of this section except that the licensing authority shall upon application of a park operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the city, town or village or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.

(b) In order to protect and promote the public health, morals and welfare and to equitably defray the cost of municipal and educational services required by persons and families using or occupying trailers, mobile homes, trailer camps or mobile home parks for living, dwelling or sleeping purposes, each city council, village board and town board may establish and enforce by ordinance reasonable standards and regulations for every trailer and trailer camp and every mobile home and mobile home park; require an annual license fee to operate the same and levy and collect special assessments to defray the cost of municipal and educational services furnished to such trailer and trailer camp, or mobile home and mobile home park. They may limit the number of units, trailers or mobile homes that may be parked or kept in any one camp or park, and limit the number of licenses for trailer camps or parks in any common school district, if the mobile housing development would cause the school costs to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal in the particular area. The power conferred on cities, villages and towns by this section is in addition to all other grants and shall be deemed limited only by the express language of this section.

(c) In any town in which the town board adopts an ordinance regulating trailers under the provisions of this section and has also adopted and approved a county zoning ordinance under the provisions of s. 59.97, the provisions of the ordinance which is most restrictive shall apply with respect to the establishment and operation of any trailer camp in said town.

(d) Any license granted under the provisions of this section shall be subject to revocation or suspension for cause by the city council, village board or town board that issued such license upon complaint filed with the clerk of such city, village or town signed by any law enforcement officer, health officer or building inspector after a public hearing upon such complaint, provided that the holder of such license shall be given 10 days' notice in writing of such hearing, and he shall be entitled to appear and be heard as to why such license shall not be revoked. Any holder of a license which is revoked or suspended by the governing body of any city, village or town may within 20 days of the date of such revocation or suspension appeal therefrom to the circuit court of the county in which the trailer camp or mobile home park is located by filing a written notice of appeal with the city, village or town clerk, together with a bond executed to the city, village or

town, in the sum of $500 with 2 sureties or a bonding company approved by the said clerk, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against him.

(3) LICENSE AND PERMIT FEES; COURT REVIEW. (a) The licensing authority shall have the power to exact from the licensee an annual license not less than $25 and not more than $100 for each 50 spaces or fraction thereof within each mobile home park within its limits, except that where the park lies in more than one municipality the amount of the fee shall be such fraction thereof as the number of spaces in the park in the municipality bears to the entire number of spaces in the park.

(b) The licensing authority may collect a fee of $10 for each transfer of a license.

(c) In addition to the license fee provided for in pars. (a) and (b), each licensee shall collect from each occupied mobile home occupying space or lots in his mobile home park in the city, town or village a monthly parking permit fee equal to actual cost of services furnished by the school district, which cost shall be determined by the school district administrator having jurisdiction and the cost of the municipal services which shall be determined by the governing body of the city, town or village and in both cases charged to the park every year payable monthly for maintenance, debt retirement, operation of schools and general administrative costs including, without limitation because of specific enumeration herein the following: fire protection, police protection, sewage disposal, garbage collection, and health services, in lieu of personal property tax. The amount of such parking permit fee that may be levied against each mobile home park shall be determined after a public hearing as hereinafter provided. The monthly parking permit fee shall be paid by the licensee on or before the 10th of the month following the month for which such parking permit fee is due. No such fee shall be imposed for any space occupied by a mobile home accompanied by an automobile, if said mobile home and automobile bear license plates issued by any other than this state, for an accumulating period not to exceed 60 days in any 12 months or if the occupants of the mobile home are nonresident tourists or vacationists. Exemption certificates in duplicate shall be accepted by the treasurer of the licensing authority from qualified nonresident tourists or vacationists in lieu of permit fees. When one or more persons occupying a mobile home are employed in this state, there shall be no exemption from the monthly parking permit fee.

1. The licensee of a park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

(d) Each city, town or village shall make preliminary determination of the amount of the per mobile home parking permit fee to be levied against a mobile home park, and shall give notice of hearing on said proposed parking permit fee to be held in the hall of the city, town or village where any interested person shall have an opportunity to be heard.

1. The clerk of said city, town or village shall post a notice of said hearing in at least 3 public places within the city, town or village, one posting of which shall be in a conspicuous place on each mobile home park property. At least one week shall intervene between the date of posting of such notice and the time of the meeting. The city, town or village may at such meeting, or at an adjourned meeting, confirm or change the proposed parking permit fee and upon final determination of the amount of the parking permit fee shall post a notice on each mobile home park property stating the amount of the parking permit fee as finally determined.

2. If the owner of any parcel of land affected by such determination feels himself aggrieved thereby, he may within 20 days after the date of posting such determination appeal to the circuit court of the county, notice thereof to be served upon the clerk of the city, village or town and by executing a bond to the city, town or village in the sum of $500 with 2 sureties or a bonding company to be approved by the clerk conditioned for the faithful prosecution of such appeal and the payment of all costs adjudged against him. The clerk, in case such an appeal is taken, shall make a brief statement of the proceedings had before the board, with its determination thereon and shall submit the same with all relevant papers to the clerk of the circuit court. Such appeal shall be tried and determined in the same manner as cases originally commenced in the court. An appeal brought under this section shall not be construed to prevent during the pendency of such appeal, the collection of any such monthly assessment currently or subsequently to become due.

3. This section shall not apply where a mobile home park is owned and operated by any county under the provisions of s. 59.07 (13) (b).

(e) If a mobile home is permitted by local ordinance to be located outside a licensed park, the monthly parking permit fee shall be paid by the owner of the mobile home, the occupant thereof or the owner of the land on which it stands, the same as and in the

manner provided for licensees, provided that nothing contained in this subsection shall prohibit the regulation thereof by local ordinance.

(f) Any mobile home park or trailer camp license fee and any mobile home parking permit fee not paid when due creates a lien in favor of the licensing authority in the delinquent amount upon the real estate parcel where such mobile home park, trailer camp or mobile home is situated or was situated at the time when the liability for such fee was incurred, effective as of the first day of the month or year for which such fee is levied. The licensing authority shall provide that all such license or permit fees not paid when due shall be extended upon the tax roll as a delinquent tax against the parcel where such park, camp or home is or was situated at the time when liability for such fee was incurred and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such delinquent license or permit fee.

(4) APPLICATION FOR LICENSE. Original application for mobile home park license shall be filed with the clerk of the licensing authority. Applications shall be in writing, signed by the applicant and shall contain the following:

(a) The name and address of the applicant.

(b) The location and legal description of the mobile home park.

(c) The complete plan of the park.

(5) PLANS AND SPECIFICATIONS TO BE FILED. Accompanying, and to be filed with an original application for a mobile home park, shall be plans and specifications which shall be in compliance with all applicable city, town or village ordinances and provisions of the state board of health. The clerk after approval of the application by the governing body and upon completion of the work according to the plans shall issue the license. A mobile housing development harboring only nondependent mobile homes as defined in sub. (1) (g) shall not be required to provide a service building.

(6) RENEWAL OF LICENSE. Upon application by any licensee and after approval by the governing body of the city, town or village and upon payment of the annual license fee, the clerk of the city, town or village shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by the city, town or village.

(7) TRANSFER OF LICENSE; FEE. Upon application for a transfer of license the clerk of the city, town or village after approval of the application by the governing body shall issue a transfer upon payment of the required $10 fee.

(8) DISTRIBUTION OF FEES. Annually before the end of the fiscal year, of the monthly parking permit fees collected, the municipality may retain 10 per cent to cover the cost of administration and shall pay to the school district in which the park is located no less than such proportion of the remainder as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for all purposes in the municipality. If the mobile park is located in more than one school district, each district shall receive a share in the proportion that its property tax levy for school purposes bears to the total school tax levy.

History: 1961 c. 587; 1963 c. 356, 565; 1965 c. 218.

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.

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 elec-

tion 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.

(d) Whenever any city or village at the time of its incorporation included within its corporate limits territory in which a public utility, prior to such incorporation, had been lawfully engaged in rendering public utility service, such public utility shall be deemed to possess a franchise to operate in such city or village to the same extent as though such franchise had been formally granted by ordinance duly adopted by the governing body of such city or village. This paragraph shall not apply to any public utility organized under any provision of ch. 66.

(2) SERVICE CONTRACTS. (a) Cities and villages may contract for furnishing light, heat, water, motor bus or other systems of public transportation to the municipality or to the inhabitants thereof for a period of not more than 30 years or for an indeterminate period if the prices are subject to adjustment at intervals of not greater than 5 years. The commission shall have jurisdiction relative to the rates and service to any city or village where light, heat, water, motor bus or other systems of public transportation are 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 has contracted for water, lighting service, motor bus or other systems of public transportation to the municipality the cost may be raised by tax levy. In making payment to the owner of the utility a sum equal to the amount due the city from such owner for taxes or special assessments 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.

(d) When any privately-owned motor bus or public transportation system in a city or village fails to provide service for a period in excess of 30 days, and the owner or stockholders of the said privately-owned motor bus or public transportation system have announced an intention to abandon service, the governing body of the affected municipality may without referendum furnish or contract for the furnishing of other motor bus or public transportation service to the municipality and its inhabitants and to the users of the defaulting prior service for a period of not more than one year. This section shall not authorize a municipality to hire, directly or indirectly, any strike-breaker or other person for the purpose of replacing employes of said motor bus or public transportation system engaged in a strike.

History: 1961 c. 89; 1967 c. 339.

See note to 196.54, citing Milwaukee v. Public Service Comm. 11 W (2d) 111, 104 NW (2d) 167.

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 in s. 32.06, 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.

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.

66.064 Joint operation. Any city or village served by any privately owned public utility, street railway, interurban railway, motor bus or other systems of public transportation 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 s. 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.

History: 1967 c. 339.

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.

(4a) The provisions of subs. (2), (3) and (4) shall not apply to the acquisition of any plant, equipment or public utility for furnishing water service when such plant, equipment or utility is acquired by the municipality by dedication or without monetary or financial consideration.

(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.

History: 1961 c. 138.

66.066 Method of payment. (1) Any town, village, city, commission created by contract under s. 66.30, 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, motor bus or other systems of public transportation from the general fund, or from the proceeds of municipal bonds, mortgage bonds or mortgage certificates. The term municipality as used in this section includes powers districts, municipal water districts and commissions created by contract under s. 66.30. Any indebtedness created pursuant to subs. (2) to (4) shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional debt limitation.

(1a) Nothing herein shall be construed to limit the authority of any municipality to acquire, own, operate and finance in the manner provided in this section, a source of water supply and necessary transmission facilities (including all real and personal property) beyond its corporate limits, and a source of water supply 50 miles beyond such limits shall be deemed to be within such authority.

(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 is created a statutory mortgage lien upon the public utility to the holders of the 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 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 is any default in the payment of the principal or interest of any of the bonds, any court having jurisdiction of the action may appoint a receiver to administer the public utility on behalf of the municipality, and the 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 the utility, and to apply the income and revenues thereof in conformity with this statute and the ordinance, or the court may declare the whole amount of the bonds due and payable and may order and direct the sale of the public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the public utility. Any municipality may provide for additions, extensions and improvements to a public utility owned by said municipality by additional issue of bonds as herein provided; but such additional issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder, but a municipality may in the ordinance authorizing bonds hereunder permit the issue of additional bonds on a parity therewith. Any municipality may issue new bonds as herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding, such refunding or refinancing being additionally provided for as follows:

1. Refunding bonds may be issued to refinance more than one issue of outstanding bonds notwithstanding that such outstanding bonds may have been issued at different times and may be secured by the revenues of more than one public utility and any such public utilities may be operated as a single public utility, subject however to contract rights vested in holders of bonds being refinanced. The principal amount of any issue of refunding bonds shall not exceed the sum of: a. the principal amount of the bonds being refinanced, b. applicable redemption premiums thereon, c. unpaid interest on such bonds to the date of delivery or exchange of the refunding bonds, d. in the event the proceeds are to be deposited in trust as provided in subd. 3, interest to accrue on such bonds from the date of delivery to the date of maturity or to the redemption date selected by the board or council as hereinafter provided, whichever is earlier, and e. expenses of the municipality deemed by the board or council to be necessary for the issuance of the refunding bonds. A determination by the board or council that any refinancing is advantageous or necessary to the municipality, or that any of the amounts provided in the preceding sentence should be included in such refinancing shall be conclusive.

2. If the board or council determines to sell any refunding bonds, such refunding bonds shall be sold as provided in par. (a). If the board or council determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding bonds being refunded. The refunding bonds may be exchanged for a like or greater principal amount of the bonds being exchanged therefor except that the principal amount of the refunding bonds may exceed the principal amount of the bonds being exchanged therefor only to the extent determined by the board or council to be necessary or advisable to fund redemption premiums and unpaid interest to the date of exchange not otherwise provided for. The holders of the bonds being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds being refunded and to be surrendered. If any of the bonds to be refunded are to be called for redemption, the board or council may determine which redemption dates shall be used, if more than one such date is applicable and shall, prior to the issuance of refunding bonds, provide for notice of redemption to be given in the manner and at the times required by the proceedings authorizing such outstanding bonds.

3. The principal proceeds from the sale of any refunding bonds shall be applied either to the immediate payment and retirement of the bonds being refunded or, if such bonds have not matured and are not presently redeemable, to the creation of a trust for the payment of the bonds being refunded. If such trust is created, a separate deposit shall be made for each issue of bonds being refunded. Each such deposit shall be with a bank or trust company that is then a member of federal deposit insurance corporation. If the total amount of any such deposit, including money other than such sale proceeds but legally available for such purpose, is less than the principal amount of the bonds being refunded and for the payment of which such deposit shall have been created, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then such application of the sale proceeds shall be legally sufficient only if such money so deposited is invested in securities issued by the United States of America or one of its agencies, or securities fully guaranteed by the United States of America, and only if the principal amount of such securities at maturity and the income therefrom to maturity is sufficient, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of such bonds being refunded together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of such securities shall be applied solely to the payment of the principal of and interest and redemption premiums on such bonds being refunded,

but provision may be made for the pledging and disposition of any surplus. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of bonds being refunded but which have not matured and which are not presently redeemable.

4. The refunding bonds shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional debt limitation.

5. The board or council shall have power in addition to other powers conferred by this section to include a provision in any ordinance authorizing the issuance of refunding bonds pledging all or any part of the revenues of any public utility or utilities or combination thereof originally financed or extended or improved from the proceeds of any of the bonds being refunded, and pledging all or any part of the surplus income derived from the investment of any trust created pursuant to subd. 3.

6. This subsection, without reference to any other laws of this state, shall constitute full authority for the authorization and issuance of refunding bonds hereunder and for the doing of all other acts authorized by this subsection to be done or performed and such refunding bonds may be issued hereunder without regard to the requirements, restrictions or procedural provisions contained in any other law.

(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 available and shall be used, whenever necessary, to restore any deficiency in the special redemption fund described below for the payment of the principal and interest due on the bonds herein authorized and for the creation and maintenance of any reserves established by the bond ordinance or ordinances to secure such payments. At any time when the special redemption fund is sufficient for said purposes, moneys in the depreciation fund may 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 this subsection. Any ordinance providing for the issuance of bonds may contain such provisions or covenants, without limiting the generality of the power to adopt such ordinance, as is deemed necessary or desirable for the security of bondholders or the marketability of the bonds, including but not limited to provisions as to the sufficiency of the rates or charges to be made for service, maintenance and operation, improvements or additions to and sale or alienation of the public utility, insurance against loss, employment of consulting engineers and accountants, records and accounts, operating and construction budgets, establishment of reserve funds, issuance of additional bonds, and deposit of the proceeds of the sale of the bonds or revenues of the public utility in trust, including the appointment of depositories or trustees. Any ordinance authorizing the issuance of bonds or other obligations payable from revenues of a public utility shall

constitute a contract with the holder of any bonds or other obligations issued pursuant to such ordinance.

(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) 1. Whenever the board or council of any town, village, city or power district has authorized the issuance or sale of mortgage bonds under this section, such board or council may, prior to the issuance of such bonds and in anticipation of their sale, authorize the issuance of bond anticipation notes by the adoption of a resolution or ordinance by two-thirds of its members present. Such notes shall be named "bond anticipation notes." Such resolution or ordinance shall recite that all conditions precedent to the issuance of such mortgage bonds provided by law or by the ordinance pursuant to which such mortgage bonds were authorized to be issued have been complied with, and that said notes are issued for the purposes for which mortgage bonds were authorized to be issued.

2. Such bond anticipation notes and any renewals thereof may be issued for periods of up to 5 years in the aggregate; they shall mature within 5 years of the date of the notes originally issued and shall be executed as are mortgage bonds; they shall recite on the face thereof that they are payable from proceeds of mortgage bonds issued under this section. The rate of interest borne by said bond anticipation notes shall not exceed the maximum rate of interest authorized to be borne by said mortgage bonds. Such bond anticipation notes shall not be deemed a general obligation of the town, village, city or power district issuing them, and no lien shall be created or attached with respect to any property of the utility as a consequence of the issuance of such notes.

3. Any funds derived from the issuance and sale of mortgage bonds under this section and issued subsequent to the execution and sale of bond anticipation notes shall constitute a trust fund, and such fund shall be expended first for the payment of principal and interest of such bond anticipation notes, and then may be expended for such other purposes as are set forth in the ordinance authorizing the mortgage bonds. No bond anticipation notes may be issued unless the comptroller of such town, city, village or power district, or other financial officer, first certifies to the board or council that contracts with respect to additions, improvements and extensions are to be let and that the proceeds of such notes shall be required for the payment of such contracts.

4. Upon the issuance of such bond anticipation notes, there shall be paid into the fund or accounts respectively provided for the payment of the principal and interest of said mortgage bonds, from the proportion of the revenues of the utility allocated to the payment of such principal and interest, the same amounts at the same times as would have been required to be paid therein for the payment of the principal of and the interest on the mortgage bonds if said mortgage bonds, in an equal principal amount, had been issued instead of such notes. Such moneys or any part thereof may, by the ordinance or resolution authorizing the issuance of bond anticipation notes, be pledged for the payment of the principal of and the interest on such notes. In addition thereto, such ordinance or resolution shall pledge to the payment of the principal of such notes the proceeds of the sale of the mortgage bonds in anticipation of the sale of which said notes were authorized to be issued. Such notes shall constitute negotiable instruments.

5. The aggregate amount of the bond anticipation notes shall not exceed the principal amount of the mortgage bonds in anticipation of the sale of which they are issued.

6. Any town, village, city or power district authorized to issue or sell bond anticipation notes as hereinbefore provided may, in addition to the revenue sources or bond proceeds, appropriate funds out of the tax levy for the payment of such notes. The payment of such notes out of funds from a tax levy, however, shall not be construed as constituting an obligation of such town, village, city or power district to make such appropriation.

7. Such bond anticipation notes shall constitute a legal form of investment for municipal funds under s. 66.04 (2).

(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 payment of the principal and interest of the certificates herein authorized, and third, to provide for proper and adequate depreciation. 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, shares of stock evidencing a controlling interest therein, or 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. There is hereby granted and created a statutory mortgage lien upon the public utility to the holders of any evidences of indebtedness issued under this subsection. The provisions of sub. (2) (b) shall be applicable to such statutory mortgage lien. Any municipality may issue additional evidences of indebtedness in the manner herein provided or in the manner provided elsewhere in this section, but such shall be subordinate to all prior issues of indebtedness, except that the municipality may in the ordinance authorizing evidences of indebtedness hereunder permit the issue of additional evidences of indebtedness on a parity therewith.

History: 1963 c. 501; 1965 c. 238, 369; 1967 c. 339.

66.067 **Public works projects.** For financing purposes, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, hospitals, homes for the aged or indigent, regional projects, systems of sewerage and any and all other necessary public works projects undertaken by any town, village, city, county, other municipality, or a commission created by contract under s. 66.30, are public utilities within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created pursuant to this section shall not be included in arriving at the constitutional debt limitation.

History: 1963 c. 271; 1965 c. 238.

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 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 as provided by s. 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, 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 determines.

(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 second, 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.

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 and shall include the cost of fluorinating the water. The rates may also include standby charges to property not connected but for which such facilities have been made available. The charges shall be collected by the treasurer.

(b) On October 15 in each year notice shall be given to the owner or occupant of all lots or parcels of real estate to which water has been furnished prior to October 1 by a water utility operated by any town, city or village and payment for which is owing and in arrears at the time of giving such notice. The department in charge of the utility shall furnish the treasurer with a list of all such lots or parcels of real estate, and the notice shall be given by the treasurer, unless the governing body of the city, village or town shall authorize such notice to be given directly by the department. Such notice shall be in writing and shall state the amount of such arrears, including any penalty assessed pursuant to the rules of such utility; that unless the same is paid by November 1 thereafter a penalty of 10 per cent of the amount of such arrears will be added thereto; and that unless such arrears, with any such added penalty, shall be paid by November 15 thereafter, the same will be levied as a tax against the lot or parcel of real estate to which water was furnished and for which payment is delinquent as above specified. Such notice may be served by delivery to either such owner or occupant personally, or by letter addressed to such owner or occupant at the post-office address of such lot or parcel of real estate. On November 16 the officer or department issuing the notice shall certify and file with the clerk a list of all lots or parcels of real estate, giving the legal description thereof, to the owners or occupants of which notice of arrears in payment were given as above specified and which arrears still remain unpaid, and stating the amount of such arrears together with the added penalty thereon as herein provided. Each such delinquent amount, including such penalty, shall thereupon become a lien upon the lot or parcel of real estate to which the water was furnished and payment for which is delinquent, and the clerk shall insert the same as a tax against such lot or parcel of real estate. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to said tax if the same is not paid within the time required by law for payment of taxes upon real estate.

(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, town sanitary district, village or city owning water, light or power plant or equipment may serve persons or places outside its corporate limits, including adjoining municipalities not owning or operating a similar utility, and may interconnect with another municipality, whether contiguous or not, and for 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.

(c) Notwithstanding s. 196.58 (5), each village or city may by ordinance fix the limits of such service in unincorporated areas. Such ordinance shall delineate the area within which service will be provided and the municipal utility shall have no obligation to serve beyond the area so delineated. Such area may be enlarged by a subsequent ordinance. No such ordinance shall be effective to limit any obligation to serve which may have existed at the time the ordinance was adopted.

(d) An agreement by a city or village to furnish utility service outside its corporate limits to property used for public, educational, industrial or eleemosynary purposes shall be deemed to fix the nature and geographical limits of said utility service unless altered by a change in the agreement, notwithstanding s. 196.58 (5). A change in use or ownership of property included under such agreement shall not be deemed to alter terms and limitations of such agreement.

(e) Any town, village or city owning a public utility, or the board of any municipal utility appointed under s. 66.068, may enter into agreements with any other such towns, villages or cities, or any other such boards of municipal utilities, for mutual aid in the event of an emergency or disaster in any of their respective service areas. Such agreements may include, but are not limited to, provisions for the movement of employes and equipment in and between the service areas of the various participating municipalities for the purpose of rendering such aid and, for the reimbursement of a municipality rendering such aid by the municipality receiving the aid.

History: 1965 c. 346, 509.

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 at least one week before adoption, as a class 1 notice, under ch. 985. 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.

(6) If the municipality has revenue or mortgage bonds outstanding relating to such utility plant and which by their terms may not be redeemed concurrently with the sale or lease transaction, an escrow fund with a domestic bank as trustee may be established for the purpose of holding, administering and distributing such portion of the sales or lease proceeds as may be necessary to cover the payment of the principal, any redemption premium and interest which will accrue on the principal through the earliest retirement date of the bonds. During the period of the escrow arrangement such funds may be invested in securities or other investments as described in s. 201.25 (1) (a), (b), (dm) and (j), and in deposits or certificates of deposit with any state or national bank doing business in this state.

History: 1965 c. 252, 369.

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) Water rates shall be due and payable upon such date or dates as the common council may provide by regulation. To all water rates remaining unpaid 20 days thereafter, 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 may be turned off the premises, subject to the payment of such delinquent rates, and in such cases where the supply of water is turned off as above provided, water shall not be again turned on to said premises until all delinquent rates and penalties, and a sum not exceeding $2 as provided for by regulation for turning the water off and on, shall have been paid. The same penalty and charge may be made when payment is made to a collector sent to the premises. 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 occupant or, upon written request, to the owner wherever he shall state, of all premises subject to the payment of water rates, stating the amount due, the time when and the place where such rates can be paid, 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 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 the 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 shall include the proportionate cost of fluorinating the water and, 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 sup-

plied 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 ch. 180 not inconsistent with this section and 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.

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 town chairman in towns, filed by October 1. Separate account shall be kept of each district fund.

(3) In towns a majority vote and in villages and cities a three-fourths vote of all the members of the 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 is effective to establish, vacate, alter or consolidate, a hearing shall be held as provided in s. 66.60 (7). In towns the notice may be given by posting in 3 public places in said town, one of which shall be in the proposed district, at least 2 weeks prior to such hearing.

(5) (a) When any town board establishes a utility district under this section the board may also, if a town sanitary district is in existence for the town, dissolve said sanitary district in which case all assets, liabilities and functions of the sanitary district shall be taken over by the utility district.

(b) All functions performed by a sanitary district and assumed by a utility district under this subsection shall remain subject to regulation by the public service commission as if no transfer had occurred.

(c) If a sanitary district is located in more than one municipality, action under this section may be taken only upon approval of a majority of the members of the governing body of each municipality in which the sanitary district is located.

(6) Whenever a municipality, within which a utility district is located, is consolidated with another municipality which provides the same or similar services for which the district was established, but on a municipality-wide basis rather than on a utility district basis as provided in this section, the fund of the utility district shall become part of the general fund of the consolidated municipality; thereupon said utility district shall be abolished. This section shall also apply to consolidations completed prior to June 30, 1965.

History: 1963 c. 483; 1965 c. 120, 140.

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.

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.

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 sewerage system, 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 sewerage system and revenue thereof, 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 sewerage system 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 toward the capital or operating costs of the plant, shall be sufficient to meet the requirements of operation, maintenance, repairs, depreciation, interest and an amount sufficient to amortize the judgment debts and all additional capital costs which the purchaser contributes to the plan over a period not exceeding 20 years, 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. 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 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 charges 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, including the sewage disposal plant. The charges may also include standby charges to property not connected but for which such facilities have been made available.

(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 sewerage system or any part thereof, or for extending or improving such sewerage system, 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 sewerage system or any part thereof 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.

The validity of an ordinance fixing sewer charges is for the courts, although the question of whether the amount of the charge is proper is for the commission under (9) in the first instance. Williams v. Madison, 15 W (2d) 430, 113 NW (2d) 395.

66.077 Combining water and sewer utilities. (1) Any town, village, or city of the fourth class may construct, acquire, or lease, or extend and improve, a plant and equip-

ment within or without its corporate limits for the furnishing of water to the municipality or to its inhabitants, and for the collection, treatment, and disposal of sewage, including the lateral, main and intercepting sewers, and all equipment necessary in connection therewith. Such plant and equipment, whether the structures and equipment for the furnishing of water and for the disposal of sewage shall be combined or separate, may by ordinance be constituted a single public utility.

(2) All of the provisions of chapters 66, 196 and 197 as the same shall have been and from time to time may be amended or recreated, relating to a waterworks system, including, but not limited to, those provisions relating to the regulation of a waterworks system by the public service commission, shall apply to such combined waterworks and sewage disposal system as a single public utility. In prescribing rates, accounting and engineering practices, extension rules, service standards or other regulations for such combined waterworks and sewage disposal system, the public service commission shall treat the waterworks system and the sewage disposal system separately, unless such commission shall find that the public interest requires otherwise.

(3) Any town, village, or city of the fourth class which now owns or hereafter may acquire a waterworks plant and system and a plant or system for the treatment or disposal of sewage may by ordinance combine such system into a single public utility. After the effective date of such ordinance such combined utility shall be subject to all of the provisions of this section with the same force and effect as though originally acquired as a single public utility.

66.078 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.

66.079 Parking systems. (1) Any city or village without necessity of a referendum may purchase, acquire, rent from a lessor, construct, extend, add to, improve, conduct, operate, or rent to a lessee a municipal parking system for the parking of vehicles, including parking lots and other parking facilities, upon its public streets or public grounds and issue mortgage bonds to acquire funds for any one or more of such purposes. Such parking lots and other parking facilities may include space designed for leasing to private persons for purposes other than the parking of vehicles if such space is incidental to the parking purposes of such lots or other facilities. If, in cities of the first class, a charge is made for parking privileges in such a parking system or parking lot and attendants are employed thereat, such a parking system or parking lot shall be leased to private persons; but no such leasing shall be required if such city cannot obtain reasonable terms and conditions in such a lease. The provisions of s. 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 system, including without limitation revenues from parking meters or other parking facilities theretofore owned or thereafter acquired.

(2) Any municipality empowered to create a parking system under sub. (1) may finance and operate any part of such system in the following manner:

(a) The cost of constructing any parking system or facility, including the cost of the land, may be assessed against a benefited area, such benefited area and assessments to be determined in the manner prescribed by either s. 66.60 or ch. 275, laws of 1931, as amended, except that the number of annual instalments in which such assessment is payable shall not exceed 20.

(b) The cost of operating and maintaining any parking system or facility may be assessed not more than once in each calendar year against all property in a benefited area, such area and such assessments to be determined in the manner prescribed by either

s. 66.60 or by ch. 275, laws of 1931. Such costs may include a payment in lieu of taxes, operating, maintenance and replacement costs, and a sum not to exceed 6 per cent interest on any unpaid capital cost.

(c) The governing body may, in determining the amount of the assessment under par. (a) or (b) credit any portion of the revenues from the parking system or facility.

(d) No assessment, as authorized in par. (a) or (b), shall be made against any property used wholly for residential purposes.

66.08 Utilities, 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 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 under s. 66.60.

(2) Such special assessments may be made payable and certificates or bonds issued under s. 66.54. In villages or cities where no official paper is published, notice may be given by posting said notice in 3 public places in said village or city.

66.081 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.

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.

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 Eligibility for office. (1) DEPUTY SHERIFFS AND CITY POLICE. No person shall be appointed deputy sheriff of any county or police officer for any city unless he is a citizen of the United States. 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, but such member shall be eligible for any elective office. The governing body may be represented on city or village boards and commissions where no additional remuneration is paid such representatives and may fix the tenure of such representatives notwithstanding any other statutory provision. This subsection shall not apply to a member of any such board or council who resigns from said board or council before being appointed to an office or position which was not created during his term in office.

(3) APPOINTMENTS ON CONSOLIDATION OF OFFICES. Whenever offices are consolidated, the occupants of which are ex officio members of the same statutory committee or board, the common council or village board may designate another officer or officers or make such additional appointments as may be necessary to procure the number of committee or board members provided for by statute.

History: 1963 c. 438; 1967 c. 149.

See note to 45.43, citing 55 Atty. Gen. 260.

66.111 Fees for same service allowed to all. When a fee is allowed to one officer the same fee shall be allowed to other officers for the performance of the same services, when such officers are by law authorized to perform such services.

66.112 Fees of officers apprehending tramps. If 2 or more tramps are found congregated for the purpose of encouraging vagrancy or for any other unlawful purpose, they shall be apprehended, conveyed to jail, tried, and if guilty committed as a group; the public officers performing any of those functions are entitled to no greater fee or mileage therefor than if only one person were involved. Any public officer who violates this provision for the purpose of increasing the emoluments of his office may be fined not more than $500 and shall be ineligible to hold such office for a period of 5 years from the date of his conviction.

66.113 Receipts for fees. Every officer upon receiving fees for any official duty or service shall, if required by the person paying the same, deliver to him a particular re-

ceipted account of such fees, specifying for what they respectively accrued; and if he fails to do so he shall be liable to the party paying the same for 3 times the amount paid.

66.114 Bail under municipal ordinances. (1) When any person is arrested for the violation of a city or village ordinance the chief of police or police officer designated by him, marshal, municipal justice or clerk of court may accept from such person a bond, in an amount not to exceed the maximum penalty for such violation, with sufficient sureties, or his own personal bond upon depositing the amount thereof in money, for his appearance in the court having jurisdiction of such offense. A receipt shall be issued therefor.

(2) (a) In case the person so arrested and released shall fail to appear, personally or by an authorized attorney or agent, before said court at the time fixed for hearing of the case, then the bond and money deposited, or such portion thereof as the court may determine to be an adequate penalty, plus the costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed after an ex parte hearing together with the costs. In either event, the surplus, if any there be, shall be refunded to the person who made such deposit.

(b) The provisions of this subsection shall not apply to violations of parking ordinances. Bond or bail given for appearance to answer a charge under any such ordinance may be forfeited in the manner determined by the governing body.

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

History: 1967 c. 276 s. 39.

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.

66.12 Actions for violation of city or village regulations. (1) COLLECTION OF FORFEITURES AND PENALTIES. (a) An action for violation of a city or village ordinance, resolution or bylaw is a civil action. All forfeitures and penalties imposed by any ordinance, resolution or bylaw of the city or village may be collected in an action in the name of the city or village before the municipal justice, or a court of record, to be commenced by warrant or summons as provided in s. 954.02; but the marshal, constable or police officer may arrest the offender in all cases without warrant, as provided in s. 954.03. The affidavit where the action is commenced by warrant may be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, resolution or bylaw of the city or village, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same. All of the provisions of s. 954.034 pertaining to bail upon arrest shall apply to such actions. In arrests without a warrant or summons a statement on the records of the court of the offense charged shall stand as the complaint unless the court directs that formal complaint be issued. In all actions hereunder the defendant's plea shall be guilty, not guilty or nolo contendere and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in such case at issue, any other provision of law notwithstanding.

(b) Local ordinances may contain a provision for stipulation of guilt or nolo contendere of any or all violations under such ordinances, and may designate the manner in which such stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or nolo contendere is authorized makes a timely stipulation and pays the required penalty to the designated official, such person need not appear in court and no witness fees or other additional costs shall be taxed unless the local ordinance so provides. The official receiving the penalty shall remit all moneys collected to the treasurer of the county, city, town or village in whose behalf the sum was paid within 20 days after its receipt by him; and in case of any failure in such payment, such treasurer may collect the same of such officer by action, in his name of office, and upon the official bond of such officer, with interest at the rate of 12 per cent per annum from the time when it should have been paid. The governing body of the county, city, town, village or other municipal subdivision shall by ordinance designate the official to receive such penalties and the terms under which he shall qualify.

(c) In case of conviction the court shall enter judgment against the defendant for the costs of prosecution, and for the penalty or forfeiture, if any, and that he be im-

prisoned for such time, not exceeding 90 days, unless otherwise provided by the ordinance, resolution or bylaw, as the court deems fit unless the judgment is sooner paid. Such judgment or the imposition of any penalty or costs may be suspended or deferred for not more than 30 days in the discretion of the court. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city or village ordinance, resolution or bylaw shall be kept at the expense of the city or village.

(2) APPEALS. Appeals in actions to recover forfeitures and penalties imposed by any ordinance, resolution or bylaw of the city or village may be taken either by the defendant or by such municipality to the circuit court. Appeals from municipal court shall be taken in the same manner as from judgment in civil actions by municipal justices. Appeals from county court shall be taken in accordance with ch. 299, except that any appeal from wherever taken shall be perfected within 5 days after judgment is entered. If the appeal is taken by the defendant he shall, as a part thereof, execute a bond to the city or village with surety, to be approved by the municipal justice or judge, conditioned that if judgment be affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal. In case such judgment shall be affirmed in whole or in part execution may issue against both defendant and his surety. The appellant shall pay the fees and suit taxes prescribed in s. 306.02 (1). Upon perfection of the appeal the defendant shall be discharged from custody.

(3) COSTS AND FEES; FINES TO GO TO CITY OR VILLAGE TREASURY. (a) In forfeiture actions for violations of ordinances on default of appearance or on a plea of guilty or nolo contendere, the clerk's fee shall be not more than $2, but if it is necessary to issue a warrant or summons or the action is tried as a contested matter, additional fees may be added, but the total fee shall not exceed $3.50, except that a municipality need not advance clerk's fees, but shall be exempt from payment of such fees until defendant pays costs pursuant to this section. In forfeiture actions in which a municipality prevails, costs and disbursements shall be allowed to the municipality, subject only to such limitations as the court directs.

(b) All forfeitures and penalties recovered for the violation of any ordinance, resolution or bylaw of any city or village shall be paid into the city or village treasury for the use of such city or village, except as otherwise provided in s. 62.13 (9) (a). The municipal justice or judge shall report and pay into the treasury, quarterly, or at more frequent intervals if so required, all moneys collected by him belonging to such city or village, which report shall be certified and filed in the office of the treasurer; and he shall be entitled to duplicate receipts for such moneys, one of which he shall file with the city or village clerk.

History: 1961 c. 519, 614, 643; 1963 Sup. Ct. Order, 14 W (2d) v, vi; 1963 c. 129; 1967 c. 26, 276 ss. 9, 39, 40.

Cross Reference: See 960.09 for provision permitting a defendant, charged with violating a municipal ordinance, to plead not guilty by registered mail if he resides out of the county.

See note to 56.18, citing City of Milwaukee v. Milwaukee County, 27 W (2d) 53, 133 NW (2d) 393.

The limitation on time to appeal in this section controls over 330.24. Bornemann v. New Berlin, 27 W (2d) 102, 133 NW (2d) 328.

Under (2) the city cannot object to an adequate cash appeal bond on the ground that there was no surety and that it was not for an indefinite amount. West Milwaukee v. Klix, 28 W (2d) 410, 137 NW (2d) 99.

In a forfeiture case under a municipal ordinance, where the offense is also a crime under the statutes, criminal procedures apply only to the extent specified in this section. The middle burden of proof is to be applied. The defendant may be called adversely. A five-sixths verdict is sufficient. Bayside v. Bruner, 33 W (2d) 533, 148 NW (2d) 5.

A writ of prohibition will not issue to prevent a trial in municipal justice court because of adjournments exceeding 90 days since defendant has a remedy by appeal de novo in circuit court. State ex rel. Beaudry v. Panosian, 35 W (2d) 418, 151 NW (2d) 48.

In a municipal forfeiture action the defendant's proper plea is "not guilty" and a demurrer is not proper. Defendant cannot appeal an order overruling a motion to dismiss. Under 299.30 the defendant can appeal only from a judgment or an order involving a judgment. The appeal is to the circuit court unless the action was tried to a 12-man jury. Milwaukee v. Trzesniewski, 35 W (2d) 487, 151 NW (2d) 109.

See note to 62.24, citing 51 Atty. Gen. 17.

66.125 Orders; action; proof of demand. No action shall be brought upon any city, village or school district order until the expiration of 30 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.

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.

This section does not prevent a city from refusing to continue to pay an unconstitutional tax rebate pursuant to contract. Ehrlich v. Racine, 26 W (2d) 352, 132 NW (2d) 489.

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.

66.18 Liability insurance. The state, and municipalities as defined in s. 345.05, are empowered to procure liability insurance covering both the state or municipal corporation and their officers, agents and employes.

66.185 Hospital, accident and life insurance. Nothing in the statutes shall be construed to limit the authority of the state or municipalities, as defined in s. 345.05, to provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employes and officers and their spouses and dependent children, and such authority is hereby granted. A municipality may also provide for the payment of premiums for hospital and surgical care for its retired employes.

66.186 Health insurance; cities of the first class. The common council of any city of the first class may, by ordinance or resolution, provide for general hospital, surgical and group insurance for both active and retired city officers and city employes and their respective dependents and for payment of premiums therefor in private companies. Contracts for such insurance may be entered into for active officers and employes separately from such contracts for retired officers and employes. Appropriations may be made for the purpose of financing such insurance. Moneys accruing to such fund, by investment or otherwise, shall not be diverted for any other purpose than those for which such fund was set up or to defray management expenses of such fund or to partially pay premiums so as to reduce costs to the city or to persons covered by such insurance, or both.

History: 1961 c. 70.

66.19 Civil service system; veterans' preference. (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or 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 s. 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, except such preference shall not be granted to any veteran competing in any such examination who has not attained at least a passing grade. Such system may also include uniform provisions in respect to attendance, leave regulations, compensation and payrolls 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 s. 43.12.

(2) (a) Any town with a population of more than 5,000 inhabitants may proceed under section 60.29 (1) to establish a civil service system as provided under subsection (1) and in such departments as the town board may determine. Any person who shall have been employed in any such department for more than 5 years prior to the establishment of such civil service shall be eligible to appointment without examination.

(b) Any town not having a civil service system and having exercised the option of placing assessors under civil service pursuant to s. 60.19 (2) may proceed under s. 60.29 (1) to establish a civil service system for assessors as provided in sub. (1).

(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 s. 9.20 by referendum vote.

(4) Any civil service system which shall be established under the provisions of this section shall provide for the appointment of a civil service board or commission and for the removal of the members of such board or commission for cause by the mayor with approval of the council, and in cities organized under the provisions of ss. 64.01 to 64.15 by the city manager and the council, and by the board in villages and towns.

History: 1963 c. 5; 1965 c. 150, 666 s. 22 (26).

(1) contains no implication that unacceptable conduct cannot be cause for discharge unless it can be shown directly to impair performance of duties. State ex rel. Gudlin v. Civil Service Comm. 27 W (2d) 77, 133 NW (2d) 799.

66.191 Special death and disability benefits for certain public employes subject to Wisconsin retirement act and conservation warden fund. (1) Whenever a policeman, fireman, county undersheriff, deputy sheriff, county traffic policeman, conservation warden, deputy state fire marshal, state forest ranger, field employe of the conservation commission who is subject to call for forest fire control or warden duty, member of the state traffic patrol, state university full-time policeman, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution including central state hospital, investigator employed by the attorney general's office or state beverage tax investigator who is a participating employe under ss. 66.90 to 66.918 shall, while engaged in the performance of duty, be injured or contract a disease due to his occupation, and be found upon examination to be so disabled by a disability which is likely to be permanent, as to render necessary his retirement from any of the aforesaid services, the industrial commission shall order payment to him monthly, under s. 20.865 (1) (d) or 102.21, of a sum equal to one-half his monthly salary in such service at the time that he became so disabled. A disability of such a nature as to require reduction in pay or position or assignment to light duty or to adversely affect promotional opportunities within the service shall be deemed sufficient to permit the employe the option of retirement.

(2) If such injury or disease shall cause the death of such person, or the death of a conservation warden who is a member of the conservation warden pension fund under s. 23.14, and he dies leaving surviving a widow or an unmarried child under the age of 18 years, the commission shall order monthly payments as follows:

(a) To the widow, unless she shall have married the deceased after he sustained such injury or contracted such disease, one-third of the monthly salary being paid to the deceased in such service at the time of his disability or death, until she marries again.

(b) To the guardian of each such child, $15 until he becomes 18 years of age; provided that the total monthly payments ordered under this subsection shall not exceed 65 per cent of the monthly salary being paid to the deceased in such service at the time of his disability or death, and there shall be a pro rata reduction in the benefits paid hereunder, if necessary, in order to comply with such limitation. On or before January 15 in each year any widow entitled to a benefit under this subsection shall file with the municipality which makes payments hereunder an affidavit stating that she has not married again. The monthly payment ordered to any widow under this subsection shall begin in

each calendar year only after such affidavit shall have been filed with the clerk of such municipality, and no payment shall be made for any month in such year prior to the one in which such affidavit was filed.

(c) If any person entitled to death benefit payments under this subsection is also entitled to death benefits under ch. 102 because of the death of such participating employe, the death benefit payments due under this subsection shall be reduced by an amount equal to the total weekly death benefits payable under ch. 102.

(3) Any policeman, fireman or conservation warden who has fulfilled all other requirements for inclusion as a participating employe under the Wisconsin retirement fund shall be eligible to the benefits payable under this section during the qualifying period established pursuant to s. 66.901 (4) (d).

(4) This section shall be administered by the industrial commission, which may adopt necessary rules relating to hearings, investigations and other matters in connection with applications for benefits under this section.

(5) Any person entitled to disability benefit payments under this section may file with the commission and the board of trustees of the Wisconsin retirement fund a written election to waive such payments and accept in lieu thereof such payments as may otherwise be due under s. 66.907; but no person shall receive disability benefit payments under both s. 66.907 and this section.

(6) Any city, village, town or county liable to pay special death and disability benefits provided for by this section may insure payment of such benefits in any insurance company authorized to transact business in this state.

History: 1963 c. 268, 285, 376, 534; 1965 c. 524, 536; 1967 c. 162, 291 s. 14.

Cross Reference: See 891.45 for provision as to presumption of employment-connected disease for certain municipal firemen.

66.192 Combination of municipal offices. (1) The office of county supervisor may be consolidated by charter ordinance under s. 66.01:

(a) With the office of village president in any village which has boundaries coterminous with the boundaries of any supervisory district established under s. 59.03 (2).

(b) With the office of alderman or councilman in any city in which the district from which such alderman or councilman is elected is coterminous with the boundaries of any supervisory district established under s. 59.03 (2).

(2) When so consolidated, necessary signatures for nomination papers shall be that number required under s. 8.10 for county supervisors.

(3) Removal from office of any incumbent of such consolidated office shall vacate said office in its entirety whether effected under ss. 17.09, 17.12 and 17.13 or other pertinent statute.

(4) Compensation for such consolidated office shall be separately established by the several governing bodies affected thereby as though no consolidation of offices had occurred.

(5) Tenure for such combination officer shall coincide with the term for county supervisors.

History: 1965 c. 174; 1967 c. 226.

66.195 Judicial salaries. The governing body of any county may during the term of office of a county judge whose salary is paid in whole or in part by such county, increase the salary of such county judge in such an amount as the governing body determines. The power granted by this subsection shall take effect notwithstanding any other provision of the law to the contrary, except that the exercise of this power shall be governed by s. 65.90 (5).

History: 1965 c. 580; 1967 c. 54.

66.196 Compensation of governing bodies. An elected official of any county, city, town or village, who by virtue of his office is entitled to participate in the establishment of the salary attending his office, shall not during the term of such office collect salary in excess of the salary provided at the time of his taking office. This provision is of state-wide concern and applies only to officials elected after October 22, 1961.

History: 1961 c. 573.

An increase of a lump-sum expense allowance during a term is not prohibited if it bears a reasonable relationship to actual expenses. Geyso v. Cudahy, 34 W (2d) 476, 149 NW (2d) 611.

66.197 County salary adjustments. The governing body of any county may, during the term of office of any elected official whose salary is paid in whole or in part by such county, increase the salary of such elected official in such amount as the governing body determines. The power granted by this section shall take effect notwithstanding

any other provision of law to the contrary, except that the exercise of such power shall be governed by s. 65.90 (5). The power granted by this section shall not extend to elected officials who by virtue of their office are entitled to participate in the establishment of the compensation attending their office.

History: 1967 c. 25.

66.199 Automatic salary schedules. Whenever the governing body of any city or village by ordinance adopts a salary schedule for some or all employes and officers of such city and village, other than those subject to ss. 41.15 and 120.49 and members of the city council or village board, 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 ss. 61.32, 62.09 (6) and 62.13 (7), except that s. 62.13 (7) shall be applicable if such automatic adjustment reduces basic salaries in effect January 1, 1940.

History: 1961 c. 550; 1967 c. 92.

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.

66.201 Sewerage 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 sub. (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 or 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 by a class 3 notice, under ch. 985, in the counties in which the proposed district is located. 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.

History: 1965 c. 252.

66.202 Sewerage 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 is filed with the commissioners, they shall, except as prescribed in par. (e), 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, as a class 3 notice, under ch. 985.

(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, as a class 1 notice, under ch. 985, within 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% 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 s. 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 ss. 7.23 and 7.51 to 7.60 of the statutes, shall control insofar 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.

History: 1965 c. 252, 666 s. 22 (16).

66.203 Sewerage 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.

66.204 Sewerage district; plans, construction, maintenance, operation. (1) (a) 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.

(b) The commissioners may project and plan scientific experiments, investigations and research on treatment processes and on the receiving waterway to insure that an economical and practical process for treatment is employed and that the receiving waterway meets the requirements of regulating agencies. To this end the commission may conduct such scientific experiments, investigations and research independently or by contract or in cooperation with any public or private agency including any political subdivision of the state or any person or public or private organization.

(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).

66.205 Sewerage district; additions. (1) If 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 ch. 32, and specifically the provisions of s. 32.05, except that the powers therein granted shall be exercised by and in the name of said district in the place and stead of the county board. Furthermore, land or property may be acquired outside of said district for the purposes of ss. 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.

History: 1961 c. 486.

66.206 Sewerage 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 and shall make and file, in their office, a report and schedule of the assessment so made, and 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 as a class 2 notice, under ch. 985, and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post-office address is known, or can be ascertained with reasonable diligence.

(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.

(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 has been reached by the commissioners, its secretary shall publish a class 1 notice, under ch. 985, 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 s. 66.60 (12) shall apply to and govern such appeal; provided 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 have been determined, issue special improvement bonds payable only out of such special assessment, and s. 66.54 shall apply to and govern the instalment payments and the issuance of said bonds, 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 s. 66.54, with interest thereon at . . . . per cent 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) The instalment assessment notice shall be published as a class 1 notice, under ch. 985.

(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.

History: 1965 c. 252.

66.207 Sewerage 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 the assessed valuation of all the taxable property in the district as equalized for state purposes for the purpose of carrying out the provisions and performing duties under ss. 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 such 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 so assessed against the taxable property so valued 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.

History: 1961 c. 571.

66.208 Sewerage 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 commissioners, 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.

66.209 Sewerage district; application of other laws. (1) Sections 59.96 (6) (h)

and 66.076 (1), (2) and (4) shall apply to districts organized and existing under ss. 66.20 to 66.209.

66.27 Relief from conditions of gifts and dedications. (1) If the governing body of a county, city, town or village accepts a gift or dedication of land made on condition that the land be devoted to a special purpose, and the condition subsequently becomes impossible or impracticable, such governing body may by resolution or ordinance enacted by a two-thirds vote of its members elect either to grant the land back to the donor or dedicator or his heirs, or accept from the donor or dedicator or his heirs, a grant relieving the county, city, town or village of the condition, pursuant to article XI, section 3a, of the constitution.

(2) (a) If such donor or dedicator or his heirs are unknown or cannot be found, such resolution or ordinance may provide for the commencement of an action under this section for the purpose of relieving the county, city, town or village of the condition of the gift or dedication.

(b) Any such action shall be brought in a court of record in the manner provided in ch. 262. A lis pendens shall be filed as provided in s. 281.03 upon the commencement of the action. Service upon persons whose whereabouts are unknown may be made in the manner prescribed in s. 262.09.

(c) The court may render judgment in such action relieving the county, city, town or village of the condition of the gift or dedication.

66.28 Sales of abandoned property. Cities, villages and counties may, at a public auction to be held once a year, dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days after the taking of possession of the same by the city, village or county 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, village or county treasury.

History: 1961 c. 163, 622.

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 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.

(d) "Subcontractor" means a person whose relationship to the principal contractor is substantially the same as to a part of the work as the latter's relationship is to the proprietor. A "subcontractor" takes a distinct part of the work in such a way that he does not contemplate doing merely personal service.

(2) BIDDER'S PROOF OF RESPONSIBILITY. Every municipality, board or public body upon all contracts subject to this section may, before delivering any form for bid proposals, plans and specifications pertaining thereto to any person, excepting materialmen, suppliers and others not intending to submit a direct bid, 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; 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. Such statement shall be filed in the manner and place designated by the municipality, board, public body or such officer thereof. Such statements shall not be received less than 5 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 the written order of such person furnishing the same, or for necessary use by the public body in qualifying such person, or in cases of action against, or by such person or municipality. The governing body of the municipality or such committee, board or employe as is charged with the duty of receiving bids and awarding contracts or to whom the governing body has delegated the power shall properly evaluate the sworn statements filed relative to financial ability, equipment and experience in the work

prescribed and shall find the maker of such statement either qualified or unqualified. This subsection shall not apply to cities of the first class.

(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) SEPARATION OF CONTRACTS. On those public contracts calling for the construction, repair, remodeling or improvement of any public building or structure, other than highway structures and facilities, the municipality shall separately let (a) plumbing, (b) heating and ventilating, and (c) electrical contracts where such labor and materials are called for. The municipality may set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character and classification of workmen to be employed by any contractor, and to classify such contractors as to their financial responsibility, competency and ability to perform work and to set up a classified list of contractors pursuant thereto; and such municipality may also 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.

(7) BIDDER'S CERTIFICATE. 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 list of the subcontractors he proposes to contract with, and the class of work to be performed by each, provided that to qualify for such listing such subcontractor must first submit his bid in writing, to the general contractor at least 48 hours prior to the time of the bid closing, which list shall not be added to nor altered without the written consent of the municipality. A proposal of a bidder shall not be invalid if any subcontractor and the class of work to be performed by such subcontractor has been omitted from a proposal; such omission shall be considered as inadvertent, or that the bidder will perform the work himself.

(8) SETTLEMENT OF DISPUTES; DEFAULTS. 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.

(6) does not apply to the letting of a contract for a building by a school district because such a district is not required to advertise for proposals for construction. Consolidated School Dist. v. Frey, 11 W (2d) 434, 105 NW (2d) 841.

Where a contractor fails to list another corporation as a subcontractor pursuant to (7), this alone does not prove that the other corporation was an agent, not a subcontractor for purposes of claiming a lien under 289.53. Boehck Construction Equipment Corp. v. Voigt, 17 W (2d) 62, 115 NW (2d) 627, 117 NW (2d) 372.

66.293 Contractor's failure to comply with municipal wage scale. (1) Every city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any other governmental unit, which proposes the making of a contract for any highway, street or bridge construction, shall determine the rate of wage scale which shall be paid by the contractor to the employes upon the project. Reference to such rate of wage scale shall be published in the notice issued for the purpose of securing bids for the project. Whenever any contract for a highway, street or bridge construction is entered into, the rate of wage scale shall be incorporated in and made a part of such contract. All employes working upon the highway, street or bridge construction shall be paid by the contractor in accordance with the rate of wage scale incorporated in the contract. Such rate of wage scale shall not be altered during the time that the contract is in force.

(2) Whenever any city, town, village or county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, by ordinance, resolution, rule or bylaw, establishes a rate of wage scale to be paid to employes upon any highway, street or bridge construction by a contractor and it is found upon due proof that the contractor is not paying or has failed to pay the wage scale established or is directly or indirectly, by a system of rebates or otherwise, violating the ordinance, rule, resolution or bylaw of the city, town, village or county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, the contractor may be fined not to exceed $500 for each offense.

(3) Every municipality, before soliciting bids on a contract for any project of public works except highway, street or bridge construction, shall apply to the industrial commission to ascertain the prevailing wage rate in all trades and occupations required in the work contemplated. The commission shall determine the prevailing wage rate for each trade or occupation pursuant to s. 103.49, shall make its determination within 30 days after receiving the request and shall file the same with the municipality applying therefor. Reference to such prevailing wage rates shall be published in the notice issued for the purpose of securing bids for the project. Whenever any contract for a project of public works except highway, street or bridge construction is entered into, the wage rate shall be incorporated into and made a part of the contract. All employes working on the project shall be paid by the contractor in accordance with the wage rate incorporated in the contract. Such wage rate shall not be altered during the time that the contract is in force.

(a) Any contractor, subcontractor or agent thereof, who fails to pay the prevailing rate of wages determined by the commission under this section, shall be liable to the employes affected in the amount of their unpaid minimum wages or their unpaid overtime compensation and an additional equal amount as liquidated damages. Action to recover the liability may be maintained in any court of competent jurisdiction by any one or more employes for and in behalf of himself and other employes similarly situated. No employe shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and the consent is filed in the court in which the action is brought. The court shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee and costs to be paid by the defendant.

(b) In this subsection, "municipality" means any city, town, village or county, common school district, high school district, unified school district, county-city hospital established under s. 66.47, sewerage commission organized under s. 144.07 (4), metropolitan sewerage district organized under s. 66.209 or any other unit of government, or any agency or instrumentality of 2 or more units of government in this state.

(c) This subsection shall not apply to any highway, street or bridge construction or to any public works project for which the estimated project cost of completion is below $2,500 where a single trade is involved and $25,000 where more than one trade is involved on such project.

(d) The commission, upon petition of any municipality, shall issue an order exempting the municipality from this subsection when it is shown that an ordinance or other enactment of the municipality sets forth the standards, policy, procedure and practice that results in standards as high or higher than those under s. 103.49.

(4) The failure to pay the required wage to an employe for any one week or part thereof shall be deemed a separate offense.

History: 1965 c. 484; 1967 c. 26.

66.295 Authority to pay for public work done in good faith. (1) Whenever any city, village or county has received and enjoyed or is enjoying any benefits or improvements furnished prior to December 1, 1960, under any contract which was no legal obligation on such city, village or county and which contract was entered into in good faith and has been fully performed and the work has been accepted by the proper officials, so as to impose a moral obligation upon such city, village or county to pay therefor, such city, village or county, by resolution of its governing body 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 governing body of such city or county. Such payments may be made out of any available funds, and said governing body has 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.

History: 1961 c. 82.

66.296 Discontinuance of streets and alleys. (1) The whole or any part of any road, street, slip, pier, lane or alley, in any city of the second, third or fourth class or in any incorporated village, may be discontinued by the common council or village board upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued, and of the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(2) (a) As an alternative, proceedings covered by this section may be initiated by the common council or village board by the introduction of a resolution declaring that since the public interest requires it, the whole or any part of any road, street, slip, pier, lane or alley in the city or village is thereby vacated and discontinued.

(b) A hearing on the passage of such resolution shall be set by the common council or village board on a date which shall not be less than 40 days thereafter. Notice of the hearing shall be given as provided in subsection (5), except that in addition notice of such hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before such hearing. When such service cannot be made within the city or village, a copy of the notice shall be mailed to the owner's last known address at least 30 days before the hearing.

(c) No discontinuance shall be ordered if a written objection to the proposed discontinuance is filed with the city or village clerk by any of the owners abutting on the portion sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be discontinued; or which lies within so much of said 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(3) Whenever any of the lots or lands aforesaid is owned by the state, 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, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairman of the board of supervisors of the county,

mayor of the city, president of the village, 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.

(4) The city council or village board may by resolution discontinue any alley or any portion thereof which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion thereof for a period of 5 years next preceding the date of notice provided for in (5) shall be deemed an abandonment for purpose of this section.

(5) Notice stating when and where the petition or resolution will be acted upon and stating what road, street, slip, pier, lane or alley, or part thereof, is proposed to be discontinued, shall be published as a class 3 notice, under ch. 985.

(6) In proceedings under this section, section 281.04 shall be considered as a part of the proceedings.

History: 1965 c. 252.

Two public ways, which were separated from each other by a distance of about 1,000 feet because of an intervening parcel of land, did not constitute the same street, although they both bore the same street name of "Cleora" drive; hence a petition for the vacation of a portion of north "Cleora" did not in any event require the signatures of any owners of lots abutting on separated south "Cleora." Poff v. Lockhart, 21 W (2d) 575, 124 NW (2d) 636.

66.297 Discontinuance of public grounds. (1) In every city of the 1st class, the common council may vacate in whole or in part such highways, streets, alleys, grounds, waterways, public walks and other public grounds within the corporate limits of the city as in its opinion the public interest requires to be vacated or are of no public utility, subject to s. 80.32 (4). Such proceedings shall be commenced either by a petition presented to the common council signed by the owners of all property which abuts upon the portion of the public facilities proposed to be vacated, or by a resolution adopted by the common council. The requirements of s. 281.04 shall apply to proceedings under this section.

(2) All petitions or resolutions shall be referred to a committee of the common council for a public hearing on such proposed discontinuance and at least 7 days shall elapse between the date of the last service and the date of such hearing. A notice of such hearing shall be served on the owners of record of all property which abuts upon the portion of the public facilities proposed to be vacated, in the manner provided for service of a summons.

(3) If the common council initiates a discontinuance proceeding by resolution without a petition signed by all of the owners of the property which abuts the public facility proposed to be discontinued, any owner of property abutting such public facility whose property is damaged thereby may recover such damages as provided in ch. 32.

(4) The common council may also order that an assessment of benefits be made and when so ordered the assessment shall be made as provided in s. 66.60.

History: 1965 c. 101.

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.

66.30 Co-operation between municipalities and between school districts and university. (1) "Municipality" as used herein includes the state or any department or agency thereof, or any city, village, town, county, school district or regional planning commission.

(2) Any municipality may contract with another municipality or municipalities or the state or any department or agency thereof for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by statute.

(2m) (a) The university may furnish, and school districts may accept, services for educational study and research projects and they may enter into contracts under this section for that purpose.

(b) A group of school boards, boards of education or boards of school directors, if so authorized by each board, may form a nonprofit-sharing corporation to contract with the state or university for the furnishing of the services specified in par. (a).

(c) The corporation shall be organized under ch. 181 and shall have the powers there applicable. Members of the boards specified in par. (b) may serve as incorporators, directors and officers of the corporation.

(d) The property of the corporation shall be exempt from taxation.

(e) The corporation may receive gifts and grants and be subject to their use, control and investment as provided in s. 118.27, and the transfer of the property to the corporation shall be exempt from income, inheritance, estate and gift taxes.

(3) Any such contract may provide a plan for administration of the function or project, which may include, without limitation because of enumeration, provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets, creation of a commission, selection and removal of commissioners, formation and letting of contracts.

(3m) A commission created by contract under sub. (2) may finance the acquisition, development, remodeling, construction and equipment of land, buildings and facilities for regional projects under s. 66.066. Participating municipalities acting jointly or separately may finance such projects, or an agreed share of the cost thereof, under ch. 67.

(3n) No commission created by contract under s. 66.30 is authorized, directly or indirectly, to acquire, construct or lease facilities used or useful in the business of a public utility engaged in production, transmission, delivery or furnishing of heat, light, power, natural gas or communications service, by any method except those set forth under ch. 66, 196, 197 or 198.

(3p) The authority now or hereafter conferred by law on commissions created by contract under this section shall not include the right, power or authority to establish, lay out, construct, improve, discontinue, relocate, widen or maintain any road or highway outside the corporate limits of a village or city or to acquire lands for such purposes except upon approval of the state highway commission and the county board of the county wherein such road is to be located.

(4) Any such contract may bind the contracting parties for the length of time specified therein.

History: 1965 c. 238, 517; 1967 c. 92.

County is not authorized under 66.30 or 83.018, or otherwise, to contract with a joint school district for the paving by the county of a parking lot for the district. 51 Atty. Gen. 168.

66.305 Law enforcement; mutual assistance. (1) Upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.24 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. For purposes of ss. 270.58 and 895.35, such law enforcement personnel while acting in response to such request, shall be deemed employes of the requesting agency.

(2) The provisions of s. 66.315 shall apply to this section.

History: 1967 c. 105.

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.

66.315 Police, pay when acting outside county or municipality. (1) Any chief of police, sheriff, deputy sheriff, county traffic officer or other peace officer of any city, county, village or town, who shall be required by command of the governor, sheriff or other superior authority to maintain the peace or who responds to the request of the authorities of another municipality, to perform police or peace duties outside territorial limits of the city, county, village or town where 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, county, 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, county, village or town regularly employing such peace officer. Upon making such payment such city, county, village or town shall be reimbursed by the state, county or other political subdivision whose officer or agent commanded the services out of which the payments arose.

History: 1967 c. 105.

66.32 Extraterritorial powers. The extraterritorial powers granted to cities and villages by statute, including ss. 62.23 (2) and (7a), 66.052, 146.10 and 236.10, 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 divided on a line all points of which are equidistant from the boundaries of each municipality concerned so that not more than one municipality shall exercise such power over any area.

History: 1963 c. 241.

66.325 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 provision of chs. 341 to 349 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 paymnet 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.

66.33 Aids to municipalities for prevention and abatement of water pollution. (1) As used in this section the term "municipality" means any city, town, village, town sanitary district or metropolitan sewerage district.

(2) Any municipality is authorized to apply for and accept grants or any other aid which the United States Government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

(3) Any municipality is further authorized to accept contributions and other aid from commercial, industrial and other establishments for the purpose of aiding in the prevention or abatement of water pollution and in furtherance of such purpose to enter into contracts and agreements with such commercial, industrial and other establishments covering the following:

(a) The collection, treatment and disposal of sewage and industrial wastes from commercial, industrial and other establishments;

(b) The use and operation by such municipality of sewage collection, treatment or disposal facilities owned by any such commercial, industrial and other establishment;

(c) The co-ordination of the sewage collection, treatment or disposal facilities of the municipality with the sewage collection, treatment or disposal facilities of any commercial, industrial and other establishment.

(4) When determined by its governing body to be in the public interest any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment or establishments providing for sewage or other facilities, including the operation thereof, to abate or reduce the pollution of waters caused in whole or in part by discharges of industrial wastes by the industrial establishment or establishments on such terms as may be reasonable and proper.

(5) Any municipality is authorized to participate in the state financial assistance program for water resources protection established under s. 144.21 and may enter into

agreements with the department of resource development for that purpose.

(6) Any municipality is authorized to enter into contracts with a nonprofit-sharing corporation for the municipality to design and construct the projects it will sublease from the department of resource development pursuant to s. 144.21 (6) (b).

(7) The provisions of this section and s. 60.307 (9) shall not be construed by way of limitation or restriction of the powers otherwise granted municipalities but shall be deemed as an addition to and a complete alternative to such powers.

History: 1965 c. 614.

66.34 Soil conservation. Any county, city, village or town by its governing body or through a committee designated by it for the purpose, may contract to do soil conservation work on privately owned lands, but no such contract shall involve more than $200 for any one person.

66.345 Special assessments by town for soil conservation and snow removal expenditures. Any town board may levy special assessments against lands or interests specially benefited for the amount expended by the town for soil conservation work pursuant to s. 66.34 and for snow removal pursuant to s. 86.105. Such levy shall be a lien on the property against which it is levied on behalf of the town from the date of the determination of the assessment by the board. The board shall provide for the collection of the assessments and may establish penalties for payment after the due date, and shall provide that the assessments 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 collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment.

History: 1965 c. 144.

66.35 License for closing-out sales. (1) No person shall conduct in any city, village or town a "closing-out sale" of merchandise except as hereinafter provided or as provided by ordinance of such city, village or town. Every person shall obtain a city, village or town license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjustor, 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, village or town 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 60 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 city, village or town clerk if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant is filed by said licensee with the city, village or town clerk. 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 city, village or town clerk by affidavit or

otherwise, as directed by him, that no merchandise has been added to the said stock since the date of issuance of the license. The city, village or town clerk may grant or deny the application and if granted the period of the extension shall be determined by said city, village or town clerk, but shall not exceed 30 days from the expiration of the original license. If said extension is granted, the same shall be issued by the city, village or town clerk upon the payment of an additional license fee of $25 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, village or town 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 is unlawful for any licensee to refuse to furnish on demand to the city, village or town 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, village or town clerk shall on June 1 and December 1 of each year pay into the state treasury 25 per cent of all license fees collected under this section. This subsection shall not apply to license fees collected under 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.

History: 1961 c. 164.

66.36 Aids to municipalities for the acquisition of recreational lands. (1) Any city of the 1st and 2nd class as defined by s. 62.05 (1) may apply for and accept state aids for the acquisition of recreational lands and rights in lands for the development of its metropolitan area park system under s. 22.13 (3).

(2) In those counties having a population of 90,000 or more but less than 500,000 as determined by the last federal census, the county park commissions established under s. 27.02 are eligible for aid under this section if such county park commissions have mutually agreed with all cities of the first and second class located within such counties that the primary responsibility for providing urban citizens with recreation facilities is that of the county park commissions. In such counties, where cities of the first and second class are located, and where mutual agreements between city park commissions and county park commissions do not exist, the county park commissions shall not be eligible for aids under this section. In those counties having a population of 90,000 or more as determined by the last federal census where there are no cities of the first and second class, the county park commission shall be eligible for aid under this section. In counties having a population of 500,000 or more, the only unit of government eligible for aids under this section shall be the county park commission.

(3) State aid under this section shall be limited to no more than 50 per cent of the cost of acquiring, through fee title or through easements, recreation lands which are essentially open in nature and which are located in areas which are not intensively developed for homes or commercial establishments and which are open, or predominantly open, lands, including agricultural land, wetlands, flood plains, forest and wood lots in and

around urban areas which because of scenic, historic or aesthetic factors have outdoor recreation values such as sight-seeing, picnicking, hiking, nature study, swimming, boating, hunting, fishing and camping. Costs associated with development and maintenance of parks established under this section shall not be eligible for state aid. Costs of acquiring lands or land rights shall not be included in the "cost of land" eligible for state aid under this section. Title to lands or rights in lands acquired under this section shall vest in the local unit of government, provided that such land shall not be converted to uses inconsistent with this section without prior approval of the state and that proceeds from the sale or other disposal of such lands shall be used to promote the objectives of this section.

History: 1961 c. 427; 1965 c. 433; 1967 c. 211 s. 20.

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 department of veterans' affairs, 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 shortage 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 con-

stitute 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.

(11) OPERATION NOT FOR PROFIT. It is declared to be the policy of this state that each housing authority shall operate in an efficient manner so as to provide veterans with permanent housing at the lowest possible cost and that no housing authority shall realize any profit on its operations. Any veteran who occupies a single dwelling unit shall have an option to purchase such unit within 5 years from the date of occupancy at an amount not to exceed the total costs to the housing authority of the land on which said 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 ss. 20.036 (12) and 45.354 [Stats. 1953]. The purchase contract shall be in such form and on such terms as may be prescribed by the Wisconsin department of veterans' affairs. 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.

(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, DISCRIMINATION. 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 department of veterans' affairs which regulation said department 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. Veterans otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

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

66.395 Housing authorities for elderly persons. (1) SHORT TITLE. This section may be referred to as the "housing authority for elderly persons law."

(2) DECLARATION OF NECESSITY. It is declared that the lack of housing facilities for elderly persons provided by private enterprise in certain areas creates a public necessity to establish such safe and sanitary facilities for which public moneys may be spent and private property acquired. The legislature declares that to provide public housing for elderly persons is the performance of a governmental function of state concern.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(3) DEFINITIONS. As used in this section unless the text clearly indicates otherwise:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to sub. (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" 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) "Commissioner" means one of the members of an authority appointed in accordance with this section.

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

(g) "State" means the state of Wisconsin.

(h) "Federal government" includes 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.

(i) "Housing projects" 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 1. to demolish, clear, remove, alter or repair insanitary or unsafe housing for elderly persons, or 2. to provide safe and sanitary dwelling accommodations for elderly persons, or for a combination of said 1. and 2. The term "housing project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures and the construction, reconstruction, alteration and repair of the improvements for the purpose of providing safe and sanitary housing for elderly persons and all other work in connection therewith. A project shall not be considered housing for the elderly unless it contains at least 8 new or rehabilitated living units which are specifically designed for the use and occupancy of persons 62 years of age or over.

(j) "Community facilities" include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(k) "Bonds" mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to this section.

(l) "Mortgage" includes deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(m) "Trust indenture" includes instruments pledging the revenues of real or personal properties.

(n) "Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(o) "Real property" includes 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.

(p) "Obligee of the authority" or "obligee" includes any bondholder trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee 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.

(q) "Slum" means any area where dwellings predominate which, by reason of delapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sani-

tary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(r) "Elderly person" means a person who is 62 years of age or older on the date such person intends to occupy the premises, or a family, the head of which, or his spouse, is an elderly person as defined herein.

(s) "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 declares 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 finds that there is a shortage of dwelling accommodations in the city available to elderly persons.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers 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) SECTION 66.40 APPLIES. The provisions of s. 66.40 (5) to (26) shall apply to housing authorities and providing housing for elderly persons under this section without reference to the income of such persons.

(6) SECTIONS 66.401 to 66.404 APPLY. The provisions of ss. 66.401 to 66.404 shall apply to housing authorities and providing housing for elderly persons under this section without regard to the restrictions on the income of applicants for participation, except as set down by the federal housing administration.

(7) NOT APPLICABLE TO LOW-RENTAL HOUSING PROJECTS. This section shall not apply to projects required to provide low-rental housing only.

History: 1961 c. 351.

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.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under sections 66.40 to 66.404 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(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 in-

cluded 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.

(s) Notwithstanding the provisions of any law in conflict herewith, the housing authority of any city is expressly authorized to acquire sites, to prepare, to carry out, acquire, lease, construct and operate housing projects to provide temporary dwelling accommodations for families regardless of income who are displaced under the provisions of sections 66.40 to 66.43, to further slum clearance, urban redevelopment, blight elimination, and to provide temporary dwelling accommodations for families displaced by reason of any street widening, expressway or other public works project causing the demolition of dwellings.

(t) To participate in an employe retirement or pension system of the city which has declared the need for the authority and to expend funds of the authority for such purpose.

(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 compensation 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 determine, 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 agree-

ments 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 has the approval of the council for any project authorized under sub. (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 by publishing a class 2 notice, under ch. 985, for bids for all work which said authority must do by contract. The contract shall be awarded to the lowest qualified and competent bidder. Section 66.29 of the statutes shall apply to such bidding.

(25) LIQUIDATION AND DISPOSAL OF HOUSING PROJECTS. (a) In any city or village the city council or village board by resolution or ordinance, or the electors by referendum under s. 9.20, may provide that the authority shall liquidate and dispose of a particular project or projects held and operated under ss. 66.40 to 66.404 or 66.43.

(b) Whenever liquidation and disposal of a project is provided for under par. (a) the housing authority or other designated agency shall sell such project to the highest bidder after public advertisement, or transfer it to any state public body authorized by law to acquire such project. No such project shall be sold for less than its fair market value as determined by a board of 3 licensed appraisers appointed by the city council or village board.

(c) The arrangements for the liquidation and disposal of a project shall provide for the payment and retirement of all outstanding obligations in connection with the project, together with interest thereon and any premiums prescribed for the redemption of any bonds, notes or other obligations before maturity.

(d) Any proceeds remaining after payment of such obligations under par. (c) shall be distributed in accordance with the federal law applicable at the time of the liquidation and disposal of the project. If no federal law is applicable to the liquidation and disposal of the project all of such remaining proceeds shall be paid to the city or village.

(e) If the highest bid received is insufficient for the payment of all obligations set forth in par. (c) the project shall not be sold unless the city or village provides sufficient additional funds to discharge such obligations.

(f) In order to carry out this subsection an authority or other designated agency shall exercise any option available to it for the payment and redemption of outstanding obligations set forth in par. (c) before maturity, if the city or village provides funds for such payment and redemption.

(g) No actions taken under this subsection shall affect or diminish the rights of any bondholders or other obligees of the authority.

(h) The term "outstanding obligations" or "obligations" as used herein includes bonds, notes or evidences of indebtedness, as well as aids, grants, contributions or loans made by or received from any federal, state or local political government or agency.

(26) DISSOLUTION OF HOUSING AUTHORITY. Any housing authority may be dissolved upon adoption of an ordinance or resolution by the council or village board concerned declaring that the need therefor no longer exists, that all projects under such authority's jurisdiction have been disposed of, that there are no outstanding obligations or contracts and that no further business remains to be transacted by such authority.

History: 1965 c. 252, 666 s. 22 (26).

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.

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 minor dependents such aggregate annual income may exceed 5 times the annual rental of the quarters to be furnished by $100 for each minor dependent or by an amount equal to the annual income of the minor dependents; in computing the rental for 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. For the purposes of this subsection, a minor shall mean a person less than 21 years of age.

(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.

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.

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 cooperating 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.

(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.

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 exist-

ence 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.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under sections 66.405 to 66.425 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(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" means a portion of a city which its planning commission finds 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 sub. (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 deemed necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which such buildings, improvements or real property form a part; and also includes vacant land which is in such proximity to other land or structures so as to impair the economic value thereof.

(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 charges 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 s. 66.407.

(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" means, 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. Whenever the area which is to be the subject of a development plan is less than 100,000 square feet but more than 25,000 square feet and consists of vacant land which results from the clearing of substandard or insanitary structures, and such area falls within the conditions set forth in s. 66.406 (3) (c), then the "maximum assessed valuation" means the last assessed valuation which appeared on the assessment roll prior to demolition of structures in such area.

(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 s. 66.406, 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 s. 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, com-

mercial, 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.

History: 1963 c. 516.

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

s. 66.405 (2); if the area is comprised of vacant land it shall be established that such vacant land impairs the economic value of surrounding areas in accordance with the general purposes expressed in s. 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; but whenever the local governing body makes a finding to the effect that an area is in urgent need of development, and that such development will contribute to the progress and expansion of an area whose economic growth is vital to the community, then in such instance the development area shall not be less than 25,000 square feet subject to the requirements of par. (d);

(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 and where the area to be developed consists either of vacant land or of substandard or insanitary buildings or structures as provided in s. 66.405 (3) (a), and such area is less than 100,000 square feet but more than 25,000 square feet as provided in par. (c) then the new structures to be constructed on such vacant land shall not be less than 1,000,000 cubic feet in area;

(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 plan 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.

History: 1963 c. 516.

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.

66.408 Urban redevelopment; regulation of corporations. (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 ss. 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.

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 corporation, 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.

This section is unconstitutional as violating the uniformity of taxation clause. Gottlieb v. Milwaukee, 33 W (2d) 408, 147 NW (2d) 633.

The uniformity clause, assessment freeze laws and urban renewal. 1965 WLR 885.

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.

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.

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.

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.

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.

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.

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.

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 as a class 2 notice, under ch. 985.

(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.

History: 1965 c. 252.

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.

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.

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.

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.

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.

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.

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.

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) FINDINGS AND DECLARATION OF NECESSITY. It is hereby found and declared that there have existed and continue to exist in cities within the state, substandard, insanitary, deteriorated, slum and blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime (necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection, and other public services and facilities), constitutes an economic and social liability, substantially impairs or arrests the sound growth of cities, and retards the provision of housing accommodations; that this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided; that the acquisition of property for the purpose of eliminating substandard, insanitary, deteriorated, slum or blighted conditions thereon or preventing recurrence of such conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to the foregoing, and any assistance which may be given by cities or any other public bodies in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination. Nothing herein contained shall be deemed to contravene, repeal or rescind the finding and declaration of necessity heretofore set forth in s. 66.43 (2) prior to the recreation thereof on July 10, 1953.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(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" means a blighted area (as defined in this section), or portion thereof, of such extent and location as adopted by the planning commission and approved by the local legislative body as an appropriate unit of redevelopment planning for a redevelopment project, separate from the redevelopment projects in other parts of the city. In the provisions of this section relating to leasing or sale by the city, for abbreviation "project area" is used for the remainder of the project area after taking out those pieces of property which 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) 1. "Blighted area" means any area (including a slum area) in which a majority of the structures are residential (or in which there is a predominance of buildings or improvements, whether residential of nonresidential), and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

2. "Redevelopment project" means any work or undertaking to acquire blighted areas or portions thereof, and lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance or redevelopment of such areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight in such areas; to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; or to sell, lease or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use, or to retain such land for public use, in accordance with a redevelopment plan. The term "redevelopment project" may also include the preparation of a redevelopment plan, the planning, surveying, and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project. "Redevelopment plan" means a plan for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

(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.

(m) "Public body" means the state or any city, county, town, village, board, commission, authority, district or any other subdivision or public body of the state.

(4) POWER OF CITIES. (a) Every city is hereby granted (in addition to its other powers) all powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted:

1. To prepare or cause to be prepared redevelopment plans and to undertake and carry out redevelopment projects within its corporate limits.

2. To enter into any contracts determined by the local legislative body to be necessary to effectuate the purposes of this section.

3. Within its boundaries, to acquire by purchase, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property; to sell, lease, subdivide, retain for its own use, mortgage, or otherwise incumber or dispose of any such property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property in accordance with a redevelopment plan and such other covenants, restrictions and conditions as it may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; to make any of such covenants, restrictions, conditions or covenants running with the land, and to provide appropriate remedies for any breach thereof.

4. To borrow money and issue bonds, and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal, state or county government, or other public body or from any sources, for the purpose of this section; to give such security as may be required, and to enter into and carry out contracts in connection therewith.

(b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32 or any other laws applicable to the city.

(c) Notwithstanding any other provision of law, the local legislative body may designate the housing authority of the city, as the agent of the city, to do all acts which would otherwise be performed by the planning commission under this section; and the housing authority is hereby empowered to perform such acts; except, the development of a general plan of the city, which function shall be reserved to the planning commission.

(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. Designation by the planning commission of the boundaries of the project area proposed by it for redevelopment, submission of such boundaries to the local legislative body and the adoption of a resolution by said local legislative body declaring such area to be a blighted area in need of redevelopment.

2. Adoption by the planning commission and approval by the local legislative body of the redevelopment plan of the project area. Such redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area, and shall include, without being limited to, a statement of the boundaries of the project area; a map showing existing uses and conditions of real property therein; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage, and building intensity in the area after redevelopment; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the local legislative body may be given only after a public hearing conducted by it, and a finding by it that said plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days prior to the date set for the hearing. All interested parties shall be afforded a reasonable opportunity at the hearing to express their views respecting the proposed plan, but the hearing shall be only for the purpose of assisting the local legislative body in making its determination.

(c) In relation to the location and extent of public works and utilities, public buildings and other public uses in the general plan or in a project area plan, the planning commission 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 all or any part of said real property (including streets or parts thereof to be closed or vacated in accordance with the plan) to a redevelopment company or to an individual or a partnership for use in accordance with the redevelopment plan. Such real property shall be leased or sold at its fair value for uses in accordance with the redevelopment plan notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining such fair value, a city shall take into account and give consideration to the uses and purposes required by the plan; the restrictions upon and covenants, conditions and obliga-

tions assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas; and such other matters as the city shall deem appropriate.

(b) Any such lease or sale may be made without public bidding, but only after a public hearing by the planning commission upon the proposed lease or sale and the provisions thereof; and notice of the hearing shall be published as a class 2 notice, under ch. 985.

(c) The terms of such lease or sale 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.

(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) CO-OPERATION AND USE OF CITY FUNDS. (a) To assist any redevelopment project located in the area in which it is authorized to act, any public body may, upon such terms as it may determine: Furnish services or facilities, provide property, lend or con-

tribute funds, and perform any other action of a character which it is authorized to perform for other purposes.

(b) Every city may appropriate and use its general funds to carry out the purposes of this section and to obtain such funds may, in addition to other powers set forth in this section, incur indebtedness, and issue bonds in such amount or amounts as the local legislative body determines by resolution to be necessary for the purpose of raising funds for use in carrying out the purposes of this section; provided, that any issuance of bonds by a city pursuant to this provision shall be in accordance with such statutory and other legal requirements as govern the issuance of obligations generally by the city.

(14) LIMITED OBLIGATIONS. For the purpose of carrying out or administering a redevelopment plan or other functions authorized under this section, any city is hereby authorized (without limiting its authority under any other law) to issue from time to time bonds of the city which are payable solely from and secured by a pledge of and lien upon any or all of the income, proceeds, revenues, funds and property of the city derived from or held by it in connection with redevelopment projects undertaken pursuant to this section, including the proceeds of grants, loans, advances or contributions from the federal, state or county governments or from other sources (including financial assistance furnished by the city or any other public body). Bonds issued pursuant to this authority shall be in such form, mature at such time or times, bear interest at such rate or rates, be issued and sold in such manner, and contain such terms, covenants, and conditions as the local legislative body of the city shall, by resolution, determine. Such bonds shall be fully negotiable, shall not require a referendum, and shall not be subject to the provisions of any other law or charter relating to the issuance or sale of bonds. Obligations under this section sold to the United States government need not be sold at public sale. As used in this section, "bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, debentures or other obligations.

(15) 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.

(16) VALIDATION. All contracts, agreements, obligations and undertakings of cities entered into before July 10, 1953 and all proceedings, acts and things undertaken before such date, performed or done pursuant to, or purporting to be pursuant to, the blighted area law and s. 67.04 (2) (zn), are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

(17) LIQUIDATION AND DISPOSAL. Projects held under this section may be liquidated and disposed of under s. 66.40 (25).

History: 1965 c. 252.

66.431 Blight elimination and slum clearance act. (1) SHORT TITLE. This section shall be known and may be cited as the "Blight Elimination and Slum Clearance Act."

(2) FINDINGS. In addition to the findings and declarations made in ss. 66.43 (2) and 66.435, which findings and declarations are in all respects affirmed, restated and incorporated herein, it is further found and declared that the existence of substandard, deteriorated, slum and blighted areas is a matter of state-wide concern; that it is the policy of this state to protect and promote the health, safety, morals and general welfare of the people of the state in which such areas exist by the elimination and prevention of such areas through the utilization of all means appropriate for that purpose, thereby encouraging well-planned, integrated, stable, safe and healthful neighborhoods, the provision of healthful homes, a decent living environment and adequate places for employment of the people of this state and its communities in such areas; that the purposes of this section are to provide further for the elimination and prevention of substandard, deteriorated, slum and blighted areas through redevelopment and other activities by state-created agencies and the utilization of all other available public and private agencies and resources, thereby carrying out the policy of this state as heretofore declared; that state agencies are necessary in order to carry out in the most effective and efficient manner the state's policy and declared purposes for the prevention and elimination of substandard, deteriorated, slum and blighted areas; and that such state agencies shall be available in all the cities in the state to be known as the redevelopment authorities of the particular cities, to carry out and effectuate the provisions of this section when the local legislative bodies of the cities determine there is a need for them to carry out within their cities the powers and purposes of this section; and any assistance which may be given by cities or any other public bodies in connection therewith, are public uses and purposes for which public

money may be expended; and that the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination. Nothing contained herein is deemed to contravene, repeal or rescind the finding or declaration of necessity prior to the recreation thereof on June 1, 1958.

(3) REDEVELOPMENT AUTHORITY. (a) Whereas, it is hereby found and declared that a redevelopment authority, functioning within a city in which there exists substandard, deteriorating, deteriorated, insanitary, slum and blighted areas, constitutes a more effective and efficient means for preventing and eliminating slums and blighted areas in such city and preventing the recurrence thereof; therefore, there is hereby created in every such city a redevelopment authority, known as the redevelopment authority of the city of ..... (which shall be hereafter referred to as "authority," and when so referred to, it shall be deemed to mean and apply to a redevelopment authority) for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects as hereinafter set forth, together with all powers necessary or incidental to effect adequate and comprehensive blight elimination, slum clearance and urban renewal programs and projects. Such authority shall be authorized to transact business and exercise any of the powers herein granted to it following the adoption by the local legislative body of a resolution declaring in substance that there exists within such city a need for blight elimination, slum clearance and urban renewal programs and projects. Upon the adoption of such resolution by the local legislative body by a two-thirds vote of its members present, a certified copy thereof shall be transmitted to the mayor or other head of the city government. Upon receiving such certified copy of such resolution, the mayor or other head of the city government shall, with the confirmation of four-fifths of the local legislative body, appoint 7 resident freeholders as commissioners of the authority. No more than 2 of such commissioners shall be officers of the city in which the authority is created. The powers of the authority shall be vested in the commissioners. In making appointments of commissioners, the appointing power shall give due consideration to the general interest of the appointee in a redevelopment, slum clearance or urban renewal program and shall, insofar as is possible, designate representatives from the general public, labor, industry, finance or business group, and civic organizations. Appointees shall have sufficient ability and experience in related fields, especially in the fields of finance and management, to assure efficiency in the redevelopment program, its planning and direction. One of such 7 commissioners shall be a member of the local legislative body who shall serve ex officio. Commissioners shall receive their actual and necessary expenses, including local traveling expenses incurred in the discharge of their duties.

(b) The commissioners who are first appointed shall be designated by the appointing power to serve for the following terms: 2 for one year, 2 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years, from the date of their appointment. Thereafter, the term of office shall be for 5 years. A commissioner shall hold his office until a successor has been appointed and qualified. Removals with respect to commissioners of the authority shall be governed by s. 66.40. Vacancies and new appointments shall be filled in the same manner as provided in par. (a).

(c) The filing of a certified copy of the resolution above referred to with the city clerk shall be prima facie evidence of the authority's right to proceed, and such resolution shall not be subject to challenge because of any technicality. In any suit, action or proceeding commenced against the authority, a certified copy of such resolution shall be deemed conclusive evidence that such authority is established and authorized to transact business and exercise its powers hereunder.

(d) Following the adoption of such resolution, such city shall thereafter be precluded from exercising the powers provided in s. 66.43 (4), and the authority has exclusive power to proceed to carry on the blight elimination, slum clearance and urban renewal projects in such city. A city which has initiated a redevelopment project may complete, operate and maintain such project, notwithstanding the organization and functioning of an authority in such city. Such authority may, with the consent of the local legislative body of such city, pursuant to an agreement with such city, take over a planned or existing redevelopment project instituted by such city, and upon such terms and conditions as it determines, not inconsistent with this section, contract to assume, exercise, continue, perform and carry out all undertakings, obligations, liabilitites, duties, rights, powers, plans and activities of such city relating to such project; but no such action shall be taken if there is evidence of indebtedness of such city issued on account of such project, unless all holders of such evidence of indebtedness have previously consented in writing to such action. In those cases where a redevelopment authority created under this section has by agreement with a city taken over a planned or existing redevelopment project instituted by a city under ss. 66.405 to 66.425, and such city has complied with the provisions of existing statutes, including provisions relating to the designation of the

project area for redevelopment, the approval by the local legislative body of the redevelopment plan of the project area, and the holding of a public hearing by the local legislative body on the project plan, it shall not be necessary for the redevelopment authority to comply with the provisions contained in sub. (6) relating to such provisions, it being the intention of this paragraph that all actions taken by a city under ss. 66.405 to 66.425 in reference to the formulation of a redevelopment project, the approval of plans, the holding of a public hearing on the plan, and all other statutory requirements taken by such city prior to the actual assumption and jurisdiction and control by the redevelopment authority shall be considered to be in compliance with parallel or similar provisions of this section and especially with the pertinent provisions of sub. (6) (a) to (f) and the provisions and requirements of such provisions need not be repeated or again complied with.

(e) 1. Such authority shall have no power, whatsoever, in connection with any public housing project;

2. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied such right, benefit, facility or privilege in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(f) In carrying out this section, the authority is deemed an independent, separate and distinct public body and a body corporate and politic, exercising public powers determined to be necessary by the state to protect and promote the health, safety and morals of its residents, and is authorized to take title to real and personal property in its own name; and such authority shall proceed with the acquisition of property by eminent domain under ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

(g) The authority may employ such personnel as is required for the purpose of carrying on its duties and responsibilities under civil service. The authority may appoint an executive director whose qualifications shall be determined by the authority. Such director shall also act as secretary of such authority and may have such duties, powers and responsibilities as may be from time to time delegated to him by the authority. All of the employes, including the director of the authority, shall be eligible to participate in the same pension system provided for city employes.

(4) DEFINITIONS. As used or referred to in this section unless the context clearly indicates otherwise:

(a) "City" means any city in the state.

(b) "Public body" means the state or any city, county, town, village, town board, commission, authority, district, or any other subdivision or public body of the state.

(d) "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.

(e) "Blighted area" means any area (including a slum area) in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioriation, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare, or any area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

(f) "Blight elimination, slum clearance and urban renewal program", "blight elimination and urban renewal program", "redevelopment, slum clearance or urban renewal program", "redevelopment or urban renewal program", and "redevelopment program", mean undertakings and activities for the elimination and for the prevention of the development or spread of blighted areas.

(g) "Blight elimination, slum clearance and urban renewal project", "redevelopment and urban renewal project", "redevelopment or urban renewal project", "redevelopment project", "urban renewal project" and "project" mean undertakings and activities in a project area for the elimination and for the prevention of the development or spread of slums and blight, and may involve clearance and redevelopment in a project area, or rehabilitation or conservation in a project area, or any combination or part thereof in accordance with a "redevelopment plan", "urban renewal plan", "redevelopment or urban renewal plan", "project area plan" or "redevelopment and urban renewal plan" (either one of which means the redevelopment plan of the project area prepared and approved as provided in sub. (6)). Such undertakings and activities may include:

1. Acquisition of a blighted area or portions thereof;

2. Demolition and removal of buildings and improvements;

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the project area the objectives of this section in accordance with the redevelopment plan;

4. Disposition of any property acquired in the project area (including sale, initial leasing or retention by the authority itself) at its fair value for uses in accordance with the redevelopment plan;

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the redevelopment plan; and

6. Acquisition of any other real property in the project area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

(h) "Project area" means a blighted area which the local legislative body declares to be in need of a blight elimination, slum clearance and urban renewal project.

(i) "Real property" includes all lands, together with improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(j) "Bonds" means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(5) POWERS OF REDEVELOPMENT AUTHORITIES. (a) Every authority is granted, in addition to any other powers, all powers necessary or incidental to carry out and effectuate the purposes of this section, including the following powers:

1. To prepare or cause to be prepared redevelopment plans and urban renewal plans and to undertake and carry out redevelopment and urban renewal projects within the corporate limits of the city in which it functions.

2. To enter into any contracts determined by the authority to be necessary to effectuate the purposes of this section. All contracts, other than those for personal or professional services, in excess of $1,500 shall be subject to bid and awarded to the lowest qualified and competent bidder. The authority shall advertise for bids by a class 2 notice, under ch. 985, published in the city in which the project is to be developed.

3. Within the boundaries of the city to acquire by purchase, lease, eminent domain, or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment or urban renewal project; to hold, improve, clear or prepare for redevelopment or urban renewal any such property; to sell, lease, subdivide, retain or make available for the city's use; to mortgage or otherwise encumber or dispose of any such property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions and conditions regarding the use of such property in accordance with a redevelopment or urban renewal plan, and such other covenants, restrictions and conditions as the authority deems necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; to make any of such covenants, restrictions, conditions or covenants running with the land and to provide appropriate remedies for any breach thereof; to arrange or contract for the furnishing of services, privileges, works or facilities for, or in connection with a project; to temporarily operate and maintain real property acquired by it in a project area for or in connection with a project pending the disposition of the property for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan for the area; within the boundaries of the city to enter into any building or property in any project area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose

from a court of competent jurisdiction in the event entry is denied or resisted; to own and hold property and to insure or provide for the insurance of any real or personal property or any of its operations against any risks or hazards, including the power to pay premiums on any such insurance; to invest any project funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control; to redeem its bonds issued under this section at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled; to develop, test and report methods and techniques, and carry out demonstrations and other activities, for the prevention and elimination of slums and blight; and to disseminate blight elimination, slum clearance and urban renewal information.

4. a. To borrow money and issue bonds; to execute notes, debentures and other forms of indebtedness; and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the city in which it functions, from the federal government, the state, county, or other public body, or from any sources, public or private for the purposes of this section, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith, and to include in any contract for financial assistance with the federal government for or with respect to blight elimination and slum clearance and urban renewal such conditions imposed pursuant to federal laws as the authority deems reasonable and appropriate and which are not inconsistent with the purposes of this section.

b. Any debt or obligation of the authority shall not be deemed the debt or obligation of the city, county, state or any other governmental authority other than the redevelopment authority itself.

c. To issue bonds from time to time in its discretion to finance its activities under this section, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the authority derived from or held in connection with its undertaking and carrying out of projects under this section; provided that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source, in aid of any projects or activities of the authority under this section, and by a mortgage of any such projects, or any part thereof, title to which is in the authority. Bonds issued under this subsection shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction of the state, city or of any public body other than the authority issuing the bonds, and shall not be subject to any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes. Bonds issued under this subsection shall be authorized by resolution of the authority and may be issued in one or more series and shall bear such date, be payable upon demand or mature at such time, bear interest at such rate, not exceeding 6 per cent per annum, be in such denomination, be in such form either with or without 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, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as is provided by the resolution, trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sale held after a class 2 notice, under ch. 985, published prior to such sale in a newspaper having general circulation in the city and in such other medium of publication as the authority determines or may be exchanged for other bonds on the basis of par. Such bonds may be sold to the federal government at private sale (without publication of any notice) at not less than par, and, if less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government. In case any of the officials of the authority whose signatures appear on any bonds or coupons issued under this subsection cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subsection shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any

bond issued under this subsection or the security therefor, any such bond reciting in substance that it has been issued by the authority in connection with a project or activity under this subsection, shall be conclusively deemed to have been issued for such purpose and such project or activity shall be conclusively deemed to have been planned, located and carried out in accordance with this section.

5. To exercise such other and further powers as may be required or necessary in order to effectuate the purposes hereof.

6. The chairman of the authority or the vice chairman in the absence of the chairman, selected by vote of the commissioners, and the executive director or the assistant director in the absence of the executive director is authorized to execute on behalf of the authority all contracts, notes and other forms of obligation when authorized by at least 4 of the commissioners of the authority to do so.

7. The authority is authorized to commence actions in its own name and shall be sued in the name of the authority. The authority shall have an official seal.

(b) 1. Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

3. Where a public hearing has been held with respect to a project area under this section the authority may proceed with such project and the redevelopment plan by following the procedure set forth in ch. 32. Any owner of property who has filed objections to the plan as provided under sub. (6) may be entitled to a remedy as determined by s. 32.06 (5).

4. The authority may acquire by purchase real property within any area designated for urban renewal or redevelopment purposes under this section prior to the approval of either the redevelopment or urban renewal plans or prior to any modification of the plan, providing approval of such acquisition is granted by the local governing body. In the event of the acquisition of such real property the authority may demolish or remove structures so acquired with the approval of the local governing body. In the event that real property so acquired is not made part of the urban renewal project the authority shall bear any loss that may arise as a result of the acquisition, demolition or removal of structures acquired under this section; however, the local legislative body if it has given its approval to the acquisition of such property shall reimburse the authority for any loss sustained as provided for in this subsection. Any real property acquired in a redevelopment or in an urban renewal area pursuant to this subsection may be disposed of in accordance with the provisions of this section providing the local governing body has approved the acquisition of the property for the project.

(6) COMPREHENSIVE PLAN OF REDEVELOPMENT; DESIGNATION OF BOUNDARIES; APPROVAL BY LOCAL LEGISLATIVE BODY. (a) The authority may make or cause to be made and prepare or cause to be prepared a comprehensive plan of redevelopment and urban renewal which shall be consistent with the general plan of the city, including the appropriate maps, tables, charts and descriptive and analytical matter. Such plan is intended to serve as a general framework or guide of development within which the various area and redevelopment and urban renewal projects may be more precisely planned and calculated. The comprehensive plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land. The authority is authorized to make or have made all other surveys and plans necessary under this section, and to adopt or approve, modify and amend such plans.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property in a project area, the following steps and plans shall be requisite:

1. Designation by the authority of the boundaries of the proposed project area, submission of such boundaries to the local legislative body, and adoption of a resolution by two-thirds of such local legislative body declaring such area to be a blighted area in need of a blight elimination, slum clearance and urban renewal project. Thereafter, the local legislative body may, by resolution by two-thirds vote, prohibit for an initial period of not to exceed 6 months from enactment of such resolution any new construction in such area except upon resolution by the local legislative body that such proposed new construction, on such reasonable conditions as may be fixed therein, will not substantially prejudice the preparation or processing of a plan for the area and is necessary to avoid substantial damage to the applicant. Such order of prohibition shall be subject to successive renewals for like periods by like resolutions; but no new construction con-

trary to any such resolution of prohibition shall be authorized by any agency, board or commission of the city in such area except as herein provided. No such prohibition of new construction shall be construed to forbid ordinary repair or maintenance, or improvement necessary to continue occupancy under any regulatory order.

2. Approval by the authority and by two-thirds of the local legislative body of the redevelopment plan of the project area which has been prepared by the authority. Such redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area, and shall include, without being limited to, a statement of the boundaries of the project area; a map showing existing uses and conditions of real property therein; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage and building intensity in the area after redevelopment; present and potential equalized value for property tax purposes; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the authority may be given only after a public hearing conducted by the authority and a finding by the authority that such plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days prior to the date set for the hearing. In addition thereto, at least 20 days prior to the date set for the hearing on the proposed redevelopment plan of the project area a notice shall be transmitted by certified mail, with return receipt requested, to each owner of real property of record within the boundaries of the redevelopment plan. If transmission of such notice by certified mail with return receipt requested cannot be accomplished, or if the letter is returned undelivered, then notice may be given by posting the same at least 10 days prior to the date of hearing on any structure located on the property; or if such property consists of vacant land, a notice may be posted in some suitable and conspicuous place on such land. Such notice shall state the time and place at which the hearing will be held with respect to the redevelopment plan and that the owner's property might be taken for urban renewal. For the purpose of ascertaining the name of the owner of record of the real property within such project boundaries, the records, at the time of the approval by the redevelopment authority of the project boundaries, of the register of deeds of the county in which such property is located shall be deemed conclusive. Failure to receive such notice shall not invalidate the plan. An affidavit of mailing of such notice or posting thereof filed as a part of the records of the authority shall be deemed prima facie evidence of the giving of such notice. All interested parties shall be afforded a full opportunity to express their views respecting the proposed plan at such public hearing, but the hearing shall only be for the purpose of assisting the authority in making its determination and in submitting its report to the local legislative body. Any technical omission in the procedure outlined herein shall not be deemed to invalidate the plan. Any owner of property included within the boundaries of the redevelopment plan and objecting to such plan shall be required to state his objections and the reasons therefor, in writing, and file the same with the authority either prior to, at the time of the public hearing, or within 15 days thereafter, but not subsequently thereto. He shall state his mailing address and sign his name thereto. The filing of such objections in writing shall be a condition precedent to the commencement of an action to contest the right of the redevelopment authority to condemn the property under s. 32.06 (5).

(c) In relation to the location and extent of public works and utilities, public buildings and public uses in a comprehensive plan or a project area plan, the authority is directed to confer with the planning commission and with such other public officials, boards, authorities and agencies of the city under whose administrative jurisdictions such uses respectively fall.

(d) At any time after such redevelopment plan has been approved both by the authority and the local legislative body, it may be amended by resolution adopted by the authority, and such amendment shall be submitted to the local legislative body for its approval by a two-thirds vote before the same shall become effective. It shall not be required in connection with any amendment to the redevelopment plan, unless the boundaries described in the plan are altered to include other property that the provisions with respect to public hearing and notice be followed.

(e) After a project area redevelopment plan of a project area has been adopted by the authority, and the local legislative body has by a two-thirds vote approved the redevelopment plan the authority may at any time certify said plan to the local legislative body, whereupon the authority shall proceed to exercise the powers granted to it for the acquisition and assembly of the real property of the area. The local legislative body shall upon the certification of such plan by the authority direct that no new construction shall be permitted, and thereafter no new construction shall be authoried 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 or major structural improvements on existing buildings, but not including ordinary maintenance or remodeling or changes necessary to continue the occupancy.

(f) Any city in which a redevelopment authority is carrying on redevelopment under this section may make grants, loans, advances or contributions for the purpose of carrying on redevelopment, urban renewal and any other related purposes.

(9) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) 1. Upon the acquisition of any or all of the real property in the project area, the authority has power to lease, sell or otherwise transfer all or any part of said real property (including streets or parts thereof to be closed or vacated in accordance with the plan) to a redevelopment company, association, corporation or public body, or to an individual or partnership, for use in accordance with the redevelopment plan. No such assembled lands of the project area shall be either sold or leased by the authority to a housing authority created under s. 66.40 for the purpose of constructing public housing projects upon such land unless the sale or lease of such lands has been first approved by the local legislative body by a vote of not less than four-fifths of the members elected. Such real property shall be leased or sold at its fair market value for uses in accordance with the redevelopment plan, notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining such fair market value, an authority shall give consideration to the uses and purposes required by the plan; the restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention or recurrence of slum and blighted areas; and such other matters as the authority deems appropriate. A copy of the plan shall be recorded in the office of the register of deeds in the county where such redevelopment project is located, and any amendment to such redevelopment plan, approved as herein provided for, shall also be recorded in the office of the register of deeds of such county. Before the transfer, lease or sale of any real property in the project area occurs, a report as to the terms, conditions and other material provisions of the proposed sale, lease or other disposition of either a part (where only a part of the land assembled is to be disposed) or of all of the land assembled shall be submitted to the local legislative body, and such local legislative body shall approve such report prior to the authority proceeding with the disposition of such real property.

2. Any lease, including renewal options, which can total more than 5 years shall be approved by the local legislative body.

(b) Any such lease or sale may be made without public bidding, but only after public hearing is held by the authority after notice to be published as a class 2 notice, under ch. 985, and the hearing shall be predicated upon the proposed sale or lease and the provisions thereof.

(c) The terms of such lease or sale shall be fixed by the authority, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to 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 the use of such land or real property included in the lease or sale, and any building or structure erected thereon, shall conform to such approved plan or approved modifications thereof. In the instrument of lease or sale, the authority may include such other terms, provisions and conditions 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 authority may impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. If maximum rentals to be charged to tenants are specified, provision may be made for periodic reconsideration of such rental bases.

(d) Until the authority certifies that all building constructions and other physical improvements specified by the purchaser have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the authority and no such consent shall be given unless the grantee of the purchaser obligates himself, by written instrument, to the authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and also that the grantee, his 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) The authority may cause to have demolished any existing structure or clear the area of any part thereof, or specify the demolition and clearance to be performed by a lessee or purchaser and a time schedule for the same. The authority shall specify the time schedule and conditions for the construction of buildings and other improvements.

(f) In order to facilitate the lease or sale of a project area, or if the lease or sale is part of an area, the authority has the power to include in the cost payable by it the cost of the construction of local streets and sidewalks in the area, or of grading and any other local public surface or subsurface facilities or any site improvements necessary for shaping the area as the site of the redevelopment of the area. The authority may arrange with the appropriate federal, state, county or city agencies for the reimbursement of such outlays from funds or assessments raised or levied for such purposes.

(10) HOUSING FOR DISPLACED FAMILIES; RELOCATION PAYMENTS. In connection with every redevelopment plan, the 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 authority shall prepare a plan which shall be submitted to the local legislative body for approval which shall assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available or will be provided at rents or prices within the financial reach of the income groups displaced. The authority is authorized to make relocation payments to or with respect to persons (including families, business concerns and others) displaced by a project for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

(11) MODIFICATION OF REDEVELOPMENT PLAN. (a) An approved project area redevelopment plan may be modified at any time after the lease or sale of the area or part thereof provided that the modification is consented to by the lessee or purchaser, and that the proposed modification is adopted by the authority and then submitted to the local legislative body and approved by it. Before approval, the authority shall hold a public hearing on the proposed modification, and notice of the time and place of hearing shall be sent by mail at least 10 days prior to the hearing to the owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the authority any project area redevelopment plan, project area boundaries or modifications submitted to it, together with recommendations for changes in such plan, boundaries or modification, and if such recommended changes are adopted by the authority and in turn approved by the local legislative body, the plan, boundaries or modifications as thus changed shall be the approved plan, boundaries or modification.

(b) Whenever the authority determines that a redevelopment plan with respect to a project area which had been approved and recorded in the register of deed's office is to be modified in order to permit land uses in the project area, other than those specified in the redevelopment plan, the authority shall notify all purchasers of property within the project area of the authority's intention to modify the redevelopment plan, and it shall hold a public hearing with respect to such modification. Notice shall be given to the purchasers of such property by personal service at least 20 days prior to the holding of such public hearing, or in the event such purchasers cannot be found notice shall be given by registered mail to such purchasers at their last known address. Notice of such public hearing shall also be given by publication as a class 2 notice, under ch. 985. Such notice shall specify the project area and recite the proposed modification and its purposes. The public hearing shall be merely advisory to the authority. After the authority, following the public hearing, determines that the modification of the redevelopment plan will not affect the original objectives of such plan and that it will not produce conditions leading to a reoccurrence of slums or blight within the project area, the authority may by resolution act to modify such plan so as to permit additional land uses in such project area, subject to approval by the legislative body by a two-thirds vote of the members

elect. If the local legislative body approves such modification to the redevelopment plan, an amendment to the plan containing such modification shall be filed with the register of deeds of the county in which such project area is located and shall be supplemental to the redevelopment plan theretofore recorded. Following such action with respect to modification of the redevelopment plan, the plan shall be deemed amended and no legal rights shall accrue to any person or to any owner of property in such project area by reason of the modification of such redevelopment plan.

(c) The provisions herein shall be construed liberally to effectuate the purposes hereof and substantial compliance shall be deemed adequate. Technical omissions shall not invalidate the procedure set forth herein with respect to acquisition of real property necessary or incidental to a redevelopment project.

(12) LIMITATION UPON TAX EXEMPTION. The real and personal property of the authority is declared to be public property used for essential public and governmental purposes, and such property and an authority shall be exempt from all taxes of the state or any state public body; but the city in which a redevelopment or urban renewal project is 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 by such city provided that the authority is financially able to do so, but such sum shall not exceed the amount which would be levied as the annual tax of the city upon such project. However, no real property acquired pursuant to this act by a private company, corporation, individual or partnership, either by lease or purchase, shall be exempt from taxation by reason of such acquisition.

(13) CO-OPERATION BY PUBLIC BODIES AND USE OF CITY FUNDS. To assist any redevelopment or urban renewal project located in the area in which the authority is authorized to act, any public body may, upon such terms as it determines: furnish services or facilities, provide property, lend or contribute funds, and perform any other action of a character which it is authorized to perform for other general purposes, and to enter into co-operation agreements and related contracts in furtherance of the purposes enumerated. Any city and any public body may levy taxes and assessments and appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this subsection, but taxes and assessments shall not be levied under this subsection by a public body which has no power to levy taxes and assessments for any other purpose.

(14) OBLIGATIONS. For the purpose of financially aiding an authority to carry out blight elimination, slum clearance and urban renewal programs and projects, the city in which such authority functions is authorized (without limiting its authority under any other law) to issue and sell general obligation bonds in the manner and in accordance with the provisions of ch. 67, except that no referendum shall be required, and to levy taxes without limitation for the payment thereof, as provided in s. 67.035. Such bonds shall be fully negotiable and except as provided in this subsection shall not be subject to any other law or charter pertaining to the issuance or sale of bonds.

(15) BUDGET. The local legislative body shall approve the budget for each fiscal year of the authority, and shall have the power to alter or modify any item of said budget relating to salaries, office operation or facilities.

(16) LEGAL SERVICES TO AUTHORITY. The legal department of any city in which the authority functions can provide legal services to such authority and a member of the legal department having the necessary qualifications may, subject to approval of the authority, be its counsel; the authority may also retain specialists to render legal services as required by it.

(17) 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.

History: 1961 c. 202, 526; 1963 c. 6, 331; 1965 c. 219, 220, 252, 433.

66.432 Local equal opportunities. (1) DECLARATION OF POLICY. The right of all persons to have equal opportunities for housing regardless of their race, color, religion, national origin or ancestry is a matter both of state-wide concern under s. 101.60 and also of local interest under this section and s. 66.433. The enactment of s. 101.60 by the legislature shall not pre-empt the subject matter of equal opportunities in housing from consideration by local governments, and shall not exempt cities, villages, towns and counties from their duty, nor deprive them of their right, to enact ordinances which prohibit discrimination in any type of housing solely on the basis of race, color, religion, national origin or ancestry.

(2) ANTIDISCRIMINATION HOUSING ORDINANCES. Cities, villages and towns may enact

ordinances prohibiting discrimination in the sale or rental of any type of housing within their respective boundaries solely on the basis of race, color, religion, national origin or ancestry. Such an ordinance may be similar to s. 101.60 or may be more inclusive in its terms or in respect to the different types of housing subject to its provisions, but any such ordinance establishing a forfeiture as a penalty for violation shall not be less than the statutory forfeitures under s. 101.60. Counties may enact such ordinances under ss. 59.07 (11) and 66.433.

(3) CONTINGENCY RESTRICTION. No city, village, town or county shall enact an ordinance under sub. (2), which contains a provision making its effective date or the operation of any of its provisions contingent on the enactment of an ordinance on the same or similar subject matter by one or more other cities, village, towns or counties.

History: 1967 c. 218.

66.4325 Milwaukee housing and urban development authority. (1) AUTHORIZATION. Any city of the 1st class may, by a two-thirds vote of the members of the city council present at the meeting, adopt an ordinance creating a housing and urban development authority which shall be known as the "Development Authority" of such city. It shall be deemed a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects. A certified copy of such ordinance shall be transmitted to the mayor. The ordinance shall also:

(a) Provide that any redevelopment authority created under s. 66.431 operating in such city and any housing authority created under s. 66.40 operating in such city, shall terminate its operation as provided in sub. (5); and

(b) Declare in substance that a need for blight elimination, slum clearance, urban renewal programs and projects and housing projects exists in the city.

(2) APPOINTMENT OF MEMBERS. Upon receipt of a certified copy of such ordinance, the mayor shall, with the confirmation of four-fifths of the council, appoint 7 resident persons having sufficient ability and experience in the fields of urban renewal and housing, as commissioners of the development authority.

(a) Two of the commissioners shall be members of the council and shall serve only while they are council members.

(b) The first appointments of the 5 noncouncil members shall be for the following terms: 2 for one year and one each for terms of 2, 3 and 4 years. Thereafter the terms of noncouncil members shall be 4 years and until their successors are appointed and qualified.

(c) Vacancies shall be filled for the unexpired term as provided in this subsection.

(d) Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties, and may, in the discretion of the city council, receive other compensation.

(3) EVIDENCE OF AUTHORITY. The filing of a certified copy of the ordinance referred to in sub. (1) with the city clerk shall be prima facie evidence of the development authority's right to transact business and such ordinance shall not be subject to challenge because of any technicality. In any suit, action or proceeding commenced against the development authority, a certified copy of such ordinance shall be deemed conclusive evidence that such development authority is established and authorized to transact business and exercise its powers under this section.

(4) POWERS AND DUTIES. (a) The development authority shall have all powers, duties and functions set out in ss. 66.40 and 66.431 for housing and redevelopment authorities and as to all housing projects initiated by the development authority it shall proceed under s. 66.40, and as to all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs it shall proceed under s. 66.431.

(5) TERMINATION OF HOUSING AND REDEVELOPMENT AUTHORITIES. Upon the adoption of an ordinance creating a development authority, all housing and redevelopment authorities under ss. 66.40 and 66.431 shall terminate.

(a) Any programs and projects which have been begun by housing and redevelopment authorities shall, upon adoption of such ordinance be transferred to and completed by the development authority. Any procedures, hearings, actions or approvals taken or initiated by the redevelopment authority under s. 66.431 on pending projects is deemed to have been taken or initiated by the development authority as though the development authority had originally undertaken such procedures, hearings, actions or approvals.

(b) Any form of indebtedness issued by a housing or redevelopment authority shall, upon the adoption of such ordinance, be assumed by the development authority except as indicated in par. (e).

(c) Upon the adoption of such ordinance, all contracts entered into between the

federal government and a housing or redevelopment authority, or between such authorities and other parties shall be assumed and discharged by the development authority except for the termination of operations by housing and redevelopment authorities. Housing and redevelopment authorities may execute any agreements contemplated by this subsection. Contracts for disposition entered into by the redevelopment authority with respect to any project shall be deemed contracts of the development authority without the requirement of amendments thereto. Contracts entered into between the federal government and the redevelopment authority shall bind the development authority in the same manner as though originally entered into by the development authority.

(d) A development authority may execute appropriate documents to reflect its assumption of the obligations set forth in this subsection.

(e) A housing authority which has outstanding bonds or other securities that require the operation of the housing authority in order to fulfill its commitments with respect to the discharge of principal or interest or both, may continue in existence solely for such purpose. The ordinance creating the development authority shall delineate the duties and responsibilities which shall devolve upon the housing authority with respect thereto.

(f) The termination of housing and redevelopment authorities pursuant to this section shall not be subject to s. 66.40 (26).

History: 1967 c. 273.

66.433 Community relations-social development commissions. (1) DEFINITION. "Municipality" as used herein means a city, village, town, school district or county.

(2) CREATION. Each municipality is authorized and urged to either establish by ordinance a community relations-social development commission or to participate in such a commission established on an intergovernmental basis within the county pursuant to enabling ordinances adopted by the participating municipalities; but a school district may establish or participate in such a commission by resolution instead of by ordinance. Such intergovernmental commission may be established in co-operation with any nonprofit corporation located in the county and composed primarily of public and private welfare agencies devoted to any of the purposes set forth in this section. Every such ordinance or resolution shall substantially embody the language of sub. (3). Each municipality may appropriate money to defray the expenses of such commission. If such commission is established on an intergovernmental basis within the county, the provisions of s. 66.30, relating to local co-operation, are applicable thereto as optional authority and may be utilized by participating municipalities to effectuate the purposes of this section, but a contract between municipalities is not necessary for the joint exercise of any power authorized for the joint performance of any duty required herein.

(3) PURPOSE AND FUNCTIONS OF COMMISSION. (a) The purpose of the commission is to study, analyze and recommend solutions for the major social, economic and cultural problems which affect people residing or working within the municipality including, without restriction because of enumeration, problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, and discrimination in housing, employment and public accommodations and facilities on the basis of class, race, religion or ethnic or minority status.

(b) The commission may:

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

2. Encourage and foster participation in the fine arts.

(c) The commission shall:

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

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

b. To insure to all municipal residents, regardless of race or color, the rights to possess equal housing accommodations and to enjoy equal employment opportunities.

2. Co-operate with state and federal agencies and nongovernmental organizations having similar or related functions.

3. Examine the need for publicly and privately sponsored studies and programs in any field of human relationship which will aid in accomplishing the foregoing objectives, and initiate such public programs and studies and participate in and promote such privately sponsored programs and studies.

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

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

(4) COMPOSITION OF COMMISSION. The commission shall be nonpartisan and composed of citizens residing in the municipality, including representatives of the clergy and minority groups, and the composition thereof, number and method of appointing and removing the members thereof shall be determined by the local legislative bodies creating or participating in such commission. Of the persons first appointed, one-third shall hold office for one year, one-third for 2 years, and one-third for 3 years from the first day of February next following their appointment, and until their respective successors are appointed and qualified. All succeeding terms shall be for 3 years. Any vacancy shall be filled for the unexpired term in the same manner as original appointments. Every person appointed as a member of the commission shall take and file the official oath.

(5) ORGANIZATION. The commission shall meet in January, April, July and October of each year, and may meet at such additional times as the members determine or the chairman directs. Annually, it shall elect from its membership a chairman, vice chairman and secretary. A majority of the commission shall constitute a quorum. Members of the commission shall receive no compensation, but each member shall be entitled to his actual and necessary expenses incurred in the performance of his duties. The commission may appoint consulting committees consisting of either members or nonmembers or both, the appointees of which shall be reimbursed their actual and necessary expenses. All expense accounts shall be paid by the commission on certification by the chairman or acting chairman.

(6) OPEN MEETINGS. All meetings of the commission and its consulting committees shall be publicly held and open to all citizens at all times as required by s. 14.90.

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

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

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

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

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

History: 1963 c. 543; 1965 c. 615; 1967 c. 226.

66.435 Urban renewal act. (1) SHORT TITLE. This section shall be known and may be cited as the "Urban Renewal Act."

(2) FINDINGS. It is hereby found and declared that there exists in municipalities of the state slum, blighted and deteriorated areas which constitute a serious and growing menace injurious to the public health, safety, morals and welfare of the residents of the state, and the findings and declarations made before August 3, 1955 in s. 66.43 (2) are in all respects affirmed and restated; that while certain slum, blighted or deteriorated areas, or portions thereof, may require acquisition and clearance, as provided in s. 66.43, since

the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented, and to the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process; and all acts and purposes provided for by this section are for and constitute public uses and are for and constitute public purposes, and that moneys expended in connection with such powers are declared to be for public purposes and to preserve the public interest, safety, health, morals and welfare. Any municipality in carrying out the provisions of this section shall afford maximum opportunity consistent with the sound needs of the municipality as a whole to the rehabilitation or redevelopment of areas by private enterprise.

(3) URBAN RENEWAL PROJECTS. In addition to its authority under any other section, a municipality is authorized to plan and undertake urban renewal projects. As used in this section, an urban renewal project may include undertakings and activities for the elimination and for the prevention of the development or spread of slums or blighted, deteriorated or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (d) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project, provided, that such disposition shall be in the manner prescribed in this section for the disposition of property in a redevelopment project area.

(4) WORKABLE PROGRAM. (a) The governing body of the municipality, or such public officer or public body as it designates, including a housing authority organized and created under s. 66.40, is authorized to prepare a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program; and such governing body may by resolution or ordinance provide the specific means by which such workable program can be effectuated and may confer upon its officers and employes the power required to carry out a program of rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas. Whenever any municipality finds that there exists in such municipality dwellings or other structures which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, any one of which is sufficient for action, rendering such dwellings or other structures unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is expressly conferred upon such municipality to enact such resolutions or ordinances deemed appropriate and effectual in order to prevent the conditions herein set forth and to require or cause the repair, closing or demolition or removal of such dwellings or other structures. For the purposes of such resolutions or ordinances a "dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith. The term "structure" shall also include fences, garages, sheds, and any type of store, commercial, industrial or manufacturing building. Such ordinances or resolutions shall require that whenever there has been a violation, or whenever there are reasonable grounds to believe there has been a violation, of any provision of any such ordinances or resolutions, notice of such violation or alleged violation shall be given to the person or persons responsible therefor by appropriately designated public officers or employes of such municipality. Every such notice shall: 1. Be put in writing; 2. Include a description of the real estate sufficient for identification; 3. Include a statement of the reason or reasons why it is being issued; 4. Specify a time for the performance of any act which it requires; and 5. Be served upon the responsible person or persons. Such notice of violation shall be deemed to be

properly served upon such person if a copy thereof is delivered to him personally or, if not found, by leaving a copy thereof at his usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by registered mail or by certified mail with return receipt requested to his last known address, or if the registered or certified letter with the copy of the notice is returned showing the letter has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling or other structure affected by the notice. Any person affected by any such notice may request and shall be granted a hearing on the matter before a board or commission established by the governing body of such municipality, or before a full-time commissioner of health; and such person shall file in the office of the designated board, commission, or commissioner of health, a written petition requesting such hearing and setting forth a statement of the grounds therefor within 20 days after the day the notice was served. Within 10 days of receipt of such petition the designated board, commission, or commissioner of health, shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the designated board, commission, or commissioner of health, shall be commenced not later than 30 days after the date on which the petition was filed. Upon written application of the petitioner to the designated board, commission, or commissioner of health, the date of the hearing may be postponed for a reasonable time beyond such 30-day period, if, in the judgment of the designated board, commission, or commissioner of health, the petitioner has submitted a good and sufficient reason for such postponement. Any notice served pursuant to this section shall become an order if a written petition for a hearing is not filed in the office of the designated board, commission, or commissioner of health, within 20 days after such notice is served. The designated board, commission, or commissioner of health, has the power to administer oaths and affirmations in connection with the conduction of any hearing held in accordance with this section. After such hearing the designated board, commission, or commissioner of health, shall sustain, modify or cancel the notice, depending upon its findings as to whether the provisions of the resolutions or ordinances enacted by the municipality have been complied with. The designated board, or commission, or commissioner of health, may also modify any notice so as to authorize a variance from the provisions of the resolutions or ordinances enacted by the municipality when, because of special conditions, enforcement of the provisions of the enacted resolutions or ordinances will result in practical difficulty or unnecessary hardship; provided, that the intent of the enacted resolutions or ordinances will be observed and public health and welfare secured. If the designated board, commission, or commissioner of health, sustains or modifies such a notice, it shall be deemed to be an order, and the persons affected thereby shall comply with all provisions of such order within a reasonable period of time, as determined by the board, commission, or commissioner of health. The proceedings at such hearing, including the findings and decisions of the board, commission, or commissioner of health, shall be reduced to writing and entered as a matter of public record in the office of the board, commission, or commissioner of health. Such record shall also include a copy of every notice or order issued in connection with the matter. A copy of the written decision of the board, commission, or commissioner of health, shall then be served, in the same manner prescribed for service of notice, on the person who filed the petition for hearing. Whenever the commissioner of health finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding other provisions of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith, but upon petition to the commissioner of health shall be afforded a hearing as prescribed in this section. After such hearing, depending upon the findings of the commissioner of health as to whether an emergency still exists, which requires immediate action to protect the public health, the said commissioner of health shall continue such order in effect or modify or revoke it.

(b) Any person feeling himself aggrieved by the determination of any board, or commission, or commissioner of health, following review of an order issued by officers and employes of a municipality under this section may appeal directly to the circuit court of the county in which such dwelling or other structure is located by filing a petition for review with the clerk of the circuit court within 30 days after a copy of the order of such board, commission, or commissioner of health, has been served upon such person. The petition shall state the substance of the order appealed from and the grounds upon which such person believes the order to be improper. A copy of such petition shall be served upon the board, commission, or commissioner of health, whose determination is

being appealed. Such copy shall be served personally or by registered or certified mail within the 30-day period herein provided. A reply or answer shall be filed by the board, commission, or commissioner of health, within 15 days from the receipt of such petition. A copy of the written proceedings of the hearing held by the board, commission, or commissioner of health, which led to service of the order being appealed, shall be included with the reply or answer when filed. If it appears to the court that the petition is filed for purposes of delay, it shall, upon application of the municipality, promptly dismiss such petition. Either party to the proceedings may then petition the court for an immediate hearing on the order. The court shall review the order, the copy of written proceedings of the hearing conducted by the board, commission, or commissioner of health, and shall take such testimony as in its judgment may be appropriate, and following a hearing upon such order without a jury, the court shall make its determination. If the court affirms the determination made by the board, commission, or commissioner of health, it shall fix a time within which the order appealed from shall become operative. Either party may appeal from the determination made by the circuit court to the supreme court within 60 days following the determination of the circuit court, but not thereafter. If the supreme court affirms the order appealed from, the supreme court shall set the time within which such order shall become effective.

(5) GENERAL POWERS CONFERRED UPON MUNICIPALITIES. The governing body of any municipality shall have and there is hereby expressly conferred upon it all powers necessary and incidental to effect a program of urban renewal, including functions with respect to rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas, and such local governing body is hereby authorized to adopt such resolutions or ordinances as may be required for the purpose of carrying out that program and the objectives and purposes of this section. In connection with the planning, undertaking and financing of the urban renewal program or projects, the governing body of any municipality and all public officers, agencies and bodies shall have all the rights, powers, privileges and immunities which they have with respect to a redevelopment project under s. 66.43.

(6) ASSISTANCE TO URBAN RENEWAL BY MUNICIPALITIES AND OTHER PUBLIC BODIES. Any public body is hereby authorized to enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this section, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(7) POWERS HEREIN GRANTED TO BE SUPPLEMENTAL AND NOT IN DEROGATION. (a) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof.

(b) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(c) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law; and 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.

66.436 Villages to have certain city powers. Villages shall have all of the powers of cities under ss. 66.43, 66.431 and 66.435.

66.44 War housing by housing authorities. (1) Any housing authority established pursuant to ss. 66.40 to 66.404 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 ss. 66.401 (2) and 66.402. Without limiting any existing power, the powers of any public body in the state pursuant to s. 66.403 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.

66.45 Municipal co-operation; federal rivers, harbors or water resources projects. Any county, town, city or village acting under its powers and in conformity with state law may enter into an agreement with an agency of the federal government to co-operate in the construction, operation or maintenance of any federally authorized rivers, harbors or water resources management or control project or to assume any potential liability appurtenant to such a project and may do all things necessary to consummate the agreement. If such a project will affect more than one municipality, the municipalities affected may jointly enter into such an agreement with an agency of the federal government carrying such terms and provisions concerning the division of costs and responsibilities as may be mutually agreed upon. The municipalities concerned may by agreement submit any determinations of the division of construction costs, responsibilities, or any other liabilities among them to an arbitration board. The determination of such a board shall be final. This section shall not be construed as a grant or delegation of power or authority to any county, town, city, village or other local municipality to do any work in or place any structures in or on any navigable water except as it is otherwise expressly authorized by state law to do.

History: 1963 c. 311.

66.47 County-city hospitals; village powers. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body or bodies, and "board" means the joint county-city hospital board established pursuant to this section.

(2) COUNTY-CITY HOSPITALS. Any county and city or cities partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a general county-city hospital.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under chapter 67 or by revenue bonds issued under section 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such hospital on an agreed percentage basis.

(5) HOSPITAL BOARD. The ordinance shall provide for the establishment of a joint county-city hospital board to be composed as follows: 2 to be appointed by the county board chairman and confirmed by the county board, one for a one-year and one for a 2-year term; 2 by the mayor or other chief executive officer and confirmed by the city council, one for a one-year and one for a 2-year term; and one jointly by the county board chairman and the mayor or other chief executive officer of the city or cities, for a term of 3 years, confirmed by the county board and the city council or councils. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) VALIDATION OF PRIOR ACTIONS. The actions of any county and city or cities taken before April 17, 1949 in the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city hospital which would have been valid if this section had then been in effect are hereby validated.

(7) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members shall receive such compensation as shall be provided in the ordinance, and shall be reimbursed their actual and necessary expenses. With the approval of the board, the treasurer may appoint an assistant treasurer, who

need not be a member of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in section 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(8) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipment or furnishing of a general county-city hospital.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such hospital and the equipment or furnishing of any such addition.

(c) To employ a manager of the hospital and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the admission to, and government of patients at, the hospital, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the hospital and the employes thereof.

(e) To contract for and purchase all fuel, food, equipment, furnishings and supplies reasonably necessary for the proper operation and maintenance of the hospital.

(f) To audit all accounts and claims against the hospital or against the board, and, if approved, pay the same from the fund specified in subsection (10). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the hospital; all money received shall be paid into the joint hospital fund.

(h) To make such studies and recommendations to the county board and city council or city councils relating to the operation of the hospital or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(9) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under section 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city or cities pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city or cities, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city or cities to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city or cities respectively shall levy a tax sufficient to produce the amount to be raised by said county and city or cities.

(10) HOSPITAL FUND. A joint county-city hospital fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city or cities shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city or cities as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the hospital board only upon the approval or direction of the board.

(11) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city hospital under section 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under section 66.29.

(b) All statutory requirements, not inconsistent with the provision of this section, applicable to general county or city hospitals shall apply to hospitals referred to in this section.

(12) REPORTS. The board shall report its activities to the county board and the city council or councils annually, or oftener as either of said municipalities may require.

(14) POWERS OF VILLAGES. Villages shall have all the powers granted to cities under subs. (1) to (12) and whenever any village shall exercise such powers the word "city" wherever it appears in subs. (1) to (12) means "village" unless the context otherwise requires. Any village participating in the construction or other acquisition of a general

county-village hospital or in the operation thereof, pursuant to this section, shall have the power to enter into lease agreements leasing such hospital and the equipment and furnishings therein to a nonprofit corporation.

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.

66.505 County-city auditoriums. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, "board" means the joint county-city auditorium board established pursuant to this section, "auditorium" shall include a building of either arena or music hall type construction or a combination of such types of construction, and such building may include facilities for a variety of events including sports, dances, convention exhibitions, trade shows, meetings, rallies, theatrical exhibitions, concerts and other events attracting spectators and participants.

(2) COUNTY-CITY AUDITORIUMS. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city auditorium.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such auditorium on an agreed percentage basis.

(5) AUDITORIUM BOARD. The ordinance shall provide for the establishment of a joint county-city auditorium board to be composed as follows: The mayor, or chief executive of the city and the chairman of the county board, who shall serve as ex officio members of the board during their respective terms of office; in addition thereto the board shall be composed of 4 members to be appointed by the county board chairman and confirmed by the county board, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term, and 4 members to be appointed by the mayor or other chief executive officer of the city and confirmed by the city council, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term; in the case of the members of the board appointed by the mayor or chief executive of the city, not more than 2 public officials (either elected or appointed) shall be eligible to be members of the board, and in the case of the members of the board appointed by the county board chairman, not more than 2 public officials

(either elected or appointed) shall be eligible to be members of the board. Their respective successors shall be appointed and confirmed in like manner for terms of 4 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services, provided that ex officio members shall not receive compensation other than any actual and necessary expenses for their services. With the approval of the board, the treasurer may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city auditorium, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the auditorium, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such auditorium and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a manager of the auditorium and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the leasing of, charges for admission to, and government of audiences and participants in events at the auditorium, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the auditorium and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the auditorium, and to contract for, purchase, hire, promote, conduct and operate, either by lease of the auditorium building or parts thereof or by direct operation by the auditorium board, meetings, concerts, theatricals, sporting events, conventions and other entertainment or events suitable to be held at the auditorium; and to handle and make all proper arrangements for the sale and disposition of admission tickets to auditorium events and the establishment of seating arrangements and priorities.

(f) To audit all accounts and claims against the auditorium or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the auditorium; all money received shall be paid into the joint auditorium fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the auditorium or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city to consider such

budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) AUDITORIUM FUND. A joint county-city auditorium fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the auditorium board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city auditorium under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(b) All statutory requirements, not inconsistent with the provisions of this section, applicable to city auditoriums shall apply to auditoriums provided for in this section.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

66.508 County-city safety building. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, and "board" means the joint county-city safety building board established pursuant to this section.

(2) COUNTY-CITY SAFETY BUILDING. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city safety building.

(3) FINANCING. The governing bodies of the respective county and city shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county or city by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such safety building on an agreed percentage basis.

(5) SAFETY BUILDING BOARD. The ordinance shall provide for the establishment of a joint county-city safety building board to be composed of 3 members to be appointed by the county board, one for a one-year, one for a 2-year and one for a 3-year term, and 3 members to be appointed by the city council, one for a one-year, one for a 2-year and one for a 3-year term, and one additional member appointed by the other members for a 3-year term. The membership of such board shall include the chairman of the county board and the mayor of the city, who shall be initially designated as members for the 3-year terms. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. If a member of the board ceases to hold his city or county office his membership on the board also terminates. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made. Members of the board shall be officials of the county or city.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services. The board may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond

in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city safety building, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the safety building, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such safety building and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a superintendent of the safety building and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the safety building and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the safety building.

(f) To audit all accounts and claims against the safety building or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the safety building; all money received shall be paid into the joint safety building fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the safety building or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) SAFETY BUILDING FUND. A joint county-city safety building fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the safety building board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. In any case where a bid is a prerequisite to contract in connection with a county or city safety building under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

(13) INSURANCE. The board may procure and enter contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board in the performance of his duties, or any other insurable risk.

(14) CONSTRUCTION. Nothing in this section shall be construed as relieving, modifying or interfering with the responsibilities for operating jails which are vested in sheriffs under s. 59.23 (1) and chiefs of police under s. 62.09 (13) (b).

66.51 Revenue bonds for counties and cities. (1) (a) Every county or city, or both jointly, may construct, purchase, acquire, develop, improve, operate or maintain a county or city building, or both jointly, for a courthouse, safety building, city hall, hospital, armory, library, auditorium and music hall, municipal parking lots or other parking facilities, or municipal center or any combination thereof, or a university of Wisconsin extension center or state college branch campus, if the operation of such center or campus has been approved by the board of regents of the university or state colleges.

(b) 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 in this subsection, to issue bonds on which the principal and interest are payable 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. In the case of municipal parking lots or other parking facilities such bonds may in addition be payable as to both principal and interest from income and revenues from other similar projects, parking meters, parking fees, or any other income or revenue obtained through parking, or any combination thereof.

(c) 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 income and revenues described in par. (b) 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.

(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.

(4) All actions of any county or city, including all contracts, agreements, obligations and undertakings entered into pursuant to such actions, before December 4, 1955, in connection with the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city safety building, which would have been valid if this act (1955) had been in effect when such actions were taken, are hereby validated.

History: 1963 c. 419, 517.

66.52 Promotion of industry. (1) It is declared to be the policy of the state to encourage and promote the development of industry to provide greater employment opportunities and to broaden the state's tax base to relieve the tax burden of residents and home owners. It is recognized that the availability of suitable sites is a prime factor in influencing the location of industry but that existing available sites may be encroached upon by the development of other uses unless protected from such encroachment by purchase and reservation. It is further recognized that cities, villages and towns have broad power to act for the commercial benefit and the health, safety and public welfare of the public. However, to implement that power, legislation authorizing borrowing is necessary. It is, therefore, declared to be the policy of the state to authorize cities, villages and towns to borrow for the reservation and development of industrial sites, and the expenditure of funds therefor is determined to be a public purpose.

(2) For financing purposes, the purchase, reservation and development of industrial sites undertaken by any city, village or town is a public utility within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created hereunder shall not be included in arriving at the constitutional debt limitation.

(3) Sites purchased for industrial development under this section or pursuant to any other authority may be developed by the city, village or town by the installation of utilities and roadways but not by the construction of buildings or structures. Any such sites may be sold or leased for industrial purposes but only for a fair consideration to be determined by the governing body.

History: 1961 c. 75.

(3) is constitutional but it is doubtful whether industrial development sites can be classified as public utilities under (2) so as to exclude indebtedness from the constitutional debt limit. 55 Atty. Gen. 46.

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.

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.

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.

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 certificate 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.

(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 determines to permit any special assessments for any local improvements to be paid in instalments it shall publish a class 1 notice, under ch. 985. 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 November 1. If, after making such election, said property owner fails 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.

History: 1965 c. 252.

The definition of "public improvement" in (1) (d) applies only to this section. In re Bossell, Van Vechten & Chapman, 30 W (2d) 215, 140 NW (2d) 255.

66.60 Special assessments and charges. (1) (a) As a complete alternative 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 may 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.

(b) 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.

(2) 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. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, or that the number of instalments will be determined at the hearing required under sub. (7), 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.

(3) The report required by sub. (2) 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, 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.

(d) A statement that the property against which the assessments are proposed is benefited, where the work or improvement constitutes an exercise of the police power. In such case the estimates required under par. (c) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the municipal clerk for public inspection.

(5) 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.

(6) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the city or village.

(6a) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts, shall be entitled to such deduction or exemption as the governing body determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. The governing body may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(7) Upon the completion and filing of the report required by sub. (3) 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 or committee thereof or the board of public works and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be published as a class 1 notice, under ch. 985, in the city or village and a copy of such notice shall be mailed, at least 10 days before the hearing or proceeding, to every interested person whose post-office address is known, or can be ascertained with reasonable diligence. The hearing shall commence not less than 10 and not more than 40 days after such publication.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may rerefer the report prepared pursuant to subs. (2) and (3) to the designated officer or employe with such directions as it deems necessary to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) 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 only the difference between such assessment of benefits and the award of damages or compensation.

(c) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications 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.

(d) The city or village clerk shall publish the final resolution as a class 1 notice, under ch. 985, in the assessment district and a copy of such resolution shall be mailed to every interested person whose post-office address is known, or can be ascertained with reasonable diligence.

(e) When the final resolution is published, all work or improvements therein described and all awards, compensations and assessments arising therefrom are deemed legally authorized and made, subject to the right of appeal under sub. (12).

(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) 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 any assessment is void or invalid for any reason, or whenever the governing body shall determine to reconsider and reopen any assessment, it is empowered, after giving notice as provided in sub. (7) and after a public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending, canceling or confirming such prior assessment shall be given by the clerk as provided in sub. (8) (d).

(11) If the cost of the project shall be less than the special assessments levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately and where any assessments or instalments thereof have been paid the excess over cost shall be applied to reduce succeeding unpaid instalments, where the property owner has elected to pay in instalments, or refunded to the property owner.

(12) (a) If any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to subs. (8) (c), (10) or (11), 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 sub. (8) (d), 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 s. 62.25 (1) (d).

(c) In case any contract has 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 or any award of damages is excessive or insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment or award of damages and affirm the same as so modified.

(e) An appeal under this subsection shall be the sole remedy of any person aggrieved by a determination of the governing body, whether or not the improvement was made according to the plans and specifications 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 or the levy of any special assessment therefor. The limitation provided for in par. (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 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.

(15) Every special assessment levied under this section 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 any 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.

(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 provisions for notice of such charge shall be optional with the governing body except that in the case of street tarring and the repair of sidewalks, curb or gutters, a class 1 notice, under ch. 985, shall be published at least 20 days before the hearing or proceeding and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post-office address is known, or can be ascertained with reasonable diligence. 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 sub. (15) as of the date of such delinquency, and shall automatically be extended upon the current or next 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 charge.

(c) Subsection (2) shall not be applicable to proceedings under this subsection.

(17) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statutes 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.

(18) The governing body of any city or village may, without any notice or hearing, levy and assess the whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

History: 1965 c. 252.

Cross References: As to the phrase "except as otherwise provided by statute" in (15), see several provisions in 66.54 which specify that delinquent assessments are to be returned to the county treasurer in trust for collection and not for credit. See also 74.03 (8) (g) and 74.031 (9) which provide that a county board may authorize settlement in full for delinquent assessments.

In a proceeding in circuit court against a city to set aside a special assessment levied for street-widening improvements, wherein it was established that the city had proceeded exclusively under 66.60, in the exercise of the city's general taxing power, and had not filed a statement or schedule of benefits pursuant to (3) (d), the city was estopped from asserting that the improvements were made under the police power and were valid as an exercise of such power. Thomas v. Waukesha, 19 W (2d) 243, 120 NW (2d) 58.

In an action to contest an assessment under (12), the appeal must be dismissed where plaintiff did not pay an assessment when due; this applies even if fraud is alleged which would extend the time limited for taking the appeal. Singer Bros., Inc. v. Glendale, 33 W (2d) 579, 148 NW (2d) 100.

66.604 Lien of special assessment. A special assessment levied under any authority whatsoever shall be a lien on the property against which it is levied on behalf of the municipality levying the same or the owner of any certificate, bond or other document issued by the municipality, evidencing ownership of any interest in such special assessment, from the date of the levy, to the same extent as a lien for a tax levied upon real property and shall be accorded the same priorities provided in s. 66.54 (13).

66.605 Special assessments. Notwithstanding any other statute, the due date of any special assessment levied against property abutting on or benefited by a public improvement may be deferred on such terms and in such manner as prescribed by its governing body while no use of the improvement is made in connection with the property except in cities of the first class the deferment shall extend only while the property remains unplatted and is used by the owner for farming or agricultural purposes. Such special assessment must be paid within 10 years of the date of the resolution making the levy, unless provision is made to pay the assessment by instalments in which case the assessment shall be paid within the time prescribed. Any such special assessment shall be a lien against the property from the date of the levy.

66.615 Sidewalks. (1) PART OF STREET; OBSTRUCTIONS. Streets shall provide a right of way for vehicular traffic and, where the council so requires, a sidewalk on either or both sides thereof; the sidewalk shall be for the use of persons on foot, and no person

shall be allowed to encumber the same with boxes or other material; but such sidewalk shall be kept clear for the uses specified herein.

(2) GRADE. In all cases where the grades of sidewalks shall not have been specially fixed by ordinance the sidewalks shall be laid to the established grade of the street.

(3) CONSTRUCTION AND REPAIR. (a) *Authority of council.* The council may from time to time by ordinance or resolution determine where sidewalks shall be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks, and the standard so fixed may be different for different streets, and may order by ordinance or resolution sidewalks to be laid as provided in this subsection.

(b) *Board of public works.* The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.

(c) *Notice.* A copy of the ordinance, resolution or order directing such laying, removal, replacement or repair shall be served upon the owner of each lot or parcel of land in front of which such work shall have been ordered, by the board of public works, or by the street commissioner if the council shall request him to make such service, by personally delivering the same to the owner or his agent, and in case the owner or his agent cannot be found in the city by publishing in the official newspaper.

(d) *Default of owner.* Whenever any such owner shall neglect for a period of 20 days after such service to lay, remove, replace or repair any such sidewalk the city may cause such work to be done at the expense of such owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1).

(e) *Minor repairs.* When the cost of repairs of any sidewalk in front of any lot or parcel of land shall not exceed the sum of $50, the board of public works, or street commissioner if so required by the council, may immediately repair such sidewalk, without notice or letting the work by contract, and charge the cost thereof to the owner of such lot or parcel of land, as provided in this section.

(f) *Expense.* The board of public works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land whether the work be done by contract or otherwise, and report the same to the comptroller who shall annually prepare a statement of the expense so incurred in front of each lot or parcel of land and report the same to the city clerk, and the amount therein charged to each lot or parcel of land shall be by such clerk entered in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate. The council may provide that the street commissioner shall perform the duties imposed by this section on the board of public works.

(5) SNOW AND ICE. The board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do so, and the expense of so doing in front of any lot or parcel of land shall be included in the statement to the comptroller required by sub. (3) (f), and in his statement to the city clerk and in the special tax to be levied as therein provided. The city may also impose a fine or penalty for neglecting to keep sidewalks clear of snow and ice.

(6) REPAIR AT CITY EXPENSE. Whenever the council shall by resolution or ordinance so determine, sidewalks shall be kept in repair by and at the expense of the city, or the council may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the city and the balance by abutting property owners.

(7) RULES. The council may from time to time make all needful rules and regulations by ordinance for carrying the aforesaid provisions into effect, for regulating the use of the sidewalks of the city and preventing their obstruction.

(10) The provisions of this section shall not apply to cities of the first class but shall be applicable to villages and when applied to villages:

(a) "City" means village.

(b) "Council" means village board.

(c) "Board of public works" means the committee or officer designated to handle street or sidewalk matters.

(d) "Comptroller" means clerk.

History: 1963 c. 43.

66.62 Special assessments. (1) In addition to other methods provided by law, the common council of any city of the second, third or fourth class, or the village board of any village, may by ordinance provide that the cost of installing or constructing any public work or improvement shall be charged in whole or in part to the property benefited thereby, and to make an assessment against such property in such manner as such coun-

cil or village board determines. Such special assessment shall be a lien against the property from the date of the levy.

(2) Every such ordinance shall contain provisions for reasonable notice and hearing. Any person against whose land a special assessment is levied under any such ordinance shall have the right to appeal therefrom in the manner prescribed in s. 66.60 (12) within 40 days of the date of the final determination of the governing body.

66.625 Laterals and service pipes. Whenever the governing body shall by resolution require water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city or village or under a city or village contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

66.63 Assessment of condemnation benefits. (1) As a complete alternative to any other method provided by law, for the purpose of payment of the expenses, including such excess of damages and all other expenses and costs incurred for the taking of private property for the purpose set forth in ss. 32.02 (1), 61.34 (3) and 62.22, the governing body of the town, city or village may, by resolution, levy and assess the whole or any part of such expenses, as a special assessment upon such property as they determine is specially benefited thereby, and they shall include in said levy the whole or any part of the excess of benefits over total damages, if any, making therein a list of every lot or parcel of land so assessed, the name of the owner thereof, if known, and the amount levied thereon.

(2) Such resolution shall be published as a class 2 notice, under ch. 985, and a notice therewith that at a time stated therein, the governing body will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof. If such resolution levies an assessment against property outside the corporate limits, notice as provided herein shall be given by mailing a copy of the resolution and the notice by registered mail to the last known address of the owner of such property. A copy of such resolution shall be filed with the clerk of the town in which the property is located.

(3) At the time so fixed the governing body shall meet and hear all such objections, and for that purpose may adjourn to a date set by the governing body, until the hearing is completed, and shall by resolution confirm or modify such assessment in whole or in part. At any time before the first day of November thereafter any party liable may pay any such assessment to the town, city or village treasurer. On such first day of November, if any such assessment remains unpaid, the treasurer shall make a certified statement showing what assessments so levied remain unpaid, and file the same with the clerk, who shall extend the same upon the tax roll of such municipality, in addition to and as part of all other taxes therein levied on such land, to be collected therewith.

(4) At the time of making out the tax roll, next after the filing of any assessment to pay the expenses incurred in proceedings for the condemnation of lands outside the corporate limits, the town clerk shall enter in said roll the benefits not offset by damages or an excess of benefits over damages which shall be levied on the land described as a special assessment and shall be collected the same as other taxes. Such amounts when collected shall be paid over to the city or village treasurer to be applied in payment of any damages or excess of damages over benefits awarded by such assessment; and in case the amount of such special assessments are insufficient to pay all damages or excess of damages over benefits so awarded, then the difference shall be paid by the city or village. Any such damages or excess of damages over benefits may be paid out of such fund prior to the collection of such special assessments, to be reimbursed therefrom when collected.

(5) Any person against whose land an assessment of benefits is made pursuant to this section may appeal therefrom as prescribed in s. 32.06 (10) within 30 days of the adoption of the resolution required under sub. (3).

History: 1965 c. 252.

66.635 Reassessment of invalid condemnation and public improvement assessments. (1) If in any action other than an action pursuant to s. 66.60 (12), for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provision of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment, special assessment certificate, bond or note, tax sale or tax-sale certificate based upon such special assessment, the court determines that such assess-

ment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

(2) If the common council or village board determines that any special assessment is invalid for any reason, it may reopen and reconsider such assessment as provided in s. 66.60 (10).

66.64 Special assessments for local improvements. The property of the state, except that held for highway right of way purposes, and the property of every county, city, village, town, school district, sewerage district or commission, sanitary or water district or commission, or any public board or commission within this state, and of every corporation, company or individual operating any railroad or street railway, telegraph, telephone, electric light or power system, or doing any of the business mentioned in ch. 76, and of every other corporation or company whatever, shall be in all respects subject to all special assessments for local improvements. Certificates and improvement bonds therefor may be issued and the lien thereof enforced against such property, except property of the state, in the same manner and to the same extent as the property of individuals. Such assessments shall not extend to the right, easement or franchise to operate or maintain railroads, street railways, telegraph, telephone or electric light or power systems in streets, alleys, parks or highways. The amount represented by any certificate or improvement bond issued as aforesaid shall be a debt due personally from such corporation, company or individual, payable in the case of a certificate when the taxes for the year of its issue are payable, and in the case of a bond according to the terms thereof. In the case of a special assessment upon property of the state, the clerk of the municipality levying the assessment shall notify the commissioners of the public lands of the amount of the assessment and a description of the property. If the commissioners find that the assessment is just and legal they shall order the same paid. They shall transmit a certified copy of their order to the department of administration, and upon its audit and warrant drawn upon the state treasurer the amount of the assessment shall be paid out of the appropriation under s. 20.865 (3) (a), and when paid shall be charged to the general, conservation or state highway funds as equitably as possible in the judgment of the commissioners when considering the agencies or departments occupying or having jurisdiction over the state property involved.

History: 1961 c. 472, 670; 1967 c. 291 s. 14.

The amendment of this section in 1903 to refer to "every other corporation or company whatever" did not repeal an exemption from special assessment contained in a special cemetery association charter. Union Cemetery v. Milwaukee, 13 W (2d) 64, 108 NW (2d) 180.

A municipality may not make special assessments on state-owned property until highway commission declares land unnecessary for right of way. 54 Atty. Gen. 36.

66.645 Duty of officers; action to collect tax. (1) The officers now authorized by law to collect and receive the same from individuals shall have full power to receive and collect all such special assessments in the same manner as the same are now collected from individuals, and in addition thereto such officers shall have power at the direction of the proper authorities of the city or village making such special assessments, upon the nonpayment of any such special assessments by any corporation, company, or individual mentioned in s. 66.64 within the time now limited by law for the payment of such special assessments by individuals, or in the case of a county, city, village, town, and school district, after the time now prescribed by law in the case of other claims, to institute and prosecute an action to collect the same in the name and at the cost of such city or village. A like action may be maintained by the owner or holder of any special assessment certificate or improvement bond issued as aforesaid in his own name and at his own cost. In such action, when brought in the name of such city or village, it shall be sufficient to allege that the defendant is indebted upon a special assessment, specifying the amount due and the date of the warrant issued for the collection of the same, and when brought by such owner or holder, to set up a copy of such certificate or bond, specify the amount due and when payable, and allege that the defendant is liable therefor. On the trial of such action, when brought in the name of the city or village, the production of the proper warrant for the collection of such assessment together with the tax roll or list showing the amount thereof; and when brought by such owner or holder, the production of such certificate or improvement bond, tax roll, or list showing the amount thereof and warrant for its collection shall be prima facie evidence of the correctness and validity of such assessment, certificate, or improvement bond and of the liability of the defendant for the amount

thereof and interest thereon from the time the same became payable. Any judgment recovered in such action shall be collected in the manner now prescribed for the collection of judgments against such defendant.

(2) Any county treasurer to whom special assessments for improvements are returned may likewise institute and prosecute an action to collect the same in the name of the county when authorized to do so by the county board of supervisors.

History: 1965 c. 249.

66.65 Assessment against city, village or town property abutting on improvement. (1) A city, village or town may levy special assessments for municipal work or improvement under s. 66.60 upon property in an adjacent city, village or town, if such property abuts upon and benefits from such work or improvement and if the governing body of the municipality where the property is located, by resolution approves such levy. In any such case the owner of such property shall be entitled to the use of the work or improvement upon which such assessment is based upon the same conditions as the owner of property within the city, village or town.

(2) A special assessment under this section shall be a lien against the benefited property and shall be collected by the treasurer in the same manner as the taxes of the municipality and paid over by him to the treasurer of the municipality levying such assessment.

History: 1961 c. 357.

66.694 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 30 days of the date when the same shall be presented to the local representative of said railroad corporation.

66.695 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.

66.696 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 the 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, that the railroad corporation shall not be required to pave or improve that portion of the street, alley or public highway occupied by it with different material or in a different manner from that in which the remainder of the street is paved or improved; provided that the railroad corporation shall be liable to pay for paving, grading or otherwise improving a street only to the extent that the actual cost of such improvement shall exceed the estimated cost of such improvement were the street not occupied by the tracks of the railroad.

66.697 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 10 days of the receipt of said notice from the clerk of such city or village, file with said clerk a 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 40 days from the time the clerk of the municipality presents the notice to the railroad agent, in which to complete said work.

66.698 Construction by municipality; assessment of cost. (1) Whenever any city or village shall order any street, alley or public highway improved, as provided in s. 66.696, and notice shall be served on the railroad corporation, as provided in s. 66.697, and the railroad corporation shall not elect to construct the improvement as therein provided, or having elected to construct the improvement, shall fail to construct the same within the time provided in s. 66.697 the city or village shall at once proceed to let a contract for the construction of the improvement, and cause the street to be improved as theretofore determined, and when the improvement shall be completed and accepted by the city or village, the clerk of the city or village shall present to the local agent of the railroad corporation a statement of the actual cost of the improvement, and the railroad corporation shall within 20 days of such receipt thereof pay to the treasurer of such city or village the amount as shown by such statement of cost presented as aforesaid.

(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 s. 66.695.

66.699 Effect of sections 66.694 to 66.698, inclusive. Sections 66.694 to 66.698, 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.

66.70 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.

66.75 Room tax. The governing body of a town, village or city may enact an ordinance imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. In this section "transient," "hotel" and "motel" have the meaning set forth in s. 77.52 (2) (a) 1. Any tax so imposed shall not be subject to the selective sales tax imposed by s. 77.52 (2) (a) 1.

History: 1967 c. 209.

66.80 Benefit funds for officers and employes of first class cities. (1) In all cities of the first class in this state, whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered (by such city) for all officers and employes of such cities, who at the time this section shall come into effect are not contributors, participants or beneficiaries in any pension fund now in operation in such city by authority of law; provided that before this section shall be in effect in any city to which it applies, it must first have been approved by a majority vote of the members elect of the common council of such city.

(2) Upon approval by a majority vote of the members of the common council of such city the common council shall create a retirement board, the members of which shall serve without compensation, which board shall have full power and authority to administer such annuity and benefit fund, and to make such rules and regulations under which all participants shall contribute to and receive benefits from such fund. The common council may provide for contribution by the city to such annuity and benefit fund.

(3) The common council of such city may provide for annuity and benefit funds for officers and employes of boards, agencies, departments, commissions and divisions of the city government, including a housing authority created under the provisions of s. 66.40.

66.805 Death benefit payments to foreign beneficiaries. A retirement system of any city of the first class may provide by appropriate enactment of the local legislative body that no beneficiary may be designated for the payment of any retirement allowance, pension or proceeds of a member of such retirement system if such beneficiary is not a resident of either the United States or Canada. If a beneficiary is designated who is neither a resident of the United States nor Canada, any contributions or retirement allowance which would have been paid to such beneficiary had he been a resident of either the United States or Canada shall be deemed payable to the estate of the deceased member of such retirement system. The local legislative body of the city of the first class may also provide by appropriate enactment that if a death benefit would be payable because of the death of a member of the retirement system and the designated beneficiary of such death benefit is not a resident of either the United States or Canada, the death benefit which would have been paid had he been a resident of either the United States or Canada, shall be deemed payable to the estate of the deceased member.

History: 1961 c. 270.

66.81 Exemption of funds and benefits from taxation, execution and assignment. All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made for the payment of insurance premiums. The exemption from taxation contained herein shall not apply with respect to any tax on income.

History: 1963 c. 267.

66.82 Investment of retirement funds in cities of the first class. The board of any retirement system in a city of the first class, whose funds are independent of control by the state of Wisconsin investment board, shall have the power in addition to others heretofore provided to invest funds from such system, in excess of the amount of cash required for current operations, in loans, securities and any other investments authorized for investment of funds of the Wisconsin retirement system under s. 25.17 (3) (a) and (4). Such independent retirement system board shall be then subject to the conditions imposed on the state of Wisconsin investment board in making such investments under s. 25.17 (3) (e) to (g), (4), (7), (8) and (15) but is exempt from the operation of ch. 320. In addition to all other authority for the investment of funds granted to the board of any retirement system of a city of the first class whose funds are independent of the control of the state investment board, such board of such city may invest its funds in accordance with s. 206.34.

History: 1961 c. 189.

66.89 County judges and court reporters under state retirement plan. County judges and county court reporters, except in counties having a population of 500,000 or more, shall be included under retirement, group insurance and social security pursuant to ss. 66.901 to 66.918, 66.919 and 66.99, respectively, for salaries paid pursuant to s. 20.923 (1) (a) upon the same basis as state officers and employes, with the employer cost thereunder being paid by the state.

History: 1961 c. 642; 1967 c. 291 s. 14.

WISCONSIN RETIREMENT FUND

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 ss. 66.90 to 66.918 is hereby created. This fund shall be known as the "Wisconsin retirement fund." The fund shall with respect to the accumulation of credits and the payment of annuities and benefits therefrom, be divided into 2 divisions to be

known as the fixed annuity division and the variable annuity division. Each division shall be separately held, managed, administered, valued, invested, reinvested, distributed, accounted for and otherwise dealt with. Except where it is otherwise specifically provided, or where the context otherwise requires ss. 66.90 to 66.918 shall apply equally to each division of the fund. Section 66.9065 shall control with respect to the variable annuity division.

66.901 Definitions. The following words and phrases as used in ss. 66.90 to 66.918, unless different meanings are plainly indicated by their context, shall have the following meanings respectively:

(1) "Fund" means the Wisconsin retirement fund.

(2) "Municipality" means the state and any city, village, town, county, common school district, high school district, unified school district, county-city hospital established under s. 66.47, sewerage commission organized under s. 144.07 (4) or a metropolitan sewerage district organized under ss. 66.20 to 66.209, or any other unit of government, or any agency or instrumentality of 2 or more units of government now existing or hereafter created within the state.

(3) "Participating municipality" means any municipality included within the provisions of this fund.

(4) "Employe" means any person who:

(a) Receives earnings as payment for personal services rendered to or for the benefit of any participating municipality.

(c) Is employed in a position normally requiring actual performance of duty during not less than 600 hours a year in such municipality, except that a participating employe who is simultaneously employed by another participating municipality shall be included under the fund by such other participating municipality for his service thereto, 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, provided that leave of absence due to service connected disability compensated under ch. 102 shall be considered as continuous service but he shall not become a participating employe until after normal contributions become due. This requirement shall not apply to persons included under the state teachers' retirement system for at least 6 months.

(k) It is hereby declared and determined that the offices of lieutenant governor, assemblyman, state senator, chief clerk and sergeant at arms of the assembly, and chief clerk and sergeant at arms of the senate require the actual performance of duty for more than 600 hours in each year.

(4a) "Participating employe" means an employe other than an annuitant receiving a retirement annuity or a disability annuity who is currently in the service of a participating municipality, or an employe who is on a leave of absence, subject to the limitations in s. 66.903 (1) (b), but after December 31, 1965, no person who becomes an employe on or after the date he attains age 70 if not employed in a protective occupation, or age 63 if employed in a protective occupation, shall become a participating employe. After June 30, 1974, no person employed in a protective occupation who becomes an employe on or after the date he attains age 58 shall become a participating employe.

(4b) "Group A participant" means a participant whose creditable service determined pursuant to s. 66.9045 for employment by a participating municipality terminates prior to January 1, 1966.

(4c) "Group B participant" means a participant whose creditable current service determined pursuant to s. 66.9045 for a participating municipality commences prior to January 1, 1966, and terminates after December 31, 1965, provided such participant was a participating employe on January 1, 1966, or a Group A participant whose creditable service determined pursuant to s. 66.9045 terminates prior to January 1, 1966, but after September 12, 1965.

(4d) "Group C participant" means a participant whose creditable current service determined pursuant to s. 66.9045 for a participating municipality commences on or after January 1, 1966, or an annuitant or participant who, after December 31, 1965, becomes a participating employe and is required by s. 66.9045 (2) to be considered a new participant, but he shall be a Group C participant only with respect to his subsequent creditable service.

(4e) (a) "Protective occupation participant" means any participant whose principal duties involve active law enforcement or active fire suppression or prevention, provided such duties require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. This definition is deemed to include any partici-

pant whose name is certified to the fund as provided in par. (d) and who is a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation pilot, conservation patrolman, forest fire control assistant, member of the state patrol, state motor vehicle inspector (if hired prior to January 1, 1968), policeman, including the chief and all other officers, fireman, including the chief and all other officers, sheriff, undersheriff, deputy sheriff, county traffic policeman, state forest ranger, or fire watchman employed by the Grand Army home for veterans.

(b) "Protective occupation participant" also means any state correctional-psychiatric officer, state investigator whose primary duties consist of investigational work in enforcing compliance with alcoholic beverage, gambling, prostitution or cigarette laws or special agent in the division of criminal investigation of the department of justice whose name is certified to the fund as provided in par. (d). A participating employe holding a position designated as a protective occupation by this paragraph on July 1, 1969 will become a protective occupation participant on such date, provided if he has attained the age of 50 on or before such date he submits his written election to be included under this paragraph to the board not later than June 1, 1969.

(c) Any participant holding a position which previously qualified him as a protective occupation participant but whose position has been deleted from this subsection by chapter 355, laws of 1967, shall cease to be a protective occupation participant effective June 30, 1969, but all service prior to such date as a protective occupation participant shall be considered creditable service as a protective occupation participant.

(d) Each participating municipality and each state constitutional office, department, independent agency and commission shall certify to the fund on July 1, 1969, and quarterly thereafter, in such manner as is prescribed by the board, the names of all participating employes classified as protective occupation participants determined in accordance with this subsection. An employe may contest the certification because of its inclusion or omission of his name by filing an appeal to the board. The board may investigate the relevant facts and may, on request of either party, hold a hearing. Upon completion of its investigation and hearing, if any, the board shall make a determination which it shall certify to the participating municipality or the appropriate state agency. The board's determination of an employe's status under this section shall remain in effect until receipt by the board of certifications changing it, which may in turn be subject to appeal hereunder.

(e) Each determination of the status of a participant under this subsection shall include consideration, where applicable, of the following factors:

1. A "policeman" is any officer or employe of a police department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement, but not excepting any person regularly employed and qualifying as a patrolman, or equal or higher rank, irrespective of the duties to which he is assigned.

2. A "fireman" is any officer or employe of a fire department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active fire suppression or prevention even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active fire suppression or prevention, but not excepting any person regularly employed and qualifying as a fireman, hoseman, or equal or higher rank, irrespective of the duties to which he is assigned.

3. A "deputy sheriff" or a "county traffic policeman" is any officer or employe of a sheriff's office or county traffic department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement, but not excepting any person regularly employed and qualifying as a deputy sheriff or county traffic policeman irrespective of the duties to which he is assigned.

(f) Each participating employe who is a protective occupation participant on July 1, 1969, shall be granted creditable service as a protective occupation participant, determined in accordance with s. 66.9045, for all service prior to July 1, 1969, which was previously considered protective occupation employment or which was performed in a position designated in this subsection as a position in which an individual would be a protective occupation participant.

(5) The definition of employe shall not include persons:

(a) Who are engaged in teaching within the meaning of s. 42.20 (14).

(b) Who are contributing to any policemen's or firemen's pension fund by virtue of s. 61.65 or 62.13 (9), (9a) 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 s. 61.65 or 62.13 (9), (9a) 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.

(d) Who are employed under a contract involving the furnishing by such persons of more than their personal services.

(e) Who are customarily engaged in an independently established trade, business or profession and whose services to a participating municipality are not compensated for on a payroll of that municipality.

(i) Who are elected to office by vote of the people unless any such elected person requests the board in writing to be included within this fund. Any elected person included at his request shall 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 s. 66.906 (1). Persons so electing to participate shall be considered employes on the effective date of participation of the employing municipality except as provided in s. 66.903 (1) (a) 5, 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 s. 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.

(m) Are patients or inmates of hospitals, homes or institutions performing service therein.

(5a) Any elected official of any participating municipality other than the state who prior to January 1, 1965, had been a participating employe of that municipality, and who became an elected official of that municipality prior thereto, and who, notwithstanding the failure to make the election required by sub. (5) (i), continued during all of said service as a participating employe and as an elected official to make normal contributions, shall be deemed to have so elected prior to his assumption of office if the written election required by sub. (5) (i) is received by the fund not later than August 31, 1965, and his rights and credits as a participating employe under said fund will thereupon be ratified and confirmed.

(5m) Any participating employe who originally obtained membership in the Wisconsin retirement fund under provisions of the statutes relating to supreme court justices, circuit judges, county judges, members of the state legislature or state constitutional officers who later accepts employment in a state position subject to ss. 66.90 to 66.918 without the occurrence of a break in service, will continue to have his retirement annuity computed in accordance with s. 66.906 (2) (c) 3. b providing said employe pays into the retirement fund a sum equal to the difference between the contributions required under s. 66.903 (2) (f) 2 and the actual contributions said member made under s. 66.903 (2) (f) 1 for all service rendered under s. 66.903 (2) (f) 1, and makes all future contributions to the fund pursuant to s. 66.903 (2) (f) 2.

(6) "Participant" means any person included within the provisions of this fund by virtue of being or having been a participating employe.

(7) "Prior service" means 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, layoff or expiration of any term of appointment or election as certified by the governing body of such municipality. For a person becoming a participating employe

of a municipality on or after January 1, 1966, creditable prior service for that municipality shall be determined pursuant to s. 66.9045.

(8) "Current service" means the period beginning on the day for which the employe first receives credit as 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. For service on or after January 1, 1966, creditable current service shall be determined pursuant to s. 66.9045.

(9) "Earnings" means an amount equal to the sum of the total amount of money earned by an employe of a municipality for personal services rendered to or for 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, but excluding uniforms purchased directly by the municipality and excluding employer contributions for insurance and retirement. For any participating municipality earnings paid to the individual directly by any other unit of government shall be excluded for that municipality.

(10) "Rate of earnings" means 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" means the monthly rate of earnings obtained by dividing the employe's total earnings during the period of the 5 consecutive calendar years in which his total earnings were the highest, by the number of months constituting the calendar quarter years 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 s. 66.904 (1) (a) 1 and 8.

(11a) "Formula final rate of earnings" means, with respect to retirement annuities computed pursuant to s. 66.906 (2) (c):

(a) The monthly rate of earnings obtained by dividing a) the participant's total earnings received from a participating municipality after the commencement of his creditable service and during the 5 calendar years in which such earnings were the highest during the 10 calendar years (excluding any year more than 5 years prior to the effective date) preceding both 1) the date of his separation from the service of that municipality and 2), the 5th anniversary (or the 3rd anniversary if a protective occupation participant) of his normal retirement date or January 1, 1966, if later, by b) the number of months of service creditable to him for such 5 years; if a participant has earnings for less than 5 such calendar years his final rate of earnings is the rate obtained by dividing his total earnings for all such years by the total number of months of his creditable service therefor; or

(b) If so elected by a participant, formula final rate of earnings means, but only with respect to any retirement annuity computed for a participant pursuant to s. 66.906 (2) (c) 3. b, one-twelfth of the annual statutory compensation or salary which would have been payable to such participant during the month preceding the last month in which such participant was a participating employe in a position or office specified in s. 66.906 (2) (c) 3. b if he had not been prohibited by law from receiving an increase in such compensation or salary during his term of office.

(c) Effective July 1, 1974, formula final rate of earnings shall not include any earnings received by a protective occupation participant from a participating municipality after the calendar quarter year in which such participant attains age 58 or June 30, 1974, whichever occurs later.

(11b) "Final excess OASDI earnings" means, with respect to retirement annuities computed pursuant to s. 66.906 (2) (c):

(a) The monthly rate of earnings obtained by dividing a) the participant's total earnings for the 5 calendar years, or such lesser period, determined pursuant to sub. (11a) (a), in excess of the amounts subject to contributions under s. 66.99, by b) the number of months of service creditable for such years, but such monthly rate shall not exceed the amount by which the formula final rate of earnings of the participant exceeds $550; or

(b) If a participant has elected to have his formula final rate of earnings determined in accordance with sub. (11a) (b), final excess OASDI earnings means, but only with respect to any retirement annuity computed pursuant to s. 66.906 (2) (c) 3. b, the monthly rate of earnings equal to the excess of a) the formula final rate of earnings over b) the greater of one-twelfth of the maximum annual amount of earnings subject

to contributions under s. 66.99 during the month preceding the last month in which a participant was a participating employe in a position or office specified in s. 66.906 (2) (c) 3. b, or $550.

(c) Final excess OASDI earnings of any participant not subject to s. 66.99 shall be determined as if he were subject to s. 66.99.

(11c) "Normal retirement date" means the day on which a participant attains the age of a) 60 years if he is or was a protective occupation employe; b) or 65 years otherwise; but after June 30, 1974, normal retirement date for each protective occupation participant means the day on which such participant attains the age of 55 years. The normal retirement date of any participant shall be determined by the employment classification of the participant at the time it is necessary to make any determination or to take any action relative to such participant for purposes of the fund, notwithstanding the fact that a participant may have been in one or more different employment classifications at any previous time.

(12) "Annuitant" means a person receiving a retirement annuity, beneficiary annuity or a disability annuity from this fund.

(13) "Beneficiary" means the person so designated for that particular purpose by a participant or annuitant in the last written designation of beneficiary on file with the board at the time of death. In the absence of any effective designation of beneficiary the beneficiary shall be the person determined by the court having jurisdiction to be a surviving wife of the participant or if there is no surviving wife, the persons determined by such court to be minor children of the participant. If no person so designated by the participant survives, or if no designation is on file, or where there is no court determination as herein provided, the estate of such participant or annuitant. A designation of beneficiary may be signed and filed by a guardian when accompanied by a certified copy of an order of a circuit or county court approving the specific terms thereof.

(14) "Annuity" means a series of monthly payments payable at the end of each calendar month during the life of the annuitant except as provided in ss. 66.906 (3) and (3a) and 66.909 (6) and (8). Each such annuity shall accrue from its beginning date as specified in s. 66.906 (2) (a) 2, 66.907 (2) (a) 3 or 66.909 (2). The first instalment of each annuity shall be due on the last day of the calendar month in which the annuity was approved and shall be the amount of annuity accrued through such due date. The last payment shall be made as of the end of the calendar month prior to the month in which the annuitant dies, except as provided in ss. 66.906 (3) and (3a) and 66.909 (6) and (8).

(14a) "Variable annuity" means any annuity provided by credits segregated for a variable annuity pursuant to s. 66.9065 the amount of which will change in accordance with s. 66.9065 (10). A "fixed annuity" is any other annuity.

(15) "Board" means the board of trustees of the Wisconsin retirement fund.

(16) "Governing body" means 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 county-city hospital board, joint sewerage commission, or metropolitan sewerage commission, or town board, or the board or commission having the final authority for any other unit of government or for any agency or instrumentality of 2 or more units of government, 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 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, except as provided in s. 256.54 (7). The head of each state department may, in a written designation filed with the board, name a departmental employe to act for him in all matters pertaining to the fund.

(17) "Effective date" means the date upon which the provisions of this fund become applicable to any participating municipality as provided in s. 66.902.

(19) "Effective rate of interest" means the rate determined by the board from the experience of the calendar year or part thereof for the fixed annuity division which, after making provision for the reserves authorized by s. 66.916 (2) and after providing for interest requirements on the fixed annuity reserves, will distribute the remaining interest income from assets of the fixed annuity division for the year to the balances in the accounts of the individual employes in the fixed annuity division and to the municipality accumulation accounts.

(20) "Prescribed rate of interest" means the rate of interest to be used for all calculations of 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.

(21) "Calendar quarter year" means a period of 3 months beginning on January 1, April 1, July 1 or October 1 of any year. Solely for the purpose of determining the number of calendar quarter years of completed service, a person entitled to current or prior service credit for any part of a calendar quarter year shall be deemed to have completed service for such quarter year.

(22) "Accrued liability" means the present value at any time of the future contributions payable by a participating municipality as determined pursuant to s. 66.905 (2) (a).

History: 1961 c. 11, 281, 336, 642; 1963 c. 20; 1965 c. 33, 241, 251, 407, 581; 1967 c. 316, 355.

Since January 1, 1960, a judge who was formerly under the Wisconsin retirement fund in some other capacity need not serve another qualifying period as judge. 49 Atty. Gen. 161.

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, shall be included within and subject to the provisions of this fund by so electing, in accordance with this section. If the official notice of election to be included has been received by the board on or before November 15 the effective date of participation of such municipality shall be the ensuing January 1; otherwise the effective date shall be the January 1 after the ensuing January 1. The state is hereby included, effective January 1, 1948. A city or village which has not elected to participate but some of whose employes will be included within and subject to this fund on or after January 1, 1948 shall be included within and subject to this fund effective January 1, 1948, as though such municipality had elected to participate herein, but 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 ss. 61.65 (6) and (7), 62.13 (9) (e), (9a), (10) (f) and (g).

(1c) Whenever any school district shall be created, the territory of which includes more than one-half of the last assessed valuation of either a school district which was a participating municipality at the time of such creation or a city which at the time of such creation was a participating municipality in which the schools operated under the city school plan, then in either case the school district so created shall automatically be a participating municipality from its inception, but no prior service credits shall be provided for any personnel thereof.

(1d) Any county which may elect to be included within the provisions of this fund may in the resolution and in the certified notice of election submitted under sub. (2) if received by the fund prior to January 1, 1961, determine that the municipality contribution rate for such county for the first year of participation shall not include the component for prior service cost, and the municipality contribution rate for the second year of participation for such county shall include one-half the component for prior service. The deficiencies for such county for these 2 years shall be financed over the balance of the 40-year period under s. 66.905 (2) (a).

(1e) Notwithstanding any other provision of ss. 66.90 to 66.918, if the effective date of participation of a city of the 4th class is January 1, 1967, all employes of a city school district not included under the state teachers retirement system, and of a municipal hospital in any such city shall be included within, and shall be subject to, the provisions of this fund effective January 1, 1968, and no interest or charges shall be assessed against any such city under s. 66.915 (5) or 66.917 with respect to the earnings of such employes for any period of service prior to January 1, 1968.

(2) Election by a municipality to be included within the provisions of this fund shall be made by a resolution adopted by a majority of all the members of the governing body. 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;

(d) Be officially certified by the clerk of the municipality, or person having a comparable status if no person holds the title of clerk.

(3) If the effective date is prior to January 1, 1966, prior service credits shall be computed pursuant to s. 66.904 (1) (a) 1, provided that in the computation of such prior service credits:

(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.

(n) Each supreme court justice and circuit judge who makes the election pursuant to s. 66.901 (5) (i) shall be given prior service credit as of January 1, 1952, in accordance with s. 66.904 (1) (a) 1 for service prior thereto as supreme court justice, circuit judge or county judge, or as full-time judge of a court of record, municipal or inferior, at the rate of 2 times the municipality credit for current service. Prior service credit for service as county judge, or as full-time judge of a court of record, municipal or inferior, shall be based only upon his salary as such judge (excluding fees and salary as juvenile judge) computed on the basis of the earnings for the last 3 years of service as such judge (or less if the total be less), and such prior service credit shall be reduced by an amount equal to the accumulated prior service credit theretofore granted to such participating employe for service as such judge and by an amount equal to the accumulation of all normal and municipality matching credits for service as such judge, including interest which has been credited.

(r) Any elected state officer who was elected prior to August 30, 1957, but who was not eligible to be included under the fund before said date, and who, after such date and having served in such elective office continuously therefrom, files with the fund an election under s. 66.901 (5) (i) and within 60 days thereafter makes all normal contributions from January 1, 1957, to the first day of the month following the date of filing such election, shall be credited with prior service credits as of January 1, 1957, for eligible state service prior thereto at the rate of 2 times the municipality credit for current service and with municipality credits from January 1, 1957, to the first day of the month following the date of filing of such election.

(s) Each person who was a county judge on January 1, 1962, in a county which became a participating municipality on January 1, 1962, is entitled to prior service credits for all prior qualifying service for such county not heretofore credited. Such prior service credit shall be computed upon the basis of the earnings for the last 3 years of such service (or less if the total is less) and included in the obligation of the county.

(t) Each participant who was a participating employe of the state on January 1, 1966, shall be given creditable service, as of such date, for all service as a member of the legislature and all service as a state constitutional officer elected by vote of the people, which has not previously been credited under any other provision of law. The amendment of this paragraph by chapter 581, laws of 1965 shall not affect any rights created or action taken pursuant to this paragraph prior to July 8, 1966.

(4) If the effective date is after December 31, 1965, creditable prior service shall be computed pursuant to s. 66.9045.

(5) [*(a) and (b) not printed; 1957 c. 60, s. 35; see 1955 Stats.; (c), (d) and (e) repealed; 1957 c. 60, s. 13, but rights created or action taken prior to repeal preserved.*]

(6) (a) 1. Notwithstanding the provisions of this section every county having a population of less than 500,000 which has not hitherto elected to become a participating municipality shall on January 1, 1962, be a participating municipality. Each such county may elect to provide prior service credits at rates equal to 2, 1½ or one times the rates of county credits for current service. If any county fails to certify to the director of the fund the prior service credit rate which it has elected on or before January 1, 1962, the applicable rate for such county shall be 2 times the rate of county credits for current service.

2. The sheriff of any such county shall, if he elects prior to January 1, 1964, to be included within the fund pursuant to s. 66.901 (5) (i), be credited with prior service credits, as of the date he becomes a participating employe, equal to the amount of prior service credits he would have received had he become a participating employe on January 1, 1962.

(b) 1. If the municipality contributions paid by any county as a participating municipality under the Wisconsin retirement fund shall in any calendar year exceed by more than 50 per cent the average mill tax levy imposed in such year by all counties under said fund for contributions to said fund the state shall reimburse that county for the cost in excess of such 150 per cent.

2. In determining the average county mill tax levy for any calendar year for said fund the executive director of the fund shall base such computation upon a certification by the department of taxation as to the total equalized valuation for general property taxes in each county under said fund collected in the calendar year for which municipality contributions are paid. Such average county mill tax levy shall be computed by comparing the aggregate municipality contributions for such year to the aggregate equalized valuation of such counties as above indicated and the rate for retirement purposes for each county shall be determined by dividing its municipality contribution by the equalized valuation for general property taxes of such county.

3. The executive director of said fund shall annually certify to the department of administration for payment to the counties out of the appropriation provided by s. 20.855 (2) (a) such amounts as each county is entitled to receive pursuant to this subsection for excess costs incurred for said fund contributions in the preceding calendar year, but no county shall be entitled to reimbursement for any calendar year prior to 1962.

4. Payments made by any participating municipality pursuant to s. 66.903 (2) (h) shall not be considered municipality contributions.

(c) Any such county which has elected to grant prior service credit to its employes on the one or 1½ basis may, within 10 years after the effective date for such municipality, elect to change the basis upon which the prior service credit of all persons who are then participating employes shall be computed to be the 1½ or 2 basis. Any such election shall be made by the county by using the appropriate part of the procedure which such county would then use if it were originally electing the basis upon which to grant prior service credit to its employes. When any such election to change the basis for computing prior service credits has become effective in any county, the governing body thereof shall certify such fact to the Wisconsin retirement fund which shall, as of the effective date for such county, recompute the prior service credit which had been granted to any person who has never been an annuitant and who is a participating employe of such county at the time such election becomes effective.

History: 1961 c. 281, 459; 1963 c. 20, 227, 362, 459, 567; 1965 c. 251, 433 s. 121; 1965 c. 483, 581; 1967 c. 291 s. 14; 1967 c. 316.

Ch. 459, Laws 1961, which made inclusion of counties under the retirement system mandatory, is constitutional. Columbia County v. Wisconsin Retirement Fund, 17 W (2d) 310, 116 NW (2d) 142.

Under (3) (n) circuit judges receive prior service credits for service as inferior court judges even though this means duplication of credits by virtue of participation in another retirement system. State ex rel. Neelen v. Lucas, 24 W (2d) 262, 128 NW (2d) 425.

Reimbursement by the state to a county pursuant to (6) (b) 1. should go into the general fund of the county. 53 Atty. Gen. 19.

Discussion of application of retirement fund and insurance funds regulations to the newly created vocational districts. 55 Atty. Gen. 207.

66.9025 National guard technicians. (1) National guard technicians who are otherwise eligible shall be participating employes notwithstanding direct payment of their earnings by the federal government. The executive director may conclude agreements with the federal government for the payment in whole or in part of the employer contribution under the Wisconsin retirement fund or under s. 66.99 for national guard technicians.

(2) Notwithstanding the provisions of section 3 of chapter 323, laws of 1965, sub. (1) shall become effective on the first day of the first calendar quarter year which commences after a written agreement between the executive director and the federal government has been concluded, whereby the federal government shall have agreed to make deductions pursuant to s. 66.903 (2) (f) from each payment of earnings to national guard technicians who are participating employes.

History: 1961 c. 206; 1965 c. 218, 251, 323, 433 s. 121; 1965 c. 581.

66.903 Employes included; effective dates; contributions by employes. (1) EMPLOYES INCLUDED AND EFFECTIVE DATES. (a) All persons subject to sections 66.90 to 66.918 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 s. 66.902, beginning upon the first day of the calendar month following the date on which any such person has met all of the other qualifications for becoming a participating employe, but beginning immediately for any former participating employe who is otherwise eligible.

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 s. 42.71 (1) (c) [Stats. 1947] shall become participating employes hereunder effective January 1, 1948 and shall be governed by the provisions of ss. 66.90 to 66.918.

5. The effective date for supreme court justices and circuit judges shall be January 1, 1952. Each supreme court justice and circuit judge who files his official oath on or after August 17, 1957 shall be included within the fund and be subject to ss. 66.90 to 66.918, notwithstanding s. 66.901 (5) (i).

6. In all counties under 500,000, every county judge whose official oath is filed on or after January 1, 1954 and every other full-time judge of a court of record, municipal or inferior, whose official oath is filed on or after January 1, 1956, shall be included within the fund and be subject to ss. 66.90 to 66.918 notwithstanding s. 66.901 (5) (i) except that in computing his normal contributions, all fees and all salary as juvenile judge shall be disregarded and no prior service credit shall be granted because of such inclusion.

(b) Every leave of absence granted by a participating municipality to a participating employe except a military leave shall automatically terminate at the end of 2 years for the purposes of this fund, except for the purposes of s. 66.9045 (2), if not previously terminated by the participating municipality. No leave of absence shall be deemed to have been ended or interrupted by reason of resumption of active duty until the participating employe has resumed active performance of duty for the participating municipality which granted such leave of absence for at least 18 working days within a period of 30 consecutive calendar days.

(c) Any person who has met all of the requirements of s. 66.901 (4), other than par. (d) thereof, shall be included under the fund but shall not make any contributions thereto or be eligible for any benefits thereunder until he becomes a participating employe.

(2) CONTRIBUTIONS BY EMPLOYES, MUNICIPALITIES, STATE. (a) Each participating employe shall make contributions to the fund as follows:

1. Normal contributions of the following percentage of each payment of earnings paid to any such employe by any participating municipality:

a. For any employe not otherwise specified, 3 per cent.

b. For such employes who are justices of the supreme court, circuit judges, county judges, conservation wardens, conservation patrol boat captains, conservation patrol boat engineers, conservation airplane pilots, state forest rangers, employes of the conservation commission who are designated by the conservation director as being subject to call for forest fire control or warden duty, members of the state traffic patrol, state motor vehicle inspectors, policemen, including the chief and all other officers, firemen, including the chief and all other officers, county undersheriffs, deputy sheriffs and traffic policemen, 5 per cent, except as provided in c and d of this subdivision.

c. For any fireman not covered by the federal old-age and survivors insurance system, 7 per cent.

d. For supreme court justices, circuit judges and county judges, 7 per cent on earnings in excess of the amount subject to contributions pursuant to s. 66.99.

1a. The normal contribution rate for any participating employe of the following municipalities for whom a higher contribution rate is not provided by subd. 1 shall be 4 per cent, effective as of the dates specified:

a. State, effective January 1, 1958;

b. Any municipality whose governing board adopts a resolution electing the 4 per cent rate either as a part of the resolution adopted pursuant to s. 66.902 (2) or in a separate resolution, effective the January 1 following the expiration of one month after a certified copy of such resolution is received by the fund.

1p. The normal contribution rate of a participating employe for whom age 60 is the compulsory retirement age (including an employe for whom a later retirement date is provided by s. 66.906 (1) (c)) [Stats. 1963; see par. (g)] who is authorized to continue in service pursuant to s. 66.906 (1) (a), shall after January 1, 1964, be 4 per cent for the state and for municipalities which have increased such rate from 3 to 4 per cent under subd. 1a, and 3 per cent for all other municipalities, during the first 5 years of such continuance. After such participating employe attains age 65, but not prior to January 1, 1964, no normal contributions shall be payable by him.

2. Additional contributions of such amount from any payment of earnings as shall be received for any employe but not to exceed $2,000 in any calendar year. Each such amount shall be an even multiple of $1.

(e) Except as provided in par. (h) 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 office 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) Effective for participating earnings paid on or after January 1, 1966, participating employes shall make contributions to the fund as follows:

1. For each employe not otherwise specified, 4½% of such earnings which are subject to contributions under s. 66.99, plus 7% of such earnings in excess of the amount subject to such contributions.

1a. For each participating employe who performs services in connection with an activity carried on co-operatively by the federal government and a participating municipality, which services have been determined not to be subject to s. 66.99, 4½% of those earnings for such services which would be subject to contributions under s. 66.99 if such employe was subject to s. 66.99, plus 7% of those earnings for such services which are in excess of the amount which would be subject to contributions under s. 66.99 if such employe was subject to s. 66.99. This subdivision shall take effect January 1, 1966.

2. For each supreme court justice, circuit judge, county judge, member of the state legislature, and state constitutional officer, 5% of such earnings which are subject to contributions under s. 66.99 plus 7% of such earnings in excess of the amount subject to such contributions.

3. For each protective occupation employe covered by the federal old-age, survivors and disability insurance system, 5½% of such earnings which are subject to contributions under s. 66.99 plus 8% of such earnings in excess of the amount subject to such contributions.

4. For each other protective occupation employe, 7½% of such earnings which would be subject to contributions under s. 66.99 if he were included in the federal old-age, survivors and disability insurance system plus 8% of such earnings in excess of the amount which would be subject to such contributions.

5. No participating employe shall make normal contributions with respect to such earnings for service in any period subsequent to the end of the calendar quarter year in which he attains the age of 63 years if he is a protective occupation employe, or the age of 70 years otherwise, and there shall be no municipality contribution for the service for which such earnings were paid. Effective for participating earnings paid on or after July 1, 1974, no protective occupation participant shall make normal contributions with respect to such earnings for service in any period subsequent to the end of the calendar quarter year in which he attains the age of 58 years, and there shall be no municipality contribution for the service for which such earnings were paid.

(g) Paragraph (a) 1 to 1p shall be inapplicable for participating earnings paid on or after January 1, 1966.

(h) For participating employes other than state employes, in lieu of the contributions required by par. (f), all or part of such contributions may be paid by the employing municipality, but all such payments of contributions shall be reported to the fund in the same manner as though deducted from the earnings of participating employes and shall be treated as though contributed by participating employes, and all such payments of contributions made by the employing municipality shall be available for all retirement fund benefit purposes to the same extent as normal contributions which were deducted from the earnings of such participating employes. Action by any participating municipality to assume employe contributions as provided herein shall be by resolution, adopted by a majority of all the members of the governing body of such participating municipality, and shall be effective on the January 1 following receipt of a certified copy of such resolution by the fund.

(i) Effective for earnings earned after June 30, 1967, by each participating employe of the state, an amount equal to 2% of each payment of earnings shall be paid by the state, in lieu of an equal amount of the contributions required to be made by par. (f). Such payments by the state shall be credited to the account of each participating employe and shall be available for all retirement fund benefit purposes to the same extent as normal contributions which were deducted from the earnings of such participating employes, except that no such amount paid by the state, or interest credits or gains thereon, shall be paid as a separation benefit under s. 66.91. The municipality contribution rate for the state determined in accordance with s. 66.905 shall be adjusted by the director, upon the written recommendation of the actuary, to reflect the difference between the 2% payments by the state as required herein and the equivalent actuarial value thereof. After June 30, 1967, variable annuity segregations related to employe current contributions and state payments under this paragraph shall be made entirely from contributions deducted from the earnings of participating employes. For purposes of computing retirement fund contributions, retirement fund benefits and maintaining accounts, all earnings of state employes earned, but not paid, prior to July 1, 1967, shall be deemed to have been paid prior to July 1, 1967.

History: 1961 c. 281; 1963 c. 343; 1965 c. 251, 483, 581; 1967 c. 43, 355.

Cross Reference: See 66.901 (5m) for contribution rate relating to supreme court justices, circuit judges, county judges, members of the state legislature or state constitutional

officers who later accept a state position subject to normal retirement provisions without a break in service.

Inclusion of conservation department employes on pay roll at higher than normal contribution rate under Wisconsin retirement fund does not constitute a designation of such employes as subject to special duty under (2) (a) 1. 48 Atty. Gen. 101.

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 provided such date is prior to January 1, 1966, shall be credited, as of such date, with a prior service credit of an amount equal to 2 times 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, 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 for which any earnings were received by such employe; the rate of contribution to have been 3% except that for policemen, including the chief and all other officers, county undersheriffs, deputy sheriffs and traffic policemen, the rate shall be 5%, and for firemen, including the chief and other officers, the rate shall be 7% unless on the effective date such employment is included under the federal old age, survivors, and disability insurance system in which event the rate shall be 5%; 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 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 in respect to earnings payable to the employe prior to January 1, 1966.

3. Upon termination of an annuity in accordance with s. 66.906 (4) (a) or 66.907 (2) (e), each participant whose annuity is so terminated 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. Upon receipt by the fund of reimbursement under s. 66.907 (4) of disability annuity payments paid to any participant, such participant shall be credited, as of the date of such receipt, with additional, normal, municipality and prior service credits of the same amounts as were accumulated in his accounts on the date of commencement of such annuity.

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 of Wisconsin 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 of Wisconsin 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 be treated as normal credits except that no corresponding municipality credit therefor shall be given pursuant to s. 66.904 (1) (a) 2. Whenever the state of Wisconsin 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 of Wisconsin investment board may make a correctional or supplementary certification and corresponding transfer of assets at any time.

6. Notwithstanding any other provisions of this section, any participating municipality may grant prior service credits to its employes included under the fund for periods of employment by another municipality from whose area or any part thereof the participating municipality was created; and any participating municipality may grant prior service credits to its employes included under the fund for periods of employment by another municipality all or part of whose area is included within such participating municipality. When a participating municipality desires to grant any such prior service, the governing body of the participating municipality shall certify to the fund all such periods of service and the earnings received by the employe which are needed to compute the prior service credits of said employes as though the employes had been in the service of the participating municipality during all of said periods of service.

7. Notwithstanding any other provision of this section, any participating municipality other than the state may grant prior service credits to any participant who has been employed by such participating municipality for not less than 15 years (whether before or after the effective date for such participating municipality) but who, as a result of action by the governing body of such participating municipality, was not an employe of such participating municipality on the effective date, provided that such participant returned to the employment of such participating municipality within 3 years following such effective date. When a participating municipality desires to grant any such prior service credits the governing body of the participating municipality shall so certify to the fund and shall furnish all information necessary to make a determination of the amount of such credits.

8. The prior service credits of every participating employe of each municipality on January 1, 1960, shall be redetermined where necessary to include in his total earnings during the 3 calendar years immediately preceding the effective date under subd. 1 all earnings in excess of $4,200 per year as an employe of that participating municipality, as of the effective date of participation of that participating municipality. Any increase in the prior service credits of the employe of a municipality under this subdivision shall be added to its obligation under s. 66.915 (1) (a).

9. The prior service credits of every participating employe of each municipality on January 1, 1960, shall be redetermined as of such date where necessary to include credit for each year of his service for that participating municipality subsequent to its effective date of participation, and prior to January 1, 1958, in an amount equal to the product of the normal contribution rate for such participating employe for such year multiplied by the amount of the earnings paid to him in such year, but not considered as participating earnings due to a limitation then in effect under s. 66.901 (9) on the monthly or annual amount of earnings, without interest. Any increase in the prior service credits of the employes of a municipality under this subdivision shall be added to its obligation under s. 66.915 (1) (b) to be paid under s. 66.905 (2) (b).

13. Any participating municipality may provide by resolution that the recomputation of credits pursuant to subds. 8 and 9 shall also be applicable to credits for periods of employment by another municipality if the area or any part thereof is included within the limits of that participating municipality, to the extent that such employment has been included under the Wisconsin retirement fund. The participating municipality shall file a certified copy of such resolution with the fund promptly, and also certify to the fund the names of the persons affected and the identity of the former participating municipality by which such persons were previously employed.

14. Each person who is a county court reporter on the first Monday in January, 1962 and who on December 31, 1961, occupied a county position qualifying under s. 66.901 (4) but who was not a participating employe shall as of January 1, 1962, receive prior service credit for all service for such county subject to the provisions of s. 66.901 (4), as an obligation of the state.

15. Any state participating employe who has not received prior service credit, who had at least 15 continuous years of eligible state service prior to Janauary 1, 1950, and who has been a participating employe continuously for 5 years or more between January 1, 1950, and January 1, 1961, shall receive prior service credit as of January 1, 1950, for all eligible state service prior thereto. Such prior service credits shall be granted only if any such employe within 60 days of January 14, 1966 contributes to the fund as a normal contribution any amounts previously withdrawn from the former state employes' retirement system, together with interest compounded annually at the effective rate of interest from January 1, 1950, to the date of such contribution, and the

amount of prior service credited as provided herein shall be reduced by the total amount of such contributions and interest. No interest income shall be credited to any prior service credits granted under this subdivision for any period prior to 1966.

(b) The credits of each individual participant 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 participants during the year in accordance with par. (a) 3 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 participants during the year in accordance with par. (a) 3, not remaining in such accounts at the end of the year because of the granting of annuities or death benefits during the year, shall be improved with interest, on the first day of the month in which the first annuity or death 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 death 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, all of the accumulated credits and the creditable service of such participant shall thereupon be terminated and no further right to such credits shall exist other than the right to such annuity or benefit so granted except as provided by s. 66.908 (2) (c), (d) and (e).

5. As of December 31, 1965, credits granted pursuant to par. (a) 2.d [Stats. 1963] shall be deleted from the account of each participant, but such deletion shall not destroy any benefit right arising from such credits for annuitants or persons with annuity applications pending on such date.

(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).

(e) As of December 31, 1965, the accounts in the fixed annuity division and the variable annuity division of each participant whose accounts include accumulated additional credits attributable to regular contributions and interest under the former state employes retirement fund shall be adjusted by such transfers within such accounts as are required to include in his accumulated normal credits the amount of such accumulated additional credits not in excess of the amount of his accumulated prior service credits and to include the remainder of any of such accumulated additional credits in his additional credits within the meaning of s. 66.903 (2) (a) 2; and to decrease his accumulated prior service credits and increase his accumulated municipality credits by the amount so included in his accumulated normal credits. Transfers of credits within the accounts of any participant as provided herein shall not affect the total amount of his accumulated credits in the fixed annuity division or in the variable annuity division, the total amount of his accumulated credits attributable to his own contributions, or the total amount of his accumulated prior service and municipality credits.

(2) PRIOR SERVICE CREDITS FOR SERVICE MEN. (a) Prior service credits pursuant to sub. (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 or resumed employment with the municipality pursuant to s. 16.276 or 45.50 prior to January 1, 1948. 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 com-

puted 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 s. 16.276 or 45.50, 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).

(bb) Current service credit shall be granted for that period of service spent in the armed forces of the United States between the beginning of such service or June 25, 1950, whichever is later, and the date when the employe completes such service, if the employe resumes employment with the participating municipality in conformity with section 45.50 (1), but such credit shall be granted only to a person who left the service of the participating municipality to enter such armed forces. Such credit shall be granted pursuant to section 66.904 (3) (b) as of the date the employment is resumed.

(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.

History: 1961 c. 281, 415, 642; 1963 c. 238, 268; 1965 c. 33, 251, 473, 508.

66.9045 Creditable service. (1) The creditable service of each participant at any time prior to January 1, 1966, shall be the sum of his periods of prior service and current service as a participating employe as determined pursuant to the applicable statutes and rules. The period of creditable service of a participant after 1965 shall be the number of years and completed months of service for which he receives earnings until his employment is terminated, but not including any period subsequent to the end of the calendar quarter year in which he attains the age of 63 years if he is a protective occupation employe, or the age of 70 years otherwise. The board shall fix and determine by proper rules how much service in any year is equivalent to one year of creditable service. Effective July 1, 1974, no protective occupation participant shall receive creditable service for any period after June 30, 1974, which is subsequent to the end of the calendar quarter year in which such participant attains the age of 58 years.

(2) A participant shall be considered as a separate participant with respect to each separate period of current service for each participating municipality but the current service of a participant shall not be considered to have been interrupted by reason of any change of employers arising solely from the operation of s. 66.902 (1c) or 66.905 (6) if both the predecessor and the successor municipality were participating municipalities on the date of such change. A separate period of current service shall be deemed to commence on the date a former participating employe of a municipality again becomes a participating employe of such municipality more than 2 years after the last date for which he was entitled to earnings as a participating employe thereof, but not if such resumption of employment occurs at or prior to the expiration of an authorized leave of absence or prior to September 12, 1965. The commencement of a separate period of current service shall not cause the loss of any benefit to which a participant is entitled by virtue of any preceding service with any municipality, nor shall it subject him again to the requirements of s. 66.901 (4) (d).

(3) Current service credit for military service after December 31, 1965, shall be granted on the basis of creditable service equal to one-half the period of service in the armed forces of the United States between the beginning of such service and the date of completion of such service if the employe left the service of a participating municipality to enter such armed forces and resumes employment with such municipality in conformity with s. 45.50 (1).

(4) Notwithstanding any other provision of this section, any participating municipality may provide by resolution for the inclusion in the creditable prior service of its

participating employes' periods of employment by another municipality from whose area or any part thereof the participating municipality was created, or by another municipality all or part of whose area is included within such participating municipality. In such event, the governing body of the participating municipality shall certify to the fund all periods of service and the earnings received by the employe which are needed to compute the creditable service of said employe as though accrued as an employe of the participating municipality.

(5) The computation of the creditable prior service of a person who was an employe on the effective date shall include 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 s. 66.901 (4); but after December 31, 1965, in no case shall creditable prior service include any service rendered after the end of the calendar quarter year in which a participant attains the age of 63 years if he is a protective occupation participant or the age of 70 years otherwise; but after June 30, 1974, in no case shall creditable prior service include any service rendered after the end of the calendar quarter year in which a protective occupation participant attains the age of 58 years.

(6) Any participating municipality other than the state may provide by resolution, adopted by a majority of the members of the governing body thereof, that each employe of such municipality who is a participating employe of such participating municipality on January 27, 1968, shall be granted, as of the date payment is made as required herein, creditable service for all service for such participating municipality which was not credited previously because payment for such service was in the form of fees; but within 90 days following January 27, 1968, each participating employe who is granted creditable service pursuant to this subsection shall pay to the fund as normal contributions an amount equal to the total normal contributions which they would have made if the fees such employes received during such periods of creditable service had been considered earnings.

(7) Each employe of the state who is a participating employe on July 1, 1968, shall be granted as of such date creditable service for all service as a member of the legislature which has not been credited under any other provision of law if, prior to such date, the member makes all required contributions which he would have made as a participating employe during such service after January 1, 1957, and prior to the first day of the month in which he became a participating employe.

History: 1965 c. 251, 581; 1967 c. 312, 316, 355.

66.905 Contributions by municipalities. (1) Except as provided in sub. (8), 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 from the respective funds from which the salaries are paid to the employe 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 s. 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 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 and shall indicate the amount of such contribution on the monthly payroll report submitted in duplicate to the fund. The fund shall transmit one copy of such monthly pay roll report to the department of administration together with a voucher 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 department of administration shall promptly approve such voucher for payment and the state treasurer shall forthwith issue his check therefor to the Wisconsin retirement fund.

(b) Advance contributions of such amounts as are determined by any participating municipality for the purpose of reducing any existing obligation of such municipality.

(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, after allowance for anticipated employe separations, at the prescribed rate of interest:

1. To amortize, over the remainder of the period of 40 years following the effective date, the amount of the obligation as of December 31, 1965, for prior service credits granted to the employes of the municipality; and

2. To amortize over the remainder of the period of 40 years following December 31, 1965, or the effective date, if later, the amount by which the then present value of all future benefits of the then participants of the municipality other than benefits financed by employe contributions and benefits financed pursuant to par. (c) exceeds the sum of the then present values of:

a. All future contributions pursuant to subd. 1;

b. All future contributions by the municipality with respect to such participants pursuant to par. (b); and

c. The then balance of the municipality's accumulation account.

(b) The uniform percentage of the earnings of each participating employe which if contributed throughout the period of his creditable service would have the same present value as of the date of its commencement as the amount of his retirement annuity not provided by his own contributions.

(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 present value of the annuities to which such employes would be entitled under s. 66.906 in the absence of the minimum age and amount requirements thereof, adjusted for any surplus or deficiency pursuant to s. 66.916 (1) (b).

(d) The amount of the one-year term premium required to provide the excess, if any, of the present value of the special disability benefits under s. 66.907 (3) expected to be granted during such year to 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 each calendar year shall be made from the information available at the time of making such computation and on such assumptions as the actuary recommends and the board approves from time to 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, except that the executive director upon the written recommendation of the actuary, may change any such rate for any calendar year for the purpose of reflecting in such rate the reduced obligation of any participating municipality which results from the payment of advance contributions pursuant to sub. (1) (b).

(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.

(5) Notwithstanding any other provisions of this section, each participating municipality which has no participating employes as of the beginning of the year shall make contributions to the fund 4 times during the year, in addition to any contribution under section 66.905 (1) (b). Such contributions shall be due and be deposited in the office of the fund by the municipality not later than February 15, May 15, August 15 and November 15 of the year. The amount of each such municipality contribution shall be one-fourth of the amount required for the year under section 66.905 (2) (a) and (b) assuming that the municipality will have no participating employes during the year.

(6) Whenever the existence of any participating municipality is terminated because of consolidation or for any other reason, the municipality which thereafter includes the area of such terminated municipality shall be liable for all contributions payable to the fund by such municipality. If the territory of such former participating municipality is attached to 2 or more municipalities, the total accumulation account of such former participating municipality shall be allocated to such municipalities in proportion to the equalized valuation of each area so attached. The amount of such allocations to the respective municipalities shall be certified by the board of trustees of the fund to the clerk of each such municipality. If the municipality to which the territory is so added is or becomes a participating municipality the allocation so certified to its clerk shall be added to its accumulation account. If the municipality to which any part of the former municipality is added is not a participating municipality the contribution required to liquidate the allocated accumulation account shall be made by the successor municipality as an annual payment not later than May 1 in each year following a certification which shall be made by the board in conformity with sub. (2) (a).

Whenever such obligation is discharged pursuant to law, the board shall refund any overpayment.

(8) Notwithstanding any other provision, the cost of all prior service credits and municipality current service credits granted on and after January 1, 1954, to county judges and on and after January 1, 1956, to full-time judges of courts of record, municipal or inferior (other than a county court) for such service shall be paid by the state. Effective January 1, 1962, the state shall make municipality current service contributions only on salaries of judges and reporters who are paid pursuant to ss. 253.07 (1) and 253.35 (3) in counties of less than 500,000 population.

History: 1961 c. 281, 642; 1963 c. 20; 1965 c. 251, 581.

66.906 Compulsory retirement; annuities. (1) COMPULSORY RETIREMENT. (a) Any participating employe, except an appointed state officer, who has reached his normal retirement date on the effective date shall be retired at the end of his first calendar quarter year as a participating employe and any participating employe who reaches his normal retirement date shall be retired at the end of the calendar quarter year in which such date occurs, unless written notice is received by the board certifying that the governing body of the municipality by which such employe is employed has 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 election by the voters of any member of a governing body of a participating municipality other than the state shall constitute the notice required pursuant to this paragraph authorizing such elected official to serve for the duration of the term for which he was elected. The employment of a participating employe who is an appointed state officer 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 subsection for the sole purpose of granting such continuances.

(b) Any election of a county officer by the voters shall constitute the notice required under par. (a) authorizing such elected county officer to serve for the duration of the term for which he was elected.

(1a) JUSTICES AND CIRCUIT JUDGES. Each supreme court justice and circuit judge included under this fund who attains age 70 shall be retired at the end of the month in which such age is attained. This subsection shall supersede the provisions of sub. (1) for supreme court justices and circuit judges.

(1b) COUNTY JUDGES. Each county judge included under this fund shall cease to hold office and shall be retired at the end of the month in which he shall attain the age of 70 years. This provision shall supersede the provisions of sub. (1) for county judges.

(1d) ELECTIVE STATE OFFICERS. Each state officer elected by the vote of the people, other than a justice of the supreme court or a judge, who becomes a participating employe pursuant to s. 66.901 (5) (i) and who has attained age 65 when electing to participate shall be retired at the end of the then current term. Any such state officer who attains age 65 after electing to become a participating employe shall be retired on the date of the expiration of the term in which he attained age 65. In either case any subsequent election of such a state officer after age 65 by the voters shall constitute the notice required under sub. (1) (a) authorizing such elected state officer to serve for the duration of the term for which he was elected.

(1e) DE FACTO OFFICERS. Any state officer, heretofore or hereafter appointed, who has passed age 65 on the date of appointment, who has been confirmed by the senate when required by law, and for whom no proper formal notice required under sub. (1) (a) has been filed is entitled to all salary and to benefits under ss. 66.90 to 66.919 for the period for which he serves as a de facto officer just as though such formal notice or notices under sub. (1) (a) had been filed and notwithstanding that said state officer had terminated his employment prior to January 28, 1960.

(2) RETIREMENT ANNUITIES. (a) The following described persons shall be entitled to retirement annuities, beginning on the dates hereinafter specified:

1. Any participant who has attained age 55 and who, regardless of cause, is separated and continues to be separated until such annuity is initially approved pursuant to s. 66.912 (1) (b), from all service for every participating municipality for which he has been a participating employe prior to becoming an annuitant and for which such participating employe received compensation. Until the annuity is initially approved

employment for any other participating municipality shall be limited to that for which the compensation would not be subject to normal contributions under any circumstance.

2. Such annuities shall begin on the date specified by the participant in the written application therefor, provided such date is not prior to the date of separation from the last participating municipality by which such participant 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 participant are sufficient as of such date to provide an annuity of at least $10 beginning immediately; and provided the participant has attained the age of 55. No application shall be filed with the board unless the date therein specified on which an annuity is to begin is not later than 90 days after the date of receipt of such application by the board.

3. Whenever it is determined that an annuity was approved prematurely because the final termination of employment was subsequent to that originally reported, it shall not be necessary to cancel the annuity, but instead the beginning date of the annuity shall be corrected.

(b) The initial amount of any retirement annuity of a Group A participant who is not also a Group B participant shall be determined in accordance with the prescribed rate of interest and the approved actuarial tables in effect on the date of approval of such annuity by the board 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 participant at such time, 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 participant at such time but the amount of accumulated prior service credits so applied shall not exceed the amount which would result in an annuity provided by all credits other than additional credits equal to 60 per cent of the final rate of earnings.

(c) The initial amount of retirement annuity of a Group B or Group C participant shall be the sum of the following:

1. The annuity which can be provided, on the date such annuity begins, from the accumulated additional credits of the participant at such time on the basis of the actuarial tables in effect on the date of approval of the annuity;

2. The annuity which can be provided, on the date such annuity begins, from a sum equal to 200% of the excess accruing after December 31, 1965, of a) his accumulated normal credits reserved for a variable annuity over b) the amount to which such credits would have accumulated if not so reserved, providing that if item a) is less than item b), the annuity shall be reduced by the amount which could be provided by a sum equal to 200% of the deficiency; and

3. An annuity computed on the basis of the earnings and creditable service of the participant, if the annuity begins on or after the normal retirement date of a participant (or, if the annuity begins prior to the normal retirement date of the participant the annuity which is the actuarial equivalent of such annuity deferred to the normal retirement date), determined by multiplying the number of years of his creditable service by the following amount:

a. For each participant for creditable service of a type not otherwise specified in this subdivision, six-sevenths of one per cent of his formula final rate of earnings plus three-sevenths of one per cent of his final excess OASDI earnings, if any;

b. For each participant for creditable service as a supreme court justice, circuit judge, county judge, member of the legislature or state constitutional officer elected by vote of the pople, 1⅛ of one per cent of his formula final rate of earnings, plus three-fifths of one per cent of his final excess OASDI earnings, if any;

c. For each participant subject to s. 66.99 for creditable service as a protective occupation participant, 1⅓ of one per cent of his formula final rate of earnings, plus one-sixth of one per cent of his final excess OASDHI earnings, if any, but for any annuity approved by the board after June 30, 1969, such amount shall be 1⅗ of one per cent of his formula final rate of earnings, plus one-fifth of one per cent of his final excess OASDHI earnings, if any;

d. For each participant not subject to s. 66.99 for creditable service as a protective occupation participant, 1¾ of one per cent of his formula final rate of earnings, less one-fourth of one per cent of his final excess OASDHI earnings, if any, but for any annuity approved by the board after June 30, 1969, such amount shall be 2⅑ of one per cent of his formula final rate of earnings, less three-tenths of one per cent of his final excess OASDHI earnings, if any.

4. The initial amount of any annuity determined under subd. 3 in the normal form shall not exceed the amount which, when added to the primary or disability insurance

benefit for which he is eligible or for which he will be eligible upon attaining the lowest age at which old-age benefits are payable under the federal old-age, survivors and disability insurance program, equals 75% of the participant's formula final rate of earnings. If a participant does not receive such OASDI amount by reason of his failure to apply therefor or by virtue of the suspension thereof, he will notwithstanding such fact be deemed to receive such amount. If a participant fails to establish the amount of, or his eligibility for, such OASDI benefit, determination thereof shall be made by the board on such basis as the board, by rule, establishes.

(d) In no case shall the initial amount of the retirement annuity in the normal form of a Group B or Group C participant be less than the sum of the following:

1. An annuity determined pursuant to par. (c) 1;

2. The annuity which can be provided, on the date such annuity begins, from the accumulated normal credits of the participant at such time; and

3. One-half the amount determined pursuant to par. (c) 2 and 3.

(e) The initial amount of any retirement annuity of a Group B participant shall be the amount determined pursuant to par. (c), (d) or this paragraph, as the participant elects, provided that if the participant fails to make an election, the annuity shall be that sum calculated under said paragraphs which results in the largest annuity. The annuity under this paragraph shall be the annuity which can be provided by the sum of the following:

1. The accumulated additional and normal credits of the participant on the date such annuity begins;

2. The accumulated municipality credits and prior service credits of the participant at the date such annuity begins if prior to December 31, 1965, or otherwise the amount of such accumulated credits at December 31, 1965, compounded to the end of the last completed calendar month prior to the date such annuity begins at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year;

3. The amount equal to the accumulated normal credits of the participant attributable to his earnings paid after December 31, 1965, which would have resulted if his normal contribution rate was the rate applicable at December 31, 1965, to his position and if all such credits were accumulated in the fixed annuity division; and

4. If the annuity begins after December 31, 1965, and if the participant's accounts include credits reserved for a variable annuity, the amount equal to the excess if any of a) the accumulated normal credits and prior service credits of the participant on the date the annuity begins over b) the accumulation therefrom which would have resulted if such accumulated credits in the variable annuity division at December 31, 1965, had been transferred to, and all subsequent credits included in the fixed annuity division. If a) is less than b), the accumulated credits under either subd. 2 or 3 shall be reduced by the amount of such deficiency. For the purposes of this subdivision accumulated prior service credits shall be determined as if included in the accounts of the participant and not in the municipality accumulation account.

5. The amount attributable to prior service credits so applied under subds. 2 and 4 shall not exceed the amount which would result in an annuity, provided other than by accumulated additional credits, equal to 60% of the formula final rate of earnings.

(f) The normal or ordinary form of retirement annuity is a modified cash refund annuity which provides for a death benefit equal to the excess, if any, of the accumulation from the member's additional and normal credits at the commencement of the annuity over the total amount of the annuity payments to date of death.

(g) The provisions of pars. (c), (d) and (e) shall be effective with respect to any retirement annuity provided therein if application therefor is filed after September 12, 1965 and if the beginning date of such annuity is after such date, but until January 1, 1966, each such annuity shall be determined and paid as provided by the law in effect prior to the creation of this subsection. As soon as possible after January 1, 1966, each such annuity shall be increased to the amount determined pursuant to par. (c), (d) or (e), subject to the same optional modification if any as was applied to the original annuity, and payment of such increased amount shall be made retroactively to the beginning date of each such annuity. Any such increased amount shall be included, as provided herein, as a part of any related death benefit or beneficiary annuity arising from the death of a participant.

(m) Notwithstanding the provisions of par. (a) 1, whenever a participating employe is subject to compulsory retirement in the absence of action pursuant to sub. (1) (a) permitting continuance such person shall not be barred from applying for a retirement annuity based upon service which has terminated.

(3) ALTERNATIVE RETIREMENT ANNUITIES. (a) Notwithstanding any other provision of sections 66.90 to 66.918, any participant 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 participant 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 participant, and equally if not specified, between 2 or more beneficiaries designated by such participant, 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.

(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.

(f) A justice of the supreme court, a circuit judge or a county judge who is eligible to receive an ordinary retirement annuity under s. 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 120 monthly payments, in which event all of the provisions of pars. (a) to (d) shall be applicable except that wherever the figure "180" appears in said paragraphs the figure "120" shall be substituted.

(g) If the amount of the monthly payments to a beneficiary of an annuitant under this subsection is less than $10, such monthly payments shall not be paid, but in lieu thereof the then present value of such monthly payments shall be paid to such beneficiary upon the death of the annuitant. Any beneficiary entitled to receive monthly payments amounting to less than $10 under a retirement or beneficiary annuity granted prior to October 1, 1957 may elect at any time to receive the then present value of the remainder of his benefit.

(3a) OPTIONAL FORM OF ANNUITY. (a) Notwithstanding any other provisions of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under sub. (2) may elect, in lieu of such annuity, to take the actuarial equivalent thereof as an annuity payable monthly to the participant during life, and after the death of the participant, monthly payments of 75 per cent of the monthly amounts payable to the participant, if living, to be continued to such one beneficiary during life as the participant shall have designated in his original application for an annuity.

(3b) OPTIONAL INTEGRATED ANNUITY. Notwithstanding any other provision of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under sub. (2), which annuity is to begin prior to the participant's 62nd birthday, may elect, in lieu of such annuity, to take the actuarial equivalent thereof as: a) a reduced annuity payable monthly for life, plus b) a temporary annuity payable monthly and terminating with the payment due in the month in which the participant attains age 62. It is the intent of this option that so far as is practicable the aforesaid life annuity and temporary annuity will be determined in such relative amounts that the participant's total anticipated retirement benefits from the fund and from primary social security will be the same both before and after attainment of age 62, assuming that the participant has no further wages credited to his account under the federal old-age, survivors, disability and health insurance system after ceasing to be a participating employe. Section 66.908 (2) (c) shall apply to an annuity granted under this subsection.

(3c) OTHER FORMS OF ANNUITIES. In addition to the optional forms of annuities permitted under this section the board may by rule establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(3d) LUMP SUM PAYMENT IN LIEU OF ANNUITY. Notwithstanding any other provision of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary annuity of less than $25 per month under sub. (2) may elect, in lieu of such annuity, to receive a separation benefit as provided in s. 66.91.

(4) RE-ENTRY INTO SERVICE. (a) Notwithstanding the fact that any annuity is payable for life, if any participant under age 60 receiving a retirement annuity enters or is in the service of any participating municipality by which he was employed prior to the beginning date of the annuity, 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 re-

ceived total earnings in all such services in excess of $1,200 in any calendar year. If an annuitant who has attained 60 is in the employment of a participating municipality by which last employed prior to the approval of the annuity and receives total earnings therefrom in any year in excess of the greater of $1,200 or one-half of his annual final rate of earnings the annuity shall be terminated as of the end of the month prior to the receipt of such excess. Earnings under this subsection shall be construed to include also any payment received from any municipality for personal services, including services performed on a contractual basis.

(b) Upon subsequent retirement, a former annuitant shall be required to accept the same form of annuity as that under which he initially retired, and if such annuity is an optional annuity provided under sub. (3a), the same beneficiary.

(5) NOTICE OF EMPLOYMENT. Whenever any participating municipality employs any person who is entitled to receive a retirement annuity from the fund, and who was formerly an employe of that municipality, the municipality shall give written notice of such employment to the fund within 15 days of the date of such employment specifying in such notice the name of the employe, his birth date and the date when his new employment began.

History: 1961 c. 281, 302, 580; 1963 c. 20, 236, 303, 343, 360; 1965 c. 33, 172, 251, 433, 471, 581; 1967 c. 199, 355.

Cross Reference: See also 66.901 (5m) for retirement annuity computation relating to supreme court justices, circuit judges, county judges, members of the state legislature or state constitutional officers who later accept a state position subject to normal retirement provisions without a break in service.

66.9065 Variable annuities. (1) (a) Any participating employe may by written notice to the fund elect to provide for a variable annuity through a segregation of credits in his account to be accumulated from future contributions. Any person qualifying under s. 66.901 (4) except par. (d) may file such notice to be effective upon becoming a participating employe. Such notice of segregation is effective as of the beginning of the calendar quarter year following its receipt by the fund.

(b) Such segregation shall continue in effect as long as the person filing the notice of segregation continues to be a participant and may not be reduced.

(c) Any segregation may be increased in the manner provided under par. (a), and when increased shall be subject to the provisions of par. (b).

(d) The total amount segregated under this subsection shall not exceed one-half of the normal contribution.

(2) A portion of the municipality credit for current service provided by s. 66.904 (1) (a) 2. c, or in the case of segregations made after December 31, 1965, a portion of the municipality accumulation account, which is equal to the amount of the normal contribution segregated by a participating employe for a variable annuity pursuant to sub. (1) shall also be segregated for a variable annuity.

(3) In the case of any participating employe currently contributing toward a variable annuity any subsequent additional contribution made pursuant to s. 66.903 (2) (a) 2 shall be segregated for a variable annuity.

(4) (a) Any participating employe who has acted pursuant to sub. (1) may by written notice to the fund provide that a specified amount of the credits accumulated in accounts in his name pursuant to s. 66.904 (1) (b) be segregated for a variable annuity. The aggregate amount so segregated shall be an even multiple of $1 and shall not exceed 10 per cent of the accumulated credits in all his accounts as of the beginning of the calendar year in which the original notice under sub. (1) is effective, except that if the aggregate amount that may be transferred pursuant to par. (b) is less than $100 the filing of the written notice hereunder shall effectuate the transfer of the entire amount. Such segregation shall be effective as of the beginning of the calendar quarter year following the receipt by the fund of such notice and shall be improved with interest for each month of the current year prior to such segregation at one-twelfth of the effective rate of interest for the preceding year but if such notice is received after June 30, 1961 it shall be effective on the January 1 following its receipt. For the purposes of this subsection credits to which a participant is entitled pursuant to s. 66.904 (1) (a) 8 and 9 shall be considered as included in his accumulated credits at the beginning of the calendar year in which his original notice under sub. (1) was effective and any credits which were not segregated for a variable annuity under par. (a) or (b) solely because action entitling a participant to credits pursuant to s. 66.904 (1) (a) 8 or 9 was completed after the date as of which such a segregation was effective shall be so segregated as of the beginning of the calendar year following such action.

(b) He may by written notice to the fund provide for the segregation of credits for a variable annuity in the same manner as under par. (a) in an amount not in excess of

the amount computed under the 10 per cent segregation limit as originally determined under par. (a), but the aggregate segregation of accumulated credits under this subsection shall not exceed 50 per cent of the accumulated credits in all his accounts as at the beginning of the calendar year in which the original notice under sub. (1) was effective. Not more than one segregation under this subsection shall be made effective in any one calendar year.

(c) In effecting such segregation the accumulation of additional credits as of the beginning of the calendar year shall first be segregated until exhausted. Then equal amounts of the accumulation of normal credits and municipality credits shall be segregated until such accumulations as of the beginning of the calendar year have been exhausted. Finally, accumulated prior service credits shall be segregated to the extent required, provided that after December 31, 1965, all such segregations of municipality and prior service credits shall be made within the municipality accumulation account.

(5) The board shall, except as specifically provided herein, have sole discretion to establish rules governing the amount of segregations for a variable annuity, which without limitation because of enumeration shall include the form, time and procedure for filing the notices, the minimum, maximum and unit amounts which may be segregated, both from current contributions and accumulated credits, the increasing of the amounts segregated, and other appropriate regulations. Such rules, among other things, shall fix procedures governing the operation of the variable annuity division, the frequency with which variable annuity payments are to be varied, and the mechanics of allocating the results of investment experience to the accounts of individuals having credits in the variable annuity division. The present value of any variable annuity at any time shall be determined in conformity with the actuarial tables in effect at such time.

(6) (a) Within the accounts maintained for each individual participant there shall be maintained a record of the amount of each type of credit segregated for a variable annuity. Credits so segregated shall not be credited with interest as provided in s. 66.904 (1) (b) 1 and 2, but in lieu thereof net gains or losses shall be credited or debited as the case may be as follows:

1. All balances so segregated at the beginning of each year remaining so segregated at the end of the year shall then be credited or debited at the rate of net gain or loss for the year.

2. All amounts so segregated during the year pursuant to sub. (4), or because of re-establishment of credit after cancellation of an annuity, remaining so segregated at the end of the year shall then be credited or debited at one-twelfth of the rate of net gain or loss for the year for each full month from the date so segregated to the end of the year.

(b) Credits segregated for a variable annuity at the beginning of each year and all amounts so segregated within the year pursuant to sub. (4), or because of re-establishment of credit after cancellation of an annuity, not remaining in such accounts at the end of the year because of the granting of annuities or death benefits during the year shall be credited with interest, on the first day of the month in which the first annuity or death 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 death benefit payment is due, at one-twelfth of the effective rate of interest for the previous year.

(c) Fractions less than one-tenth per cent in the rate of net gain to be credited to any account pursuant to this subsection shall be disregarded.

(6a) Within the accumulation account maintained for each participating municipality pursuant to s. 66.915, there shall be established as of January 1, 1966, a segregated reserve for variable annuities equal to the sum of the accumulated municipality and prior service credits of all of its participants segregated for variable annuities. Such reserve shall be credited or debited with net gain or net loss as the case may be at the same times and at the same rates of each net gain or net loss as are credited or debited to the accounts of individual participants pursuant to sub. (6) (a) or (b). The segregated reserves maintained pursuant to this subsection shall be included in the variable annuity division.

(7) (b) The value of all securities and of uninvested funds of the variable annuity division shall notwithstanding s. 66.916 (2) be determined periodically on the basis of their then market value at intervals specified in the rules. The market value shall be the value certified by the Wisconsin investment board. For listed securities such shall be determined as of the close of the final market day at the end of the period; for unlisted securities it shall be determined to be the bid price; for real estate it shall be determined to be the value as appraised at intervals fixed by the board of trustees. The net gain of the variable annuity division for any period shall be the excess of 1. the increase within

the period in the value of the assets of the variable annuity division resulting from income from the investments thereof and from the sale or the appreciation in value of any investment thereof; over 2. the decrease within the period in the value of such assets resulting from the investment expenses of the variable annuity division and from the sale or the depreciation in value of any investments thereof. If the decrease exceeds the increase the amount of such excess shall be the net loss of the variable annuity division for the period.

(c) The rate of net gain or loss for any period shall be determined by dividing the amount thereof by the average of the amounts of the assets of the variable annuity division at the beginning of each month in the period. Any net gain or loss of the variable annuity division not credited or debited to participants' accounts pursuant to sub. (6) (a) or (b), to municipality segregated reserves pursuant to sub. (6a), or to the reserve for variable annuities granted account pursuant to sub. (9) at the end of any period shall be considered in the determination of the rate of net gain or loss for the ensuing period.

(8) (a) Any annuity provided pursuant to s. 66.906, 66.907 or 66.909 to a participant or the beneficiary of a participant whose accounts include credits segregated for a variable annuity pursuant to sub. (1) or (4) shall consist of a fixed annuity and a variable annuity. The initial amount of the variable annuity shall be the amount which can be provided on the basis of the actuarial tables in effect on the date of approval of such annuity by the following amounts, if otherwise available:

1. The amount of the accumulated additional credits reserved for a variable annuity as of the date the annuity begins;

2. The amount equal to 200% of accumulated normal credits reserved for a variable annuity as of the date the annuity begins; and

3. The amount equal, as of the date the annuity begins, to the accumulated prior service credits reserved for a variable annuity as of December 31, 1965, or thereafter transferred to the segregated reserves within the municipality accumulation account, together with the net gain or loss credited to such accumulations after such date.

(b) The initial amount of the fixed annuity shall be the excess of the total annuity payable pursuant to s. 66.906, 66.907 or 66.909, over the variable annuity.

(c) If the initial amount of the variable annuity so determined is less than $10 the entire annuity shall be a fixed annuity.

(d) If the initial amount of the variable annuity so determined is at least $10 and the amount of the fixed annuity is less than $10 the entire annuity shall be a variable annuity.

(9) (a) All accumulated credits applied to provide variable annuities, including transfers from municipality accumulation accounts, shall be credited to the reserve for variable annuities granted account and all variable annuity payments shall be charged to that account.

(b) The balance at the beginning of any year in the reserve for variable annuities granted account, as adjusted by transfers thereto and payments therefrom, shall not be credited with interest as provided by s. 66.916 (2) (a) but shall be credited or debited, as the case may be, at the end of the year with net gain or loss at the rate of net gain or loss of the variable annuity division for the year.

(10) (a) Periodically the amount payable with respect to all variable annuities previously granted shall be redetermined so as to reflect the net gain or loss of the reserve for variable annuities granted as determined by rule in accordance with actuarial procedures approved by the board of trustees on a basis which it deems appropriate from time to time and without limitation as to the nature of the procedures that may be adopted. The board of trustees may for as long as it deems desirable provide that the variation in the amounts payable under variable annuities shall not be affected by the fluctuations in the mortality experience under variable annuities granted.

(b) In conformity with the rules the executive director shall certify to the department of administration the rates of increase or decrease in the variable annuities previously approved, and the department of administration shall make payments accordingly until a new certification is made.

(11) In addition to the changes made pursuant to sub. (10) variable annuities granted under ss. 66.906 (3a) and (3b) and 66.907 (2) shall be changed in conformity with the subsection under which granted.

(12) (a) Whenever any person having credits segregated for a variable annuity ceases to be a participating employe:

1. If the total accumulated credits segregated for a variable annuity as of the beginning of the year in which the date of separation occurs including amounts attributable to such person segregated in the municipality accumulation account aggregates

less than $2,000 such accumulated credits shall be transferred to the corresponding accounts in the fixed annuity division at the end of the following calendar year unless previously terminated pursuant to s. 66.904 (1) (b) 4.

2. If the total accumulated credits segregated for a variable annuity as of the beginning of the year in which the date of separation occurs aggregates $2,000 or more such person shall automatically be deemed to have irrevocably renounced all rights to a separation benefit under s. 66.91 unless the application for such separation benefit is received by the board within one year after such termination of employment.

History: 1961 c. 281, 336; 1963 c. 20; 1965 c. 251; 1967 c. 43.

66.907 Disability annuities. (2) (a) The following described persons shall be entitled to disability annuities, beginning on the dates hereinafter specified:

1. Any protective occupation participant who is a participating employe who has not attained age 60, but after June 30, 1969 who has not attained age 55, and any other participating employe who has not attained age 65 and is totally disabled, either mentally or physically, by a disability which is likely to be permanent. A person shall not be deemed to be disqualified solely because he is able to perform the duties of any position for which the compensation does not exceed $1,200 in any calendar year. "Totally disabled" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of permanent duration. The participating municipality shall certify to the fund that the participating employe is unable to continue in employment 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. For the purposes of this subsection a participant shall, within the limitations of s. 66.903 (1) (b), be considered to be a participating employe on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if no other employment has intervened since service for the participating municipality and if the termination of active service for the participating municipality was due to such disability. For the purposes of this subsection a participant who is an official elected by the voters shall be considered as a participating employe for 30 days after the cessation of his earnings an an elected official.

2. Except for a disability arising out of employment for a participating municipality, no participating employe shall be eligible for a disability annuity until he has completed at least 20 calendar quarter years of service as a participating employe for a participating municipality or municipalities in a position for which he received either current service or prior service credit within the 28 calendar quarter years preceding the date that the disability annuity begins. Service for any predecessor municipality shall be included in determining the completion of the 20 calendar quarter years.

3. 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 has received 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.

(c) The amount of any disability annuity shall be the greater of the following:

1. The amount of the annuity to which he would be entitled under s. 66.906 (2).

2. The amount of the annuity that can be provided from the accumulation of additional credits on the date the disability annuity begins, plus the lesser of the following amounts: 50% of the final rate of earnings, or 1½% of the final rate of earnings, but after June 30, 1969 1¾% of the final rate of earnings of a protective occupation participant, multiplied by the number of years of creditable service including in the latter assumed service between the date the disability occurred and the date on which the applicant will attain the age applicable to him under par. (a) 1. The number of such total years shall be determined to the nearest full year. Whenever the applicant becomes eligible for disability benefits or for old-age benefits as a retired worker under the federal old-age, survivors, disability and health insurance system, the amount of his disability annuity, other than the amount attributable to his additional contributions, shall be reduced by 20% of the amount thereof, but in no event shall such reduction lower the disability annuity below that which could have been provided under subd. 1.

Such reduction shall be effective with the annuity payment for the 8th month after the annuity begins except during such period as the disability annuitant furnishes evidence to the fund that he is not eligible for benefits from the federal old-age, survivors, disability and health insurance system.

(cc) If a person who has received a separation benefit subsequently becomes a participant, his service prior to the payment of such separation benefit shall be disregarded for purposes of determining his eligibility for, or the amount of, any benefit under this section.

(d) The board may require that any annuitant receiving a disability annuity shall be examined by at least one licensed and practicing physician appointed by the board during any period such annuitant shall receive such annuity and prior to the date on which the annuitant attains the age applicable to him under par. (a) 1. A written report of such examination, which shall indicate whether or not the annuitant is still totally and permanently disabled, shall be filed with the board by each such physician.

(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 for which the annual compensation exceeds $1,200, 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.

(f) Notwithstanding the fact that a disability annuity is granted for life, if any disability annuitant shall receive or shall have received payment for personal services including any service performed on a contractual basis in any calendar year in excess of $1,200 in cash or the equivalent in value such annuity shall be suspended by the board. Such annuity may be reinstated by the board as of the beginning of the month following board action, upon a showing by the annuitant that such personal services have terminated. The board may require certifications as to such payments for personal services prior to the subsequent issuance of annuity checks.

(3) LAW ENFORCEMENT AND FIRE-FIGHTING PERSONNEL. (a) *Employes included.* Each participating employe who is a protective occupation participant shall be entitled to the special disability benefits provided by this subsection if he meets the requirements set forth herein.

(b) *Eligibility.* To be eligible therefor such person shall:

1. Have attained age 55, but have not attained age 60, but after June 30, 1969 have attained age 50, but have not attained age 55; and have been participating employe for not less than 15 years in the municipality by which he is employed; and

2. Have become physically or mentally disabled to such an extent that he can no longer efficiently and safely perform the duties required by his position, and such condition is unlikely to improve.

(c) *Benefit.* Any person who qualifies under this subsection shall receive a special disability benefit consisting of 2 components as follows:

1. A retirement annuity as provided under s. 66.906; and

2. A special disability annuity payable monthly during life of an amount which, when added to the monthly retirement annuity paid under subd. 1 (excluding any portion thereof based upon additional contributions), equals the lesser of a) 50% of the final rate of earnings of the employe at the time of application for benefits under this subsection, or b) the retirement annuity which would have been payable to such person if he had continued to be a participating employe in the same position and at the same salary until attaining age 60, but after June 30, 1969, until attaining age 55, assuming, for purposes of computing any applicable money-purchase annuity, the accumulation of all his credits at the prescribed rate of interest from the last day for which participating earnings were paid.

(d) *Application for benefits; reports.* A person who claims to be disabled as provided herein, may make written application to the Wisconsin retirement fund for benefits hereunder. The board shall make an investigation including examination of medical reports, and shall make a preliminary report as to whether or not a special disability benefit shall be granted. A copy of the report shall be served by mail on the applicant and on the municipality employing him.

(e) *Finality of report.* If neither the applicant nor his employer appeals to the board from its preliminary report within 20 days, the report shall be final.

(f) *Review; final determination.* Either the employe or the employer may request a review of the preliminary report by the board. Such a request for review shall be filed in writing within 20 days following receipt of the report by the employe or employer. The board shall thereupon be authorized to proceed pursuant to s. 20.901 to use the services of staff members of the industrial commission, including an examiner and re-

porter to provide for a hearing to be conducted by such examiner on behalf of the board. Such hearing shall be conducted pursuant to ss. 227.08 to 227.13, and the examiner shall submit to the board a written report of his findings together with the summary of the evidence. The employer shall be considered a party to the proceeding. Thereupon the board shall make a final determination. Such determination shall be subject to review under ch. 227.

(g) Such disability annuity shall begin as provided in subd. (2) (a) 3.

(h) No payments shall be made under this subsection for any period as to which payments are being made under sub. (2). Payments under par. (c) 2 shall be suspended for any period during which the annuitant is employed in a law enforcement or fire fighting capacity in Wisconsin by any municipality as defined in s. 66.901 (2).

(4) ELECTION OF BENEFITS; WAIVER. Any person entitled to payments under this section who may otherwise be entitled to payments under s. 66.191 may file with the board and the industrial commission a written election to waive payments due under this section and accept in lieu thereof such payments as may be payable under s. 66.191, but no person shall receive payments under both s. 66.191 and this section. However, any person otherwise entitled to payments under this section may receive such payments, without waiver of any rights under s. 66.191, during such period as may be required for a determination of such person's rights under s. 66.191. Upon the final adjudication of such person's rights under s. 66.191, if waiver is filed under this section, such person shall immediately cease to be entitled to payments under this section and the fund shall be reimbursed for all payments made under this section, from the award made under s. 66.191, in accordance with such rules as are prescribed by the board and the industrial commission.

History: 1961 c. 281; 1963 c. 20, 268, 274, 343; 1965 c. 251, 407, 581; 1967 c. 291 s. 14; 1967 c. 355.

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 participant or of any annuitant on the date of death of the participant or annuitant, or if any beneficiary dies before his application for the death benefit is acted upon by the board, the surviving beneficiaries of the participant or annuitant.

(b) Any death benefit may be paid in the form of an annuity or in the form of a single cash sum as specified by the participant or annuitant in a written notice received by the board prior to his death or, in the absence of such written notice by the participant or annuitant, as specified by the beneficiary in the application for the death benefit.

(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 participant 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 a participant whose beneficiary to whom the death benefit is payable is a spouse, parent, child (including legally adopted child), grandchild, brother or sister of such participant the amount equal to the accumulated normal and additional credits of such participant on the date of his death, plus the sum of the accumulated prior service credits and municipality credits in his account at the date of his death if prior to December 31, 1965, or otherwise the amount of such accumulated prior service and municipality credits at December 31, 1965, compounded to the first day of the month in which such death occurs, at the effective rates of interest as determined from year to year, or in the case of such amounts segregated in the variable annuity division, at the rates of net gain or loss credited or debited to individual accounts in the variable annuity division, except that the total accumulated municipality and prior service credits so compounded used to provide the total death benefit shall not exceed such respective credits which could have been used to provide an annuity for the deceased participant at the time of his death, assuming that such an annuity could have been granted to him at such time. No benefit shall be payable under this paragraph unless such participant at the date of his death was: 1) A participating employe; or 2) A participant who is receiving a benefit under s. 66.191, but who is not an annuitant; or 3) A participant, other than an annuitant, who had prior or current service credit, or both, for at least 60 calendar quarter years as a participating employe, or 4) A participant who is currently contributing to the state teachers retirement system or the Milwaukee teachers retirement fund. For the purposes of this paragraph, a participant is deemed a participating employe on the date of his death if he is then an applicant for a retirement annuity whose application has been received within 30 days after termination of employment

and who would have been entitled to such annuity had he lived, and a participant is deemed a participating employe on leave of absence, subject to the limitations of s. 66.903 (1) (b), if the participating municipality for which he last performed services as a participating employe has not filed notice of the termination of his employment, notwithstanding the fact that no formal leave of absence is in effect. If the death of a participating employe on leave of absence arises from employment by any employer other than such participating municipality his employment shall be deemed to have terminated and he shall not be considered a participating employe on the date of his death.

(b) Upon the death of a participant, other than an annuitant, or a participant whose beneficiary or beneficiaries are entitled to receive a death benefit under par. (a), the amount equal to the sum of the accumulated normal and additional credits of the participant as of the time of death.

(c) Upon the death of a person receiving a disability or retirement annuity other than an annuity under s. 66.906 (3) or (3a), or a person who had been granted a disability or retirement annuity which had not commenced, 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, over 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 accumulated normal and additional credits of the employe which were used at the time the annuity began, over the sum of all annuity payments to which such beneficiary had become entitled prior to his death. If the annuity is paid pursuant to par. (e) the accumulated normal and additional credits used for such annuity shall be reduced by the sum of all disability annuity payments.

(e) Upon the death of a participant receiving a disability annuity under s. 66.907 (2) or a person who had been granted such a disability annuity which had not commenced, if a beneficiary or beneficiaries to whom a death benefit is payable are a wife, minor child, or dependent husband designated as beneficiaries on the date the disability annuity was approved:

1. If such death occurs prior to the normal retirement date of the participant, the present value, at the date of death of such annuitant, of a beneficiary annuity (terminating in the case of a minor child at the end of the month in which he reaches the age of 21) of the monthly amount to which such beneficiary would have become entitled if death had occurred on the day prior to the date on which the disability annuity commenced and if the death of the beneficiary or beneficiaries who failed to survive the disability annuitant had occurred prior to said date. For the purposes of this paragraph present values shall be determined in accordance with the prescribed rate of interest and approved actuarial tables in effect on the date of approval of such death benefit by the board; or

2. If such death occurs on or after his normal retirement date, the excess of the accumulated normal and additional credits of the participant at the date the annuity began, over the sum of all annuity payments to which he had become entitled after his normal retirement date.

(em) Payment under par. (e) shall be completely in lieu of any payment to such beneficiary under par. (c), provided that if the death benefit payable to such beneficiary under par. (e) would be less than the amount determined under par. (c) the death benefit shall be payable under par. (c) and par. (e) shall not be applicable to such beneficiary.

(f) Upon the death of a participating employe within 3 years after credits have been re-established in his account pursuant to s. 66.904 (1) (a) 3, in lieu of any death benefit otherwise payable, the excess of the accumulated normal and additional credits used to provide the terminated annuity over the sum of all annuity payments to which the employe had become entitled, to which shall be added the amount of the accumulations on the date of death from the normal and additional contributions made by him after the date of the termination of his annuity.

(g) Upon the death, after December 31, 1965, of a participating employe who has attained the age of 60 years, or upon the death after June 30, 1969, of a protective occupation participant who has attained age 55, if par. (f) is not applicable, and if the beneficiary to whom a death benefit is payable is a spouse, child under age 21 (including legally adopted child), child age 21 or older if handicapped, or other dependent of such participating employe, as determined by the board, the present value at the day following the date of such death of the life annuity to the beneficiary which would have been payable if the participating employe had been eligible to receive a retirement annuity beginning on the date of his death and had elected to receive such

annuity in the form of a joint and survivor annuity providing the same amount of annuity to the surviving beneficiary as the reduced amount payable during his lifetime, but if there is more than one such beneficiary the amount of such annuity and its present value will be determined as if the oldest of such beneficiaries were the sole beneficiary. Payment hereunder shall be completely in lieu of any payment to such beneficiary under par. (a), but if the death benefit payable to such beneficiary under this paragraph would be less than the amount determined under par. (a) the death benefit shall be payable under par. (a) and this paragraph shall not be applicable to such beneficiary.

History: 1963 c. 20, 268; 1965 c. 33, 251, 407; 1967 c. 200, 355.

66.909 Beneficiary annuities. (1) Any death benefit paid in the form of an annuity shall be considered a beneficiary annuity, provided:

(a) The beneficiary is the widow or minor child of the participant or annuitant, or

(b) The beneficiary is other than the widow or minor child of the participant or annuitant, but such beneficiary has specified in the application for the death benefit, or the participant has so specified in a written notice received by the board prior to his death, that such benefit shall be paid as an annuity.

(1a) Any beneficiary may elect to receive an annuity if the amount of any death benefit is sufficient to provide an immediate annuity of at least $10 for the beneficiary.

(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 participant or annuitant provided the board has received:

(a) A certified copy of the death certificate of the participant 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 on the date of approval of such annuity by the board.

(4) A beneficiary who is a spouse may, in lieu of a life annuity, elect to receive an annuity pursuant to s. 66.906 (3) and all of the provisions of s. 66.906 (3), relating to a participant, shall apply to such spouse.

(5) A beneficiary who is a widow of a participant or annuitant may, in lieu of a life annuity, which annuity is to begin prior to the widow's 62nd birthday, elect to take the actuarial equivalent thereof as:

(a) A reduced annuity payable monthly for life, plus

(b) A temporary annuity payable monthly and terminating with the payment due in the month in which the widow attains age 62.

(5a) It is the intent of the option provided in sub. (5) that so far as is practicable such life annuity and temporary annuity will be determined in such amounts that the widow's total anticipated retirement benefits from the fund and her survivors benefit from the federal OASDHI system will be the same both before and after attainment of age 62. Section 66.908 (2) (d) shall apply to an annuity granted under sub. (5) and this subsection.

(6) The legal or natural guardian of a minor beneficiary when the participant or annuitant has not specified in a written notice received by the board prior to his death that the death benefit shall be paid as a life annuity, may, in lieu of a life annuity, elect that such beneficiary receive the death benefit in the form of a temporary annuity of $50 per month beginning on the day following the date of death of the participant or annuitant and ending with the monthly payment immediately prior to the beneficiary's 21st birthday and a final payment, payable one month after the termination of the temporary annuity, of such amount as can be provided from the death benefit, after providing for the temporary annuity, on the basis of the prescribed rate of interest and the approved actuarial tables in effect on the date of approval of such option by the board, provided:

(a) The beneficiary, prior to the payment of the final payment, may, if the amount of such final payment is sufficient to provide an immediate life annuity of at least $10 for the beneficiary, elect to receive, in lieu of such final payment, an immediate annuity commencing on the day following the due date of such final payment.

(b) If the death benefit is not sufficient to provide such a temporary annuity of $50 per month, the amount of each such temporary annuity payment shall be reduced to such amount as can be provided from the death benefit, in which event there shall be no final payment.

(c) A temporary annuity granted under the provisions of this paragraph shall be considered a beneficiary annuity for the purposes of determining the death benefit payable under s. 66.908 (2) (d).

(7) A participant or annuitant may elect by written notice to the board that a death benefit payable to a minor beneficiary shall be paid pursuant to sub. (6).

(8) The annuity granted to a beneficiary who is a minor child entitled to a death benefit under s. 66.908 (2) (e) shall terminate at the end of the month in which he attains age 21.

History: 1961 c. 281, 287; 1963 c. 20; 1965 c. 33, 218; 1967 c. 200, 226.

66.91 **Separation benefits.** The following described persons shall be entitled to separation benefits at the times hereinafter specified:

(1) Any participant 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. Subsequent employment by a participating municipality prior to approval of the separation benefit shall cancel the application. Irrespective of the restrictions provided in this subsection any person not entitled to a retirement annuity or a disability annuity shall 6 months after he is last a participating employe become eligible to apply for and receive a separation benefit.

(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 participant for such benefits and a written notice from the last employing municipality certifying that such participant has ceased to be a participating employe. The amount of any separation benefit shall be the sum of the accumulated additional credits and normal credits of the participant, but shall include only such interest credited as of the end of the last calendar year completed by him as a participating employe.

History: 1961 c. 281; 1965 c. 33.

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 chief executive or 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, 1948.

(b) 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.

(c) 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.

(d) One trustee shall be the chairman or 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, 1949.

(e) 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.

(f) 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.

(g) One trustee shall be a participating state employe and shall be designated as the state employe trustee. The first such appointee shall serve until January 1, 1954.

(h) One trustee shall be designated as the state trustee. The first such appointee shall serve until January 1, 1955.

(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.

(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 such appointment 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 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 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) Each trustee shall receive a per diem for actual service rendered equal to $25 less any amount paid by his employing municipality to the trustee as earnings for the day of the board meeting, and in addition shall be reimbursed for any reasonable expenses.

(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.

History: 1965 c. 393.

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 66.918 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 terminate any such payment, all in accordance with ss. 66.90 to 66.918. Separation benefits, death benefits, retirement annuities and beneficiary annuities may be processed and paid upon the approval of the executive director and the actuary provided that no such annuity shall be continued beyond the date of the meeting of the board next following the first payment thereof unless the payment of the annuity is then authorized by the board. The executive director with the approval of the legal advisor may suspend an annuity pending final action by the board when in their judgment the annuitant is not eligible to receive such annuity.

(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 certified in writing by the actuary and notify all participating municipalities thereof.

(ee) Approve the tables to be used for computing annuities and benefits after certification thereof in writing by the actuary.

(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 reconsiders any such case and changes the determination. Notwithstanding the foregoing provisions of this paragraph, in any case where the determination of prior service credits has been made and such 2 years have expired, the board may change such determination provided the municipality certifies that such determination was the result of a purely clerical or typographical mistake and produces adequate supporting information.

(h) Establish an office at the capital city in quarters to be provided by the department of administration. 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 the legislative audit bureau.

(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 assets, liability, reserve and surplus accounts during such year, information as to investments, and such additional statistics as are deemed necessary for a proper interpretation of the condition of the fund. There shall be available to each participant or participating municipality upon written request a detailed statement of investments.

(o) Beginning with the 1967 calendar year, submit once each year to each participant currently making contributions a statement of his account together with appropriate explanatory material and shall furnish such statement and explanatory material to any other participant upon request.

(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 of Wisconsin 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 as are deemed necessary or desirable for the efficient administration of the fund and make, amend or repeal rules which shall change the time or period within which or by which or for which reports must be made or other acts must be performed as specified in ss. 66.903 (2) (e), 66.905 (1) (a), (4), (8), 66.915 (5) and 66.917 (1) (a) or elsewhere in the statutes.

(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 ss. 66.90 to 66.918.

(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.

(1a) The executive director, upon the certification of the actuary, may correct any annuity or benefit if the total amount of any such correction shall not exceed $5 for any benefit or monthly annuity. The executive director shall report all such corrections at the subsequent meeting of the board.

(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 purposes, 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 66.918. 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.

History: 1961 c. 281, 633; 1965 c. 247, 659; 1967 c. 26.

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 s. 25.17 (3) (a) and (4).

(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.

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 state of Wisconsin 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 ss. 66.90 to 66.918.

(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 department of administration the name of each person or municipality entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.913, the department of administration shall draw its 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 s. 20.515 (1) (t).

History: 1965 c. 433 s. 121; 1967 c. 291 s. 14.

66.915 Municipality accumulation accounts. (1) For the purposes of establishing reserves for the future payment of benefits to participants, a separate accumulation account in the name of each participating municipality shall be created as of January 1, 1966, and maintained as hereinafter described. The accumulation account of any municipality shall be:

(a) Credited as of January 1, 1966, with the aggregate accumulations of prior service, municipality, including additional municipality, and military service credits in the accounts of all participants of the municipality on December 31, 1965.

(b) Debited as of January 1, 1966, with the aggregate amount of the debit balance in the obligation accounts of the municipality on December 31, 1965. If any such obligation account on December 31, 1965, has a credit balance the amount thereof shall be credited to the accumulation account.

(c) Credited as of the date due with the same proportion of each contribution for any calendar year paid by the municipality pursuant to s. 66.905 (1) (a) which the aggregate of the percentages applicable for such year to s. 66.905 (2) (a), (b) and (d) bears to the total percentage determined under s. 66.905 (2) for such year. The proportions of such contributions applicable to s. 66.905 (2) (c) and (e) shall not be credited to any municipality accumulation account.

(d) Credited as of the date of receipt with the amount of any payment received from the municipality pursuant to s. 66.905 (1) (b) and (5).

(e) Debited as of the last day of each month in which any benefits are granted on account of participants of the municipality with the aggregate excess of 1) the amount of each single sum benefit or in the case of an annuity the present value thereof at the date it begins, over 2) the amount equal to the accumulated additional and normal credits of the participant, plus, in the case of a disability annuity, the amount financed pursuant to s. 66.905 (2) (c).

(f) Credited as of the date of termination of any annuity pursuant to s. 66.906 (4) (a) or 66.907 (2) (e) with the excess of the then present value of the terminated annuity over the aggregate amount of credits reestablished in the accounts of the participant.

(g) Credited as of each December 31 with interest at the effective rate on the mean balance for the year then ending of the accumulation account not segregated for variable annuities pursuant to s. 66.9065 (6a). The mean balance for any year of an accumulation account shall be determined as one-half of the sum of the balance at the beginning of such year plus the balance at the end of such year, but prior to crediting interest pursuant to this paragraph.

(h) Interest shall be credited at the end of the year, at the effective rate from the date of receipt, on all contributions received in accordance with s. 66.905 (1) (b); but all such contributions, for the year in which they are received, shall be excluded from the computation of the mean balance required to be determined pursuant to par. (g).

(5) (b) Interest shall be charged on accounts receivable from any municipality, except the state, for both employe and municipality contributions if the remittance and payroll report are not received by the fund on its last working day of the calendar month following the due date at the rate of one-half of one per cent for each month or fraction thereof, from the due date to the date received by the fund with a minimum charge of $3, and such interest or minimum charge shall be paid forthwith to the fund, and if it is not paid within 60 days after it is payable, it shall be collected as provided in s. 66.917 (1a).

(c) Any such interest chargeable on employe and municipality contributions from a department, board or commission of the state shall be payable if the monthly pay roll report provided for by s. 66.903 (2) (e) is not received by the fund on or before the twentieth 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 department of administration which 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.

(7) Separate accounts shall be maintained for each participating employe and for each municipality. Transactions affecting the employes of any municipality shall not affect the accounts of any other municipality.

(8) Whenever any sum which is due to the fund from any participant cannot be recovered from such participant, the last participating municipality by which the participant was employed shall be charged with said sum if such sum became due as the result of incorrect or incomplete reporting by such participating municipality.

History: 1961 c. 281; 1965 c. 33, 251, 581.

66.916 Surpluses and reserves. (1) The surpluses arising out of the operations of this fund shall be classified and determined as follows:

(a) The annuity payment surplus shall be determined as of the end of each year as the amount by which the reserve for annuities previously granted exceeds the actuarially determined liability with respect to such annuities. Whenever such surplus exceeds 25% or there is a deficiency exceeding 15% of such reserve, the tables used for the determination of annuities shall be revised in such manner as the board deems equitable. The board may order and make such distribution of said annuity payment surplus as it deems equitable.

(b) The disability benefit surplus shall be determined as of the end of each year as the amount by which 1) accumulated contributions pursuant to s. 66.905 (2) (c), of all municipalities for all prior years and the current year, exceeds 2) the amounts required to provide, when added to the present values of the annuities to which the employes would be entitled under s. 66.906 (2), the present value of all benefits to participating employes granted disability annuities pursuant to s. 66.907 (2) as of the date of commencement of such disability annuities. Amounts required to provide disability annuities terminated pursuant to s. 66.907 (4) shall be excluded from the termination of the disability surplus. Whenever the disability benefit surplus or deficiency exceeds 100% of the average annual requirements under 2) during the 3 preceding calendar

years, the contribution rates for disability benefits shall be revised in such manner as the board deems necessary to reduce such surplus or deficiency.

(c) The expense surplus shall be determined as of the end of each year as the amount by which 1. accumulated contributions for expense purposes of all municipalities for all prior years and the current year, exceeds 2. the amounts required to pay the expenses of the fund. The expense surplus or deficiency shall be considered in the determination of municipality contribution rates for expense purposes as provided in s. 66.905 (2) (e).

(2) Reserves shall be established for the purposes and in the manner described below:

(a) Separate reserves for annuities granted equal to the present value as of the date of commencement of all retirement, disability and beneficiary annuities previously granted; plus interest on the mean amount of such reserve during each calendar year, computed at the prescribed rate or the effective rate, whichever is greater; reduced by the aggregate amount of annuity payments and death benefits paid with respect to such annuities; and reduced by the present value at the date of termination of all annuities terminated in accordance with s. 66.906 (4) (a) or 66.907 (2) (e); and reduced by the amount by which the present value as of the date of commencement of all disability annuities which were terminated in accordance with s. 66.907 (4) exceeds the amount reimbursed. As of any January 1 on which the surplus with respect to disability annuities granted exceeds 5% of the reserve for such annuities, such excess shall be added to the disability benefit surplus and deducted from the reserve for disability annuities granted.

(b) A reserve for investment losses shall be established in such amounts as the board from time to time determines from the interest income and profits on investments. For purposes of determining the interest income in any year, investments shall be carried at a book value such that the yield to maturity will remain uniform. No adjustments in the book value of investments shall be made on account of fluctuations in current market prices.

(c) The board may transfer the balance in the death surplus account which was eliminated by chapter 55, laws of 1955, to any fund account now existing or hereafter created. The board may create such reserves as it deems advisable.

(3) All investment expenses shall be charged to income resulting from interest and profits on investments.

History: 1961 c. 281; 1963 c. 268; 1965 c. 33, 251; 1967 c. 110.

66.917 Authorizations. (1) Each participating municipality shall be:

(a) Authorized and directed to deduct all normal and additional contributions from each payment of 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 deducted from earnings, the corresponding municipality contribution out of the general fund or any special fund from which the earnings were paid, except as provided in s. 66.905 (8).

(1a) Whenever any participating municipality shall fail to pay to the board any of the amounts specified in sub. (1), the board may authorize the executive director to certify such amount or the estimated amount thereof to the department of administration which shall withhold such amount or estimated amount from the next apportionment or apportionments of state aids or taxes of any kind payable to such participating municipality and shall pay the amount so withheld to the fund. When the exact amount due is determined and the fund shall have received a sum in excess of such amount the fund shall pay such excess amount to the participating municipality from whose aid such excess was withheld.

(1b) If any participating municipality shall fail to transmit to the fund any report which it is required to submit thereto by law or by any rule or regulation established pursuant thereto for 30 days after the date when such report is due, the executive director shall cause such report to be prepared and furnished to the fund. Thereupon the fund shall submit to said participating municipality a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same. Duplicates of such statement shall be filed in the office of the department of administration. Within 60 days after the receipt of the above statement by the participating municipality such statement shall be audited as other claims against the municipality are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.515 (1) (t). In default of payment by the participating municipality, the amount specified in the aforesaid statement shall become a special charge

against the participating municipality and shall be included in the next certification of state taxes and charges and shall be collected, with interest at the rate of 10% per annum from the date such statement was submitted to the participating municipality, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.515 (1) (t).

(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 ss. 66.90 to 66.918 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 ss. 66.90 to 66.918 from the payments of earnings by the employing municipality.

(3) Payment of earnings less the amounts of contributions provided in ss. 66.90 to 66.918 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.

History: 1961 c. 281; 1965 c. 433 s. 121; 1967 c. 291 s. 14.

66.918 Assignments. (1) (a) None of the moneys mentioned in ss. 66.90 to 66.918 shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process. An annuitant may in writing, however, direct the fund to deduct premiums for group insurance carried under s. 66.919 and to pay such moneys to the credit of s. 20.515 (2) (r), and may also in writing direct the fund to deduct premiums for supplementary medical coverage under federal social security and pay such moneys to the social security administration.

(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, beneficiary or participant through misrepresentation, fraud or error. Upon the request of the board any municipality shall withhold from any sum payable by such municipality to an annuitant, beneficiary or participant and remit to the board any amount which the board paid to such annuitant, beneficiary or participant 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.

(5) Whenever any annuitant shall receive any annuity payment while in the service of any municipality contrary to the provisions of s. 66.906 (4) or 66.907 (2) (f), it shall be the duty of such municipality to withhold and remit to the board a sum equal to the annuity paid erroneously to the extent of any sums payable by such municipality, and any amount not recovered by the fund from the municipality may be procured by the fund pursuant to s. 66.918 (1) (b) or by action brought against such annuitant or his estate.

(6) Any person entitled to an annuity may decline to accept all or any part of such annuity by a waiver signed and filed with the board which irrevocably abandons all claims or rights to the sums waived as of a specified date. Such waiver may be revoked in writing filed with the board at any time, to be effective as of the beginning of the month following the receipt by the board, but such revocation of the waiver shall not reinstate any right to the sums waived.

(7) (a) Any person who has total accumulated credits in the Wisconsin retirement fund aggregating less than $200 as of the end of the calendar year in which he ceased to be a participating employe thereunder and has not dealt therewith for a period of 7 years thereafter by requesting in writing that the account be continued, or by furnishing his latest address to the fund, or otherwise has asserted any claim to such moneys shall be presumed, unless it be shown to the contrary, to have died intestate, without heirs, or to have abandoned such moneys.

(b) That portion of said moneys which consists of the contributions of the individual and interest thereon to the beginning of the year in which he ceased to be a participating

employe shall escheat and be credited to the common school fund and become a part thereof subject to subs. (3) and (4).

(c) The accumulated prior service credits and municipality credits including interest to the beginning of the year in which the individual ceased to be a participating employe shall be credited to the obligation accounts of the municipality or municipalities which provided such credits.

(d) Annually the executive director of the Wisconsin retirement fund shall certify to the state treasurer the names of persons having accounts in the Wisconsin retirement fund described in par. (a), the amount thereof and the portion of such account which represents the contributions of the individual and interest thereon. Upon the receipt of such certification the state treasurer shall forthwith publish a notice in the official state paper stating the names of such persons, name of last employing municipality, the respective amounts of their credit representing the contributions of the individual and interest thereon to the beginning of the year in which the person ceased to be a participating employe, the fact that said amounts have escheated to the common school fund and the fact that said amounts will be paid to the respective owners thereof or their respective heirs or legatees, without additional interest, on proof of such ownership, if applied for within 5 years from the date of publication, except that if any such person is a minor or a person adjudged insane or mentally incompetent the period of limitation shall be extended to one year after attaining majority or removal of the disability, whichever the case may be.

(e) Whenever, within said period of 5 years (except as set forth in par. (d)), any person files a claim therefor and furnishes proof of ownership of any of the aforesaid amounts which have escheated to the common school fund sufficient to satisfy the state treasurer, secretary of state and attorney general of the right of said claimant to the aforesaid amounts, such claim shall be paid upon the written approval of said 3 state officers.

History: 1965 c. 33, 433, 470, 625 s. 32; 1967 c. 291 s. 14.

Payments made under the fund may not be assigned prior to accrual, but once recognized they are subject to legal process in relation to transactions occurring after recognition. Ponath v. Hedrick, 22 W (2d) 382, 126 NW (2d) 28.

It was not error to refuse to quash a writ of certiorari which named the retirement fund as respondent rather than the trustees of the fund on the ground that this was a misnomer rather than a misdirection. See annotation of this case under 252.04. State ex rel. Casper v. Board of Trustees, 30 W (2d) 170, 140 NW (2d) 301.

66.9185 Fund integration. The executive director of the Wisconsin retirement fund shall take such action as is necessary to complete the integration of the Wisconsin retirement fund with the federal old-age and survivors insurance system as contemplated by s. 66.99 (3) as of the earliest date permitted under federal regulations as defined by s. 66.99 (1) (b). Said executive director shall also deduct from the respective accounts of participants in the Wisconsin retirement fund, and certify to the department of administration, the amounts to be transferred from the Wisconsin retirement fund to the public employes social security fund to provide for the contributions which will thereby become payable to the federal old-age and survivors insurance system as employer and employe contributions for such employes as the result of said integration. If payment of said contributions is not made to the federal old-age and survivors insurance system before any interest or penalty accrues thereon under federal regulation as defined in s. 66.99 (1) (b), the executive director of the Wisconsin retirement fund shall pay such interest or penalty and charge the same to the interest income of the Wisconsin retirement fund.

History: 1965 c. 163.

66.919 Group insurance board. (1) PURPOSE. A group life and health insurance fund is created for the purpose of providing state employes with group life insurance in amounts based upon their annual earnings and group health insurance for employes and their dependents under plans contributed to and conducted by the state through a group insurance board to improve morale and efficiency in state service.

(2) COMPOSITION AND ORGANIZATION. The group insurance board shall consist of the governor or his designated representative, the attorney general or his designated representative, the commissioner of insurance, the director of personnel and 3 members appointed by the governor. One of the appointees shall be an insured member of the Wisconsin state employe's association, and one shall be an insured state-employed member of the state teachers retirement system. The first appointments shall expire on July 1, 1959, after which date appointments shall be made for terms of 2 years each. The governor shall be the president of said board and a secretary shall be chosen by the board.

(3) POWERS AND DUTIES. (a) The board is empowered to take any action deemed advisable and not specifically prohibited, or delegated to some other governmental agency,

to carry out the purpose of this section, including, without limitation because of enumeration, rules and actions relating to:

1. Eligibility of active and retired employes to participate, and giving an option not to participate and to withdraw.

2. The payments by employes for such insurance.

3. The time that changes in coverage and payments shall take effect.

4. The terms and conditions of the insurance contract or contracts.

5. The date such program shall be effective.

6. The establishment of standard beneficiary priorities if the employe has not designated a beneficiary to receive the life insurance at his death, or in the event that such designated beneficiary does not survive the employe, and the procedure for filing different beneficiary designations.

7. The kind, amount, and conditions pertaining to benefits available to employes as a result of dividends or premium refunds.

8. The time that coverage shall be effective.

(b) The board shall on behalf of the state enter into a contract or contracts with one or more corporations authorized to transact insurance business in this state or corporations created under ch. 148 or s. 182.032. The group life and health insurance contract or contracts may be of the type which requires payment of premiums which are known to be sufficient to pay losses, costs, benefits and expenses incurred in its operation and which may permit dividends or premium credits to be applied as provided in sub. (30), or of a type which requires lower initial premiums with the probability of greatly reduced or nonexistent dividends or rate credits.

(4) DEFINITIONS. As used in this section, except where the context clearly indicates otherwise, the following words and phrases shall have the following meanings respectively:

(a) "Employe" means any person who meets all of the following conditions:

1. Whose name appears on a regular payroll of the state or any board, commission or other unit controlled by the state, or who is a national guard technician, and who:

a. Receives earnings for personal services.

b. Is occupying a state position under the Wisconsin retirement fund, the state teachers' retirement system or the conservation warden pension fund and is currently included under such retirement plan in such position or is a member or employe of the legislature, governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction, justices of the supreme court, circuit judge, chief clerk or sergeant at arms of the senate or assembly. Persons occupying a state position under the state teachers' retirement system shall not qualify until membership thereunder aggregates 6 months, unless previously a participating employe under the Wisconsin retirement fund.

2. The definition of employe shall not exclude any individual who, while insured for the group life or health insurance, is retired on an immediate annuity, or is retired on a disability annuity. In the case of group life insurance, however, except in case of disability annuity, such retired employe shall have been a state employe for at least 20 years or have attained age 65, or have attained age 60 and been mandatorily retired pursuant to s. 66.906 (1) (a).

a. For the purposes of this section the term retired employe shall include the surviving spouse of an employe who is currently covered by health insurance at the time of death of the employe, and the spouse shall have the same right of health insurance coverage as the deceased employe but without state contribution, under rules adopted by the board, but such inclusion and right as to a widow shall terminate upon her remarriage.

b. For the purposes of this section the term retired employe shall include the surviving spouse of a retired employe who is currently covered by health insurance at the time of death, and the spouse shall have the same right of health insurance coverage as the deceased retired employe but without state contribution, under rules adopted by the board.

3. No statutory provision shall be construed to exclude any person otherwise eligible under this section because such employe is not a full-time civil service employe.

4. Subsequent to the effective date of participation by the state or any municipality, no person who has attained age 65 at the time of becoming initially eligible under this section shall be included, but this provision does not exclude from participation in the state's group health and accident insurance plan any member of the legislature who has attained age 65.

5. For the purposes of this section "employe" includes the blind employes of the Wisconsin workshop for the blind under s. 47.06 as of the beginning of the calendar month following completion of 1,000 hours of service, but such employes shall not be eligible for cessation of premiums because of disability directly or indirectly attribu-

table to blindness. Any such employe may convert insurance coverage only once under the contract.

(c) "Immediate annuity" means an annuity or pension under the Wisconsin retirement fund or the state teachers retirement system or the conservation warden pension fund which begins to accrue not later than one month after termination of employment.

(d) "Disability annuity" means the same as prescribed in s. 23.14 (7), 42.242 (4), 42.245 (3), 42.49 (9), 66.191 or 66.907.

(e) "Earnings" means the total salary or wages paid to an employe by the state, or by the federal government with respect to national guard technicians, during the previous calendar year. If employment and compensation are not continuous during such period, the earnings shall be determined by rule. For persons covered initially the earnings shall be a projection on an annual basis of the compensation at the time of coverage, which shall continue until there is coverage during a calendar year.

(f) "Director" means the executive director of the Wisconsin retirement fund.

(g) "Board" means group insurance board.

(h) "Dependent" means the spouse of an employe, or an employe's unmarried child under 19 years of age if not a student, or under 23 years if a student as defined by board rule. "Child" includes an adopted child or stepchild who is dependent upon the insured for support and maintenance.

(5) GROUP INSURANCE PROVIDED. (a) Each employe shall be insured in accordance with this section, unless such employe executes and files with his employing office a written waiver of any such coverage, within the time limit fixed by rule, which shall be transmitted forthwith to the director, or the board may provide a different method of enrollment.

(b) Any employe who has filed a waiver pursuant to par. (a), or any employe whose insurance terminates pursuant to sub. (11) (a) by reason of filing such a waiver, shall not thereafter become insured unless prior to his attainment of age 50 and after at least one year has elapsed since the effective date of such waiver, he furnishes evidence of insurability satisfactory to the insurer, at his own expense. If such evidence is approved, such employe shall become insured from the date of such approval.

(6) AMOUNT OF LIFE INSURANCE. (a) Except as provided in par. (b) or (e), the amount of group life insurance of an employe shall be $1,000 of insurance for each $1,000 or part thereof of his earnings, but not in excess of any limitation of amount that may otherwise be provided by law.

(b) The amount of life insurance for any employe who is 65 years of age or over is the lesser of the following:

1. If he is then insured, the amount of insurance at the age of 65 as computed under par. (a) reduced by 25 per cent of said amount for each year commencing with his sixty-fifth birthday, with a maximum reduction of 75 per cent.

2. If he is 65 years of age or over when he first becomes insured, the amount as computed under par. (a) reduced by 25 per cent of said amount for each year commencing with his sixty-fifth birthday, with a maximum reduction of 75 per cent.

(c) The amount of life insurance of an employe who prior to age 65 retires on immediate annuity who has been a state employe for not less than 20 years or who has attained age 65 or has attained age 60 and been mandatorily retired pursuant to s. 66.906 (1) (a) shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(cc) The amount of insurance specified under par. (c) shall not be changed because such person again becomes an employe, but while so re-employed the person shall pay premiums pursuant to sub. (8) for such insurance which shall be in lieu of any other insurance provided hereunder.

(d) The amount of insurance of an employe who retires on disability annuity shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(dd) During a period of disability in which premiums are waived under the terms of the insurance contract the amount of insurance shall be the same as if he had not become disabled and his earnings had continued at the amount thereof at the time of becoming disabled, and the contract may provide that such insurance continues during the continuance of such disability even if the person ceases to be an employe.

(e) An insured employe who is still eligible may elect that the life insurance in effect during the previous year shall continue during the subsequent year. The right to so elect shall apply only where the previous year's employment was with the same employer as at the time of such election. Such election shall be made pursuant to rules established by the board. This paragraph is subject to the limitations of par. (b). This paragraph shall be in effect in any municipality which has acted pursuant to sub. (15) only after

the governing body has by resolution determined that such shall be effective in that municipality, and after a certified copy of such resolution has been filed with the board.

(7) HEALTH INSURANCE DEFINED; CONTRACTS. (a) As used in this section, "health insurance" means contractual arrangements with one or more third parties for the full or partial payment, which may include indemnity or service benefits or both, of the financial expense incurred as a result of the injury or illness of an insured state employe or insured annuitant or of an insured dependent of such person. Such expense may include hospitalization, surgery and medical care, as well as ancillary items or services. Contracts for payment of the foregoing, plus other related benefits which may be negotiated by the board, shall be made with corporations licensed to transact disability insurance under s. 201.04 (4), or with corporations organized under and whose contracts are issued in accordance with s. 148.03 or 182.032.

(b) The board by rule shall determine the possible coverage when there is or has been state employment by more than one member of a family.

(c) The board shall provide a plan or plans of standard health insurance coverage and may provide, under the contract or contracts, other coverages optional with each eligible employe and at his expense.

(7a) INTEGRATION OF STATE GROUP HEALTH INSURANCE WITH FEDERAL PLAN FOR AGED. It is the policy of the legislature that health insurance benefits under this section be integrated with benefits under federal plans for hospital and health care for the aged. The board is directed to integrate the state health insurance with federal plans for hospital and health care for the aged, and the board shall adopt appropriate rules which, notwithstanding any other provision of this section, may establish exclusions and limitations with respect to benefits and different rates for persons eligible under such federal plans for hospital and health care for the aged in recognition of the utilization by persons within the age limits eligible under the federal program. As part of such integration plan the board may out of premiums collected under this section pay premiums for the federal health insurance for persons covered under state health insurance. Such plan may include special provisions for spouses and other dependents covered under state health insurance where one spouse is eligible under federal plans for hospital and health care for the aged but the others are not eligible because of age or otherwise.

(8) PAYMENT OF PREMIUMS FOR LIFE INSURANCE. (a) There shall be withheld from the earnings payment of each insured employe under the age of 65 and from retirement benefits paid to annuitants under age 65 pursuant to par. (cc) the sum approved by the board, which shall not exceed 60 cents for each $1,000 of his group life insurance under this section, based upon the last amount of insurance in force during the month for which such earnings are paid. The equivalent premium may be fixed by the board if the annual compensation is paid in other than 12 monthly instalments. Such withholdings shall be remitted to the director by the respective boards, departments or other units in which such employes are employed and by the respective retirement systems for insured annuitants, in the manner and within the time limit fixed by rule. All money received by the director pursuant to this section shall be deposited with the state treasurer to the credit of s. 20.515 (2) (r).

(b) Beginning with the month in which an insured employe reaches his sixty-fifth birthday, no withholdings from his earnings shall be made under this subsection. Withholdings shall not be made from the earnings of an insured employe during a period of disability in which premiums are waived under the terms of the insurance contract.

(c) Beginning with the month in which an insured employe has attained age 65 and either is retired on an immediate annuity, or has 10 years' service pursuant to sub. (12a), or an insured employe is retired on a disability annuity, no further withholdings from his earnings or retirement benefits shall be made under this subsection and the cost of life insurance for such employe pursuant to sub. (6) shall be paid by the state, but the state shall not pay for any month prior to attaining age 65 for which a disability annuity is suspended or terminated, unless such disability still exists, in which event the state shall continue to pay the cost. The disability annuitant shall make contributions for any month for which earnings are paid by the state.

(cc) Except as provided under par. (c) any insured employe who is retired on an immediate annuity and who has been a state employe for not less than 20 years or who is age 60 and is mandatorily retired pursuant to s. 66.906 (1) (a) shall continue to be covered only if he directs the deductions authorized by s. 23.14 (12), 42.52 or 66.918 (1) (a) (if the annuity is sufficient) or makes direct payments to the insurer to continue insurance coverage.

(d) The state shall contribute toward the payment of premiums under this subsection an amount, which together with the employe's contribution, will equal the gross

monthly premium for such employe's insurance. Any contribution which may be required from the state shall be made in accordance with s. 20.865 (1) (d).

(e) The full amount of the premium shall be remitted to the insurance carrier or carriers substantially in accordance with s. 20.921.

(9) PAYMENT OF PREMIUMS FOR HEALTH INSURANCE. (a) There shall be withheld from the earnings payment of each insured employe and from the retirement benefit of each insured retired employe (if the annuity is sufficient) the amounts of premium and at the time fixed by the board. Such withholdings shall be remitted by the respective boards, departments or other units in which such employes are employed, and by the respective retirement systems from which insured annuitants are paid, in the manner and within the time limit fixed by rule.

(b) The state shall contribute toward the payment of premiums for health insurance under this subsection an amount equal to 50% of the gross premium for any insured employe, who is not an annuitant or who is not a retired employe qualifying for continued insurance coverage under the provisions of sub. (12a), and his dependents for the standard health insurance coverage determined by the board.

(c) An eligible employe under sub. (12) may provide for the continuance of his health insurance after retirement by authorizing the deduction of the full premium therefor from annuity payments. The board shall provide for the direct payment of premiums by the annuitant to the insurer if the premium to be withheld exceeds the annuity payment.

(10) PREMIUM DEDUCTIONS. For the insurance premium withholding purposes of this section an insured state employe on more than one state payroll or paid from more than one appropriation shall have premium deductions made only under that agency or appropriation from which he receives the greater portion of his earnings. For purposes of state contributions s. 20.904 shall be applicable.

(11) CANCELLATION AND TERMINATION OF LIFE OR HEALTH INSURANCE. (a) An insured employe may at any time cancel his life or health insurance by filing a waiver of such coverage with his employing office; similarly an insured retired employe may at any time cancel his life or health insurance by filing a waiver of such coverage with the office of his retirement system. Such waiver shall be transmitted forthwith to the director. Such waiver shall be effective and such insurance shall cease at the end of the calendar month which begins after the waiver is received by such office.

(b) The life and health insurance shall terminate as provided in the contract or contracts therefor, which contract or contracts shall also provide an option for an employe to convert insurance coverage upon termination of employment if covered by such insurance during the entire 6 months preceding termination or if covered by such insurance from the initial effective date established pursuant to subs. (15) (c) and (20) (c), respectively, to the date of termination, and provided that such employe has been employed by the same municipality for 6 months prior to termination.

(d) The board may provide for the continuance or suspension of insurance coverage during any month in which no earnings are received and during any leave of absence or period of disability as defined by the board.

(12) RETIRED EMPLOYES. To be eligible for continuance of insurance as a retired employe, an insured employe must (a) be entitled to a disability annuity or (b) be entitled to an immediate annuity and must meet all requirements for annuity including filing of application where necessary whether or not final administrative action has been taken. In the case of group life insurance, however, except in case of disability annuity, such retired employe shall have been a state employe for at least 20 years, or have attained age 65, or have attained age 60 and been mandatorily retired pursuant to s. 66.906 (1) (a).

(12a) WAIVER OF IMMEDIATE ANNUITY. The requirement for an immediate annuity shall be waived for any person attaining age 65 who has an aggregate of 10 year's service as specified in sub. (4) (a) 1.b. This shall also be in effect with respect to group life insurance for all persons who are annuitants on December 1, 1961, and who were insured under the group life insurance program at the time of retirement.

(13) ADMINISTRATION. The group insurance provided under this section shall be administered by the director in conformity with the rules prescribed by the board.

(14) EXTENSION OF COVERAGE. The board may by rule provide that persons who are otherwise eligible and who retire during the calendar year 1959 or subsequently may be eligible.

(15) MUNICIPAL EMPLOYES. (a) The board shall make the group life insurance provided pursuant to this section available to any municipality as defined in s. 66.901 (2) for

the purpose of providing the employes thereof with group life insurance in amounts based upon their annual earnings under a plan contributed to by such municipality, thereby improving morale and efficiency in the public service. The board shall have the option of providing such insurance under a separate contract. Any company authorized to sell life insurance in the state may provide such insurance.

(am) The board may by rule extend the coverage of group life insurance to municipal employes who are participants in a pension or retirement plan underwritten by a private insurance company.

(b) All provisions of this section pertaining to the state and to state employes with respect to group life insurance shall be applicable to such municipalities as act to be included hereunder and to the employes thereof. Service for the state and for each municipality shall be treated independently, including the 20-year requirements in sub. (12), except that an aggregate of such service under the state teachers' retirement system shall meet the requirement and except that service for a predecessor municipality shall be treated as service for the participating municipality.

(c) The governing body of any municipality may elect to provide group life insurance pursuant to this section for the employes thereof by the adoption of a resolution in the form prescribed by the board. A certified copy of such resolution shall be filed with the director and if received on or before November 15 in any year shall be effective as of the beginning of the ensuing calendar year.

(cc) Whenever any school district is created, the territory of which includes more than one-half of the last assessed valuation of either a school district which was a municipality included under this section at the time of such creation or a city which at the time of such creation was a municipality included under this section in which the schools operated under the city school plan, then in either case the school district so created shall automatically be included under this section from its inception in accordance with rules adopted by the board.

(d) The definition of "employe" shall include:

1. The personnel of any participating municipality as defined in s. 66.901 (3) who meets the requirements of sub. (4) other than state employment, or who are included under a retirement plan pursuant to s. 61.65 or 62.13 (9) or (10).

2. In cities of the first class and counties having a population of 500,000 or more any person included under a retirement system for such city or county whose current employment or official status has continued for 6 months.

(e) Each municipality shall pay the employer cost for its personnel pursuant to sub. (8) (d), and may pay any part or all of the premium required to be paid by any employe pursuant to sub. (8) (a). If a municipality elects to pay the entire premium, it shall notify the board in writing of the month in which such election shall be in effect. Notwithstanding sub. (5) (b), a waiver of insurance filed by any employe of such municipality shall be revoked and such employe shall be insured commencing on the first day of the month in which such municipal election becomes effective or on the first day of the month next following receipt of notice by the board, whichever is later. The board shall determine the method of administration including the procedure for the collection of premiums and municipality costs. The board shall provide for pooling the employer costs which shall be determined separately for all employes covered under this subsection.

(f) A resolution adopted pursuant to par. (c) shall be in effect only if the board determines that 75 per cent of the eligible personnel in that municipality shall be covered at the time such resolution is effective. If a resolution is nullified by insufficient participation another resolution may be submitted after a lapse of 6 months from the previous filing.

(g) The terms "immediate annuity" and "disability annuity" shall also include any such annuity provided under a retirement system in that municipality as determined by the board.

(h) The governing body of any municipality may repeal any resolution enacted pursuant to par. (c), to be effective at the end of the calendar year if such rescinding resolution is received by the board 90 days prior to the end of the calendar year, otherwise at the end of the next calendar year.

(i) If any covered employe enters the employment of a different municipality providing insurance hereunder, or of the state, and there is no gap between employments, then coverage shall be continuous and sub. (11) (b) pertaining to conversion of insurance shall not be applicable except if a waiver is filed.

(16) PAYMENTS EXEMPT FROM PROCESS. No payment of insurance provided under this section shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process.

(21) COVERAGE FOR NEW EMPLOYES. In addition to coverage subsequently provided any person who enters employment in which incumbents are eligible for health insurance under this section and who meets all the requirements of sub. (4) (a) other than the completion of the qualifying period shall be eligible when enrolled pursuant to rule for such health insurance until the end of such qualifying period, but until the end of the qualifying period the full cost of such coverage shall be paid by such person.

(25) CERTIFICATION OF AMOUNT. (a) Whenever any municipality fails to remit within the period fixed by rules promulgated by the board any sum payable pursuant to this section or any interest or minimum fee due under the rules the director shall certify such amount or the estimated amount thereof to the director of finance and such shall be included in the next apportionment of state special charges to local units of government and such shall be credited to the board. When the exact amount due is determined and the board has received from any municipality a sum in excess of such amount, the board shall pay such excess amount to the municipality.

(b) If any municipality fails to transmit any report required by this section or by rule established pursuant thereto within 30 days after the date prescribed therefor, the director shall cause such report to be prepared and furnished. Thereupon the director shall submit to said municipality a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same, and shall file a certified copy of such statement in the office of the director of finance. Within 60 days after the receipt of the above statement by the municipality such statement shall be audited as other claims against the municipality are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.515 (1) (a). In default of payment by the municipality, the amount specified in the aforesaid statement shall become a special charge against the municipality and shall be included in the next apportionment of state special charges and shall be collected, with interest at the rate of 10% per annum from the date such statement was submitted to the municipality, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.515 (1) (a).

(30) DIVIDEND DISTRIBUTION. The group insurance board prior to the close of each fiscal year, shall apportion all dividends, premium credits or other moneys becoming available under the terms of the group life and health insurance contracts, first to be deposited to the general fund to reimburse such fund for the group life and health insurance administrative expenses during the preceding fiscal year, and second any excess may be deposited to the group life and health insurance fund to be applied to the reduction of premium payments in the following contract year, or to establish reserves to stabilize the costs in subsequent years, or to purchase additional insurance to be in effect during the following contract year.

History: 1961 c. 112, 135, 191 s. 109; 1961 c. 275, 320, 405, 461, 621, 630; 1963 c. 333, 431; 1965 c. 163, 247, 250, 251, 323, 433 s. 121; 1965 c. 491, 513; 1967 c. 43, 78, 208, 291 s. 14.

See note to 66.902, citing 55 Atty. Gen. 207.

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 shall 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 director of the planning function in the department of resource development for assistance in carrying out the purpose of this subsection. He 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.

66.93 Sites for veterans' memorial halls. Any city, town or village may donate to any organization specified in section 70.11 (9) land upon which is to be erected a memorial hall to contain the memorial tablet specified in said section.

66.94 Metropolitan transit authority. (1) DEFINITIONS. The following terms when used in this section, unless a different meaning clearly appears from the context, shall have the following meanings:

(a) "Authority" means any metropolitan transit authority established pursuant to this section.

(b) "Board" means the metropolitan transit board.

(c) "Transportation system" means all land, shops, structures, equipment, property, franchises and rights of whatever nature required for transportation of passengers for hire, freight and express, except all transportation facilities extending beyond the boundaries of the metropolitan district, and except all express and freight operations not operated in combination with transportation of passengers, including, however, without limitation, street railways, elevated railroads, subways, underground railroads, motor vehicles, trackless trolley busses, motor busses, and any combination thereof, or any other form of mass transportation operation.

(d) "Metropolitan district" or "district" embraces all the territory in any county having a population of 125,000 or more and in those cities, villages and towns located in counties immediately adjacent thereto having a population of less than 125,000, through or into which a transportation system extends from such county.

(e) "Bonds" shall mean any bonds, interim certificates, certificates of indebtedness, equipment obligations, notes, debentures or other obligations of the authority, issued pursuant to this section.

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

(g) "Contract" shall mean any agreement of the authority whether contained in a resolution, trust indenture, lease, bond or other instrument.

(h) "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 judgments, mortgages or otherwise.

(i) "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 the function of the transit board, or any assignee or assignees of 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.

(j) "Municipalities" means cities, villages and towns.

(2) CREATION OF THE AUTHORITY. There is hereby authorized to be created in each county having a population of 125,000 or more a political subdivision, body politic and corporate of the state, under the name of "Metropolitan Transit Authority" which shall exercise the powers conferred by this section within the metropolitan district of which such county is a part.

(3) ORIGINAL EXERCISE OF POWERS. The authority shall not exercise any of the powers hereby granted until both of the following have occurred:

(a) This section is adopted by the electors of one or more cities, villages and towns having a population in the aggregate of more than 100,000 within the metropolitan district; and

(b) The legislative body of the municipality in such district then having more than 50 per cent of public transportation routes, computed upon a mileage basis, enacts an ordinance that accepts the authority for such municipality and designates the date when such authority shall commence to exercise its powers granted under this section. Repeal of that ordinance, subsequent to the exercise by the authority of such powers, shall not affect the continuation of the authority's operations or the exercise of its powers.

(4) MANNER OF ADOPTION. This section may be adopted by any city, village or town within the metropolitan district in the following manner: The governing body of any municipality, by ordinance passed at least 30 days prior to submission of the question, may direct that the question of the adoption of this section be submitted to the electors therein at any general, special, judicial or local election. The clerk of such municipality or the election commission of any city of the first class shall thereupon submit the question to popular vote. Public notice of the election shall be given in the same manner as in case of a regular municipal election except that such notice shall be published or posted at least 20 days prior to the election. If a majority of those voting on the question vote in the affirmative thereon, this section shall be adopted in such municipality. The proposition on the ballot to be used at such election shall be in substantially the following form:

Shall section 66.94 of the Wisconsin statutes which creates a metropolitan transit authority for ownership and operation of a public mass transportation system in the metropolitan district be adopted?

YES ☐ NO ☐

(5) LEGAL STATUS. (a) *Actions, seal, office.* The authority may sue and be sued in its corporate name. It may adopt a corporate seal and change the same at pleasure. The

principal office of the authority shall be located within the metropolitan district.

(b) *Exempt from taxation.* The authority, its property (real or personal), franchises and income and the bonds, certificates and other obligations issued by it, and the interest thereon, shall be exempt from all ad valorem and income taxes by the state, any county, municipality, public corporation or other political subdivision or agency of the state.

(c) *Tax equivalent.* In lieu of the property taxes levied under chapter 76, and in lieu of the income taxes levied under chapter 71 which, but for the provisions of paragraph (b), would be due and payable as the state's share of such property and income taxes, there shall be paid to the state treasurer, as a tax equivalent but not in excess of the state's current share of said property and income taxes, the net revenues of the next preceding year, after the payment of (1) all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system; (2) interest on and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority in connection with the issuance of bonds or certificates; (3) all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights-of-way not financed through the issuance of bonds or certificates under subsection (15); and (4) any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways. Deficiencies in any annual tax equivalent shall not be cumulative.

(6) MEMBERS OF THE BOARD. The governing and administrative body of the authority shall be a board consisting of 7 members to be known as the metropolitan transit board. Members of the board must live within the metropolitan district. They shall be men of recognized business ability. No member of the board or employe of the authority shall hold any other office or employment under the federal, state or any county or any municipal government except as honorary office without compensation or an office in the military service. No member of the board shall hold any other office in or be employed by the authority. No member of the board or employe of the authority shall have any private financial interest or profit directly or indirectly in any contract, work or business of the authority nor in the sale of or lease of any property to or from the authority. No member of the board shall be paid any salary, fee or compensation for his services except that he shall be reimbursed for actual expenses incurred by him in the performance of his duties.

(7) SELECTION AND REPLACEMENT. (a) *Appointment and terms of office.* The members of the board shall hold office for terms of 7 years, except for the initial terms herein provided. Three members shall be appointed by the mayor and confirmed by the common council of the city having the largest population within the district. These appointments shall be for initial terms of 1, 3 and 7 years, respectively. Three members shall be appointed by the governor for initial terms of 2, 4 and 6 years, respectively. The 6 members so appointed will nominate the seventh member by majority vote for an initial term of 5 years, and his appointment shall be approved and made by the governor. If no seventh member is nominated either by the original board within 60 days of its appointment, or by any subsequent board within 60 days after a vacancy occurs in the office of the seventh member, then the governor shall appoint the seventh member. At the expiration of initial terms, successors shall be appointed in the same manner for terms of 7 years. Five members shall constitute a quorum.

(b) *Successors, vacancies.* Successors to members shall be appointed in the same manner as their predecessors. In the event of a vacancy, a successor shall be appointed in like manner. In addition to death, resignation, legal incompetency or conviction of a felony, a member shall vacate his office by removing his permanent residence from the district.

(8) RESIGNATIONS AND REMOVALS. Any member may resign from his office to take effect when his successor has been appointed and is qualified. The appointing authority may remove any member of the board appointed by him in case of incompetency, neglect of duty or malfeasance in office. They may give him a copy of such charges and an opportunity to be heard publicly thereon in person or by counsel upon not less than 10 days' notice. Upon failure of a member to qualify within the time required or abandonment of his office or his removal from office, his office shall become vacant.

(9) GENERAL POWERS. The authority shall have power to acquire, construct or operate and manitain for public service a transportation system or systems or any part thereof in the district and the power to dispose of the same and to enter into agreement

for the operation of such system or parts thereof with others and all other powers necessary or convenient to accomplish the purposes of this section.

(10) POWER TO ACQUIRE EXISTING TRANSPORTATION FACILITIES. The authority may acquire by purchase, condemnation, lease, gift or otherwise, all or any part of the plant, equipment, rights and property, reserve funds, employes, pension or retirement funds, special funds, franchises, licenses, patents, permits, and papers, documents and records belonging to any person or public body operating a transportation system within the district, and to lease any municipality or privately owned facilities for operation and maintenance by the authority.

(11) POWER TO ACQUIRE AND DISPOSE OF PROPERTIES. The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise any other property and rights useful for its purposes, and to sell, lease, transfer or convey any property or rights when no longer useful, or to exchange the same for other property or rights which are useful for its purposes.

(12) JOINT USE OF PROPERTY. The authority shall have power to enter into agreements for the joint use by the authority and any railroad, person or public body owning or operating any transportation facilities either within or without the district of any property or rights of the authority or such railroad, person or public body operating any transportation facilities for any suitable purpose and for the establishment of through routes, joint fares and transfer of passengers.

(13) RIGHT OF EMINENT DOMAIN. (a) *As to what property.* The authority shall have the right of eminent domain to acquire any existing transportation facilities within the district and any private property or property devoted to any public use which is necessary for the purposes of the authority except such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The authority shall have the right where necessary to acquire by eminent domain the right to use jointly all such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The right of eminent domain shall be exercised in accordance with the procedure set out in chapter 32 or in accordance with any other applicable laws.

(14) POWER TO OPERATE LOCAL TRANSPORTATION FACILITIES. (a) *Use of public ways.* The authority shall have the right, but not exclusive of the public right, to use any public road, street or other public way in the district for interurban transportation of passengers, but shall not have the right to use any street or other public way in any municipality for local transportation of passengers within such municipality unless this section shall have been adopted by such municipality, and the governing body of such municipality shall have given its consent thereto by ordinance. The right to use any road, street or other public way, or to operate over any bridge, viaduct or elevated structures above and subways beneath the surface of any road, street or public ground, including approaches, entrances, sidings, stations and connections for the purpose of local transportation in any municipality adopting this section, shall be upon such terms as are determined by the municipality in which such rights of way or facilities are located, and shall be subject to such reasonable rules and regulations and the payment of such license fees as the grantor may by ordinance from time to time prescribe.

(b) *Right to existing service.* Nothing contained herein shall deprive any town, city or village of the transportation facility existing at the time of the effective date of this paragraph or the right to seek extensions thereof as contemplated by statutes.

(15) POWER TO BORROW MONEY. (a) *Purpose.* The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system or part thereof (including any cash funds of such system reserved to replace worn out or obsolete equipment and facilities), for acquiring necessary cash working funds or establishing reserve funds, for acquiring, constructing, reconstructing, extending or improving its transportation system or any part thereof and for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement or operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed the authority may, pursuant to ordinance adopted by the board, from time to time issue and dispose of interest-bearing revenue bonds or certificates and may also from time to time issue and dispose of such bonds or certificates to refund any bonds or certificates previously issued in accordance with the terms expressed therein.

(b) *Source of payment.* All such bonds shall be payable solely from the revenues or income to be derived from the operation of such transportation system.

(c) *Terms.* They may bear such date or dates, may mature at such time or times not exceeding 40 years from the date of issue, may bear interest at such rate not exceeding

5 per cent per annum payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants as may be provided in such ordinance.

(d) *Negotiability.* Notwithstanding the form thereof, in the absence of an express recital to the contrary on the face thereof, all such bonds shall be negotiable instruments.

(e) *Temporary financing.* Pending the preparation and execution of any such bonds temporary bonds may be issued with or without interest coupons as may be provided by ordinance.

(f) *Trust agreement; lien.* To secure the payment of any such bonds and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof and of any additional bonds payable from such revenue or income, as well as the use and application of the revenue or income to be derived from the transportation system, the authority may execute and deliver trust agreements but no lien upon any physical property of the authority shall be created thereby.

(g) *Remedy for breach.* A remedy for any breach of the terms of any such trust agreement by the authority may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted.

(h) *Public credit not pledged.* Under no circumstances shall any bonds of the authority become an indebtedness or obligation of the state or of any county, city, town, village, school district or other municipal corporation, nor shall any such bond become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid. For the purpose of debt limitation, the authority shall be considered a public utility.

(i) *Sale of securities.* Before any such bonds (excepting refunding bonds) are sold, the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids, by a class 2 notice, under ch. 985, published in the district, the last insertion to be at least 10 days before bids are required to be filed. All bids shall be sealed, filed and opened as provided by ordinance and the bonds shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received, such bonds may be sold at not less than par value, without further advertising, within 60 days after the bids are required to be filed pursuant to any advertisement.

(16) FINANCING OF EQUIPMENT. (a) *Purchase of equipment.* The authority shall have power to purchase equipment such as cars, trackless trolleys and motor busses, and may execute agreements, leases and equipment trust certificates in the form customarily used in such cases appropriate to effect such purchase and may dispose of such equipment trust certificates. All money required to be paid by the authority under the provisions of such agreements, leases and certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided in subsection (18). Payment for such equipment, or rentals therefor, may be made in instalments, and the deferred instalments may be evidenced by equipment trust certificates payable solely from such revenue or income, and it may be provided that title to such equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) *Security.* The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the state, as trustee for the benefit and security of such certificates and may direct the trustee to deliver the equipment to one or more designated officers of the authority and authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked on both sides thereof followed by the words "Owner and Lessor".

(c) *Provisions of agreements.* Such agreements, leases and certificates shall be authorized by ordinance of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the certificates from the revenue or income to be derived from the transportation system.

(d) *Related agreements to be consistent.* The covenants, conditions and provisions of the agreements, leases and certificates shall not conflict with any of the provisions of

any trust agreement securing the payment of bonds or certificates of the authority.

(17) RIGHT TO INVEST IN SECURITIES OF AUTHORITY. The state and all counties, cities, villages, incorporated towns and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or certificates issued pursuant to this section, but nothing contained in this subsection shall be construed as relieving any person from any duty of exercising reasonable care in selecting securities for purchase or investment.

(18) POWER OF AUTHORITY TO ACCEPT PUBLIC GRANTS AND LOANS. The authority shall have power to apply for and accept grants and loans from the federal government, the state or any municipality, or any agency or instrumentality thereof, to be used for any of the purposes of the authority and to enter into any agreement in relation to such grants or loans when such agreement does not conflict with any of the provisions of any trust agreements securing the payment of bonds or certificates of the authority.

(19) POWER OF AUTHORITY TO INVEST AND REINVEST FUNDS. The authority shall have power to invest and reinvest any funds held in reserve or sinking funds not required for immediate disbursement in bonds or notes of the United States, bonds of the state, or of any county or municipality in which the authority is engaged in the operation of its business, and, at not to exceed their par value or their call price, in bonds or certificates of the authority, and to sell these securities whenever the funds are needed for disbursements. Such investment or reinvestment of any funds shall not be in conflict with any provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(20) INSURANCE AND INDEMNITY CONTRACTS. The authority shall have power to procure and enter into contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board or of the authority in performance of the duties of his office or employment or any other insurable risk.

(21) POWER OF TAXATION DENIED TO AUTHORITY. The authority shall not have power to levy taxes for any purpose whatsoever.

(22) ORDINANCES, RULES AND REGULATIONS. The board shall have power to pass all ordinances and make all rules and regulations proper or necessary to regulate the use, operation and maintenance of its property and facilities, and to carry into effect the powers granted to the authority.

(23) ORGANIZATION OF BOARD. As soon as possible after the appointment of the initial members, the board shall organize for the transaction of business, select a chairman and a temporary secretary from its own number, and adopt by-laws, rules and regulations to govern its proceedings. The initial chairman and each of his successors shall be elected by the board from time to time for the term of his office as a member of the board or for the term of 3 years, whichever is shorter and shall be eligible for re-election.

(24) CONDUCT OF BOARD MEETINGS. Regular meetings of the board shall be held at least once in each calendar month, at a time and place fixed by the board. Five members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn a meeting to a definite date or sine die at its option. All action of the board shall be by ordinance or resolution and the affirmative vote of at least 4 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chairman of the board by signing the same, and such as he shall not approve he shall return to the board with his objections thereto in writing at the next regular meeting of the board. But in case the chairman shall fail so to return any ordinance or resolution, he shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chairman with his objections, it shall be reconsidered by the board, and if upon such reconsideration it is again passed by the affirmative vote of at least 5 members, it shall go into effect notwithstanding the veto of the chairman. All ordinances, resolutions and all proceedings of the authority and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as shall be kept or prepared by the board for use in negotiations, action or proceedings to which the authority is a party.

(25) SECRETARY AND TREASURER. The board shall appoint a secretary and a treasurer, who need not be members of the board, to hold office during the pleasure of the board, and fix their duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office. Before entering upon the duties of their respective offices they shall take and subscribe an official oath, and the treasurer shall execute an official bond with corporate sureties to be approved by the board. The bond shall be payable to the authority in whatever penal sum may be directed by the board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him according to law and the orders of the board. The board may, at any time, require a new bond from the treasurer in such penal sum as it may determine. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank wherein the treasurer has deposited funds if the bank has been approved by the board as a depository. The oaths of office and bond shall be filed in the principal office of the authority.

(26) MANNER OF HANDLING FUNDS. All funds shall be deposited in the name of the authority and shall be withdrawn only by check or draft signed in the manner as provided by the board. The board may designate any of its members or any employe to affix the signature of the chairman and another to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than $1,000. In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon, issued pursuant to this section, ceases to hold his office, his signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he had remained in office.

(27) APPOINTMENT OF A GENERAL MANAGER. The board shall appoint a general manager who shall be a man of recognized ability and experience in the operation of transportation systems to hold office during the pleasure of the board. The general manager shall have management of the properties and business of the authority and the employes thereof, subject to the general control of the board. He shall direct the enforcement of all ordinances, resolutions, rules and regulations of the board, and shall perform such other duties as may be prescribed from time to time by the board. The board may appoint a general attorney and a chief engineer, and shall provide for the appointment of such other officers, attorneys, engineers, consultants, agents and employes as may be necessary for the construction, extension, operation, maintenance and policing of its properties. It shall define their duties and may require bonds of them. The general manager, general attorney, chief engineer and all other officers provided for under this subsection shall be exempt from subscribing any oath of office. The compensation of all officers, attorneys, consultants, agents and employes shall be fixed by the board.

(28) SUPERVISION OF OFFICERS AND EMPLOYES. The board shall classify all the officers, positions and grades of regular employment required, excepting that of the general manager, secretary, treasurer, general attorney, and chief engineer, with reference to the duties thereof and the compensation fixed therefor, and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency. No discrimination shall be made in any appointment or promotion because of race, creed, color, or political or religious affiliation. No officer or employe shall be discharged or demoted except for cause which is detrimental to the service. Any officer or employe who is discharged or demoted may file a complaint in writing with the board within 10 days after notice of his discharge or demotion. If any employe is a member of a labor organization, the complaint may be filed by such organization for and in behalf of such employe. The board shall grant a hearing on such complaint within 30 days thereafter. The time and place of the hearing shall be fixed by the board and due notice thereof given to the complainant, the labor organization by or through which the complaint was filed and the general manager. The hearing shall be conducted by the board, or any member thereof or any officers' committee or employes' committee appointed by the board. The complainant may be represented by counsel. If the board finds, or approves a finding of the member or committee appointed, that the complainant has been unjustly discharged or demoted, he shall be restored to his office or position with back pay. The decision of the board shall be final and not subject to review. The board may abolish any office or reduce the force of employes for lack of work or lack of funds, but in so doing the officer or employe with the shortest service record in the class and grade to which he belongs shall be first released from service and shall be reinstated in order of seniority when additional force of employes is required.

(29) EMPLOYES. (a) *Collective bargaining.* The authority shall have the same rights, duties and obligations with respect to collective bargaining by and with its employes as do public utility corporations.

(b) *Employes of existing systems.* If the authority acquires any existing transportation system or part thereof, all of the employes in the operating and maintenance divisions of such system or part thereof and all other employes, except executive officers, shall be transferred to and appointed as employes of the authority, subject to all rights and benefits of this section, and such employes shall be given seniority credit in accordance with the records of their previous employer.

(c) *Retirement systems.* Members and beneficiaries of any pension or retirement system or other benefits established by such previous employer shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. There shall be established and maintained by the authority a sound pension and retirement system adequate to provide for all payments when due under such established system or as modified from time to time by ordinance of the board. For this purpose, both the board and the participating employes shall make such periodic payments to the established system as may be determined by such ordinance. The board, in lieu of social security payments, shall make payments into such established system at least equal in amount to the amount so required to be paid by private corporations. Provision shall be made by the board for all officers and employes of the authority appointed pursuant to this section to become, subject to reasonable rules and regulations, members or beneficaries of the pension or retirement system with uniform rights, privileges, obligations and status as to the class in which such officers and employes belong.

(30) ESTABLISHMENT OF FARES AND STANDARDS OF SERVICE. (a) *Powers of board.* The board shall, notwithstanding any law to the contrary, have exclusive authority and it shall be its duty to establish rates, fares and other charges, and to make all rules and regulations for the operation of the transportation system. The board shall also have the authority, subject to the jurisdiction of the public service commission as to the reasonableness and adequacy thereof, to determine and make effective standards of service, and to establish, change, extend, shorten or abandon routings all in accordance with the statutes in such cases made and provided subject to the provisions of any ordinance of any municipality granting rights to the authority.

(b) *Fares.* Rates, fares and other charges for transportation shall be so fixed that revenues shall at all times be sufficient in the aggregate for:

1. Payment of all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system;

2. Payment of interest and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority;

3. Payment of all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights of way not financed through the issuance of bonds or certificates under subsection (15); and

4. Any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways.

(31) CHARGES FOR GOVERNMENT TRANSPORTATION. The board may provide free transportation within any municipality in which they are employed for firemen when in uniform, and policemen when in uniform and when not in uniform and certified for special duty and for its employes when in uniform or upon presentation of identification, and may enter into agreements with the United States post office department for the transportation of mail and the payment of compensation in lieu of fares for the transportation of letter carriers when in uniform.

(32) MODERNIZATION FUND. It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct and modernize all portions of any transportation system acquired by the authority and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the municipalities served, and for safe, comfortable and convenient service. To that end the board shall establish a modernization fund which shall include, but is not limited to cash in renewal, equipment or depreciation funds which are part of transportation systems or part thereof acquired by the authority and any excess cash derived from the sale of revenue bonds or certificates. The moneys in the modernization fund shall be disbursed for the purpose of acquiring or constructing extensions and improvements and betterment of the system, to make replacements of property damaged or destroyed or in necessary cases where depreciation fund is insufficient, to purchase and cancel its revenue bonds and certificates prior to their maturity at a price not exceeding par, and to redeem and cancel its revenue bonds and certificates according to their terms. The board may make temporary loans from the modernization fund for use as initial working capital.

(33) DEPRECIATION POLICY. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs and replacements. The board from time to time shall make a determination of the relationship between the service condition of the properties of the authority and the then established depreciation rates and reserves and may make adjustments or modifications of such rates in such amounts as it may deem appropriate because of experience and estimated consumption of service life of road, plant and equipment.

(34) DAMAGE RESERVE FUND. (a) *Establishment of fund.* The board shall withdraw from the gross receipts of the authority and charge to operating expenses such an amount of money as in the opinion of the board shall be sufficient to provide for the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damage caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system. The board shall deposit such moneys in a fund to be known and designated as the damage reserve fund.

(b) *Use of fund.* The board shall use the moneys in the damage reserve fund to pay all expenses and costs arising from the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damages caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system.

(c) *Liability insurance.* The cost of obtaining and maintaining insurance against such contingencies shall be paid out of the moneys in the damage reserve fund. All moneys received from such insurance coverage or protection shall be paid into the damage reserve fund.

(d) *Workmen's compensation.* The authority and its employes shall be subject to chapter 102.

(35) CLAIMS AGAINST AUTHORITY FOR PERSONAL INJURIES, DEATHS OR PROPERTY DAMAGES. Civil actions to enforce claims against the authority for personal injuries, wrongful deaths or property damages may be commenced and prosecuted upon the same terms and conditions and in the same manner as such actions are commenced and prosecuted against street railway companies which are in private ownership.

(36) SPECIAL FUNDS. The authority may establish and create such other and additional special funds as may be found desirable by the board and in and by such ordinances may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may also by any such ordinances provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this section.

(37) PUBLIC BIDDING ON CONTRACTS. (a) *Exceptions.* All contracts for the sale of property of the value of more than $2,500 or for any concession in or lease of property of the authority for a term of more than one year shall be awarded to the highest responsible bidder, after advertising for bids by publishing a class 2 notice, under ch. 985. All construction contracts and contracts for supplies, materials, equipment and services, when the expense thereof will exceed $2,500, shall be let to the lowest responsible bidder, after advertising for bids, excepting (1) when by vote of at least 5 members of the board, it is determined that an emergency requires immediate delivery of supplies, materials or equipment or performance of services; (2) when repair parts, accessories, equipment or services are required for equipment or services previously furnished or contracted for; (3) when the nature of the services required is such that competitive bidding is not in the best interest of the public, including, without limiting the generality of the foregoing, the services of accountants, architects, attorneys, engineers, physicians, superintendents of construction, and others possessing a high degree of skill; (4) when services such as water, light, heat, power, telephone or telegraph are required. All contracts involving less than $2,500 shall be let by competitive bidding whenever possible, and in any event in a manner calculated to insure the best interests of the public.

(b) *Rejection of bids.* In determining the responsibility of any bidder, the board may take into account past dealings with the bidder, experience, adequacy of equipment, ability to complete performance within the time set, and other factors beside financial responsibility, but in no case shall any such contract be awarded to any other than the highest bidder (in case of sale, concession or lease) or the lowest bidder (in case of purchase or expenditure) unless authorized or approved by a vote of at least 5 members of

the board, and unless such action is accompanied by a statement in writing setting forth the reasons, which statement shall be kept on file in the principal office of the authority and open to public inspection.

(c) *Evasion, collusion.* Contracts shall not be split into parts involving expenditure of less than $2,500 for the purpose of avoiding the provisions of this section, and all such split contracts shall be void. If any collusion occurs among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed amount or to refrain from bidding or otherwise, the bids of such bidders shall be void. Each bidder shall accompany his bid with a sworn statement that he has not been a party to any such agreement.

(d) *Employes not to bid.* Members of the board, officers and employes of the authority, and their relatives within the fourth degree by the terms of the civil law, are forbidden to be interested directly or indirectly in any contract for construction or maintenance work or for the delivery of materials, supplies or equipment.

(e) *Readvertising.* The board shall have the right to reject all bids and to readvertise for bids. If after such readvertisement no responsible and satisfactory bid within the terms of the advertisement shall be received, the board may award such contract without competitive bidding, if it shall not be less advantageous to the authority than any valid bid received pursuant to advertisement.

(f) *Rules of the board.* The board shall adopt rules and regulations to carry into effect the provisions of this subsection.

(38) ADVERTISEMENT FOR BIDS. Advertisements for bids shall be published as a class 2 notice, under ch. 985, in the metropolitan district, the last insertion to be at least 10 days before the time for receiving bids. Such advertisement shall state the time and place for receiving and opening of bids, and by reference to plans and specifications on file at the time of the first publication, or in the advertisement itself, shall describe the character of the proposed contract in sufficient detail to fully advise prospective bidders of their obligations and to insure free and open competitive bidding. All bids in response to advertisements shall be sealed and shall be publicly opened by the board, and all bidders shall be entitled to be present in person or by representatives. Cash or a certified or satisfactory cashier's check, as a deposit of good faith, or a bid bond with satisfactory surety or sureties in a reasonable amount to be fixed by the board before advertising for bids, shall be required with the proposal of each bidder. Bond for faithful performance of the contract with surety satisfactory to the board and adequate insurance may be required by the board. The contract shall be awarded as promptly as possible after the opening of bids. All bids shall be placed on file open to public inspection. All bids shall be void if any disclosure of the terms of any bid in response to an advertisement is made or permitted to be made by the board before the time fixed for opening bids.

(39) ESTABLISHMENT OF FISCAL YEAR. The board shall establish a fiscal operating year. At least 30 days prior to the beginning of the first full fiscal year after creation of the authority, and annually thereafter, the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expense for the ensuing fiscal year. The tentative budget shall be considered by the board at a public meeting, held after publication in the district of a class 1 notice, under ch. 985, not less than 10 days prior to such meeting; subject to any revision and amendments as may be determined, it shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditures for operations and maintenance in excess of the budget shall be made during any fiscal year except by the affirmative vote of at least 5 members of the board. It shall not be necessary to include in the annual budget any statement of necessary expenditures for pensions or retirement annuities, for interest or principal payments on bonds, or for capital outlays, but the board shall provide for payment of same from appropriate funds.

(40) ANNUAL REPORT. As soon after the end of each fiscal year as may be expedient, the board shall print a detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the governor, the county clerks of the counties in which the authority is engaged in the operation of its business and the clerk of each municipality which has adopted this section or granted rights to the authority by ordinance. A separate copy of such report shall be mailed to the principal officer and the governing body of each such municipality.

(42) CONFLICT OF LAWS. In so far as any provision of this section is inconsistent with the provisions of any other law, the provisions of this section shall be controlling, except as provided in subsection (44).

(43) APPLICATION OF SECTION. This section shall be construed as constituting complete statutory authority for the creation of metropolitan transit authorities and the acquisition, ownership and operation of a transportation system by such authority and for the issuance of bonds as herein authorized, any other law relating to the matters herein contained to the contrary notwithstanding.

(44) PUBLIC UTILITY LABOR DISPUTES. Notwithstanding any provision of this section the authority shall be deemed an employer under chapter 111, subchapter III, and the authority shall be subject to the same laws as other similar organizations engaged in like activities, and any provision of this section in conflict with the provisions of this subsection is to the extent of such conflict superseded by the provisions of this subsection.

History: 1963 c. 158; 1965 c. 252; 1967 c. 26, 339.

66.941 Transit right of way authority. (1) AUTHORITY CREATED. There is created a transit right of way authority which is herein referred to as the "authority."

(2) STATUS. The authority hereby created is deemed a political subdivision, body politic and corporate entity of the state and its official name shall be the "Transit Right of Way Authority" which shall exercise only those powers conferred by this section.

(3) TRANSIT SYSTEM. The purpose of the authority is to hold title to parcels of land comprising a right of way which can be used for mass transit operations; however, the authority has no power to operate any mass transit system.

(4) ORIGINAL EXERCISE OF POWERS. The authority is vested with the following powers:

(a) To acquire, by purchase or otherwise, existing rights of way which have been used for mass transit purposes, in such instances where the operations of mass transit have either been terminated or abandoned after January 1, 1960, pursuant to order of a regulatory agency. The authority shall hold such right of way for mass transit use or for uses directly related thereto as determined by the members of the authority board or as provided for by an enactment of the legislature.

(b) The authority shall be operated through a board which shall meet from time to time as determined necessary by its chairman.

(c) The authority may cause to be made such plans for the use of any right of way which it acquires as it deems most appropriate and effective.

(d) The authority may acquire such right of way in any municipality or area within any county of the state if such right of way will have an ultimate use as a part of a continuous right of way for mass transit purposes.

(e) The authority may sue and be sued in its corporate name, and it may hold title to real estate or appurtenances with respect thereto. The authority may adopt a corporate seal and change the seal at pleasure. The principal office of said authority shall be located at the state capital.

(f) The authority may acquire property by condemnation pursuant to ch. 32, and to sell, lease, transfer or convey any property or rights when such property is not entirely useful to the purposes for which the authority functions. The authority may exchange property held by it for other property when it determines that such property will be useful for its objectives. When exercising the powers of condemnation the authority shall have the same power as that provided under s. 66.94 (13).

(g) The authority may grant easements or license agreements to all public utilities upon terms that are reasonable and just for the use of its property by such public utilities. If the authority and a public utility cannot agree upon the terms and conditions of such grants, either party may petition the public service commission for a final determination of such terms and conditions.

(5) POWER TO BORROW MONEY. The authority may borrow money for the purpose of acquiring any transit right of way and it may issue notes or bonds or other obligations of indebtedness in carrying out such powers. It may issue revenue bonds under s. 66.066.

(6) BOARD MEMBERS. The authority shall be administered by a board consisting of 9 members to be known as the transit right of way board, composed of the mayors of the cities of Milwaukee, Racine and Kenosha; the county executive of Milwaukee county, the chairman of the county boards of Racine and Kenosha counties; the director of the state department of resource development; and the chairman of the highway commission who shall serve only as long as they hold the office designated herein and his successor shall automatically become a member of the authority board. In addition to these members the governor shall appoint a citizen member whose ability and qualification shall be in keeping with the responsibilities of membership on the board. Such member shall serve for a period of 3 years from the date of his appointment and shall be eligible to

succeed himself. Within 30 days after July 10, 1963 the governor shall appoint the citizen member of the board and shall designate a chairman from among the members of the board and the chairman shall thereafter promptly call an initial meeting of the board for the purposes of its organization. No member of the board shall be paid any salary, fee or compensation for his services except that such member may be reimbursed for actual and necessary expenses incurred in the performance of his duties.

(7) HIGHWAY COMMISSION. The state highway commission is authorized to expend such sums out of its funds as it determines to be appropriate for the purchase of rights of way of abandoned interurban railway or railroad property and shall hold such property for future highways or access to highways. If any such acquired land is in excess of that needed for highway purposes, the highway commission may convey the same to the authority on the basis of its fair market value. The highway commission may cooperate with the transit right of way board in such manner as may be within its legal powers in order to carry out the purposes of this section.

(8) CONTRIBUTIONS BY GOVERNMENTAL SUBDIVISIONS. Any municipality through its local legislative body or county board is authorized to appropriate funds to the authority for the purpose of financially assisting the authority in the purchase of the rights of way. The expenditure of funds in such a manner is deemed a public purpose. Any governmental agency having made a contribution to the purchase of any right of way shall receive an appropriate allocation from the funds which are derived by the authority from the sale or other disposition of such right of way lands in consideration of its contribution.

(9) ACQUISITIONS OF RIGHTS OF WAY BY GOVERNMENTAL SUBDIVISIONS. Any municipality or county may purchase any part of a right of way of an abandoned interurban railway or railroad with its own public funds and may hold title to such lands in its own name. It may arrange with the authority to make such lands available to the authority if the right of way is to be used for mass transit purposes. If a municipality or county purchases any land that may be needed for future mass transit rights of way, such municipality or county shall first offer such lands for purchase to the authority prior to making any other disposition thereof.

(10) TRANSFER OF LANDS. If any person or corporate entity proposes to the authority that a mass transit system will be operated upon a part or all of the right of way held by the authority, the authority may sell or convey such right of way so held under such terms and conditions as may be satisfactory to the authority.

(11) TERMINATION OF AUTHORITY. The legislature may terminate the authority whenever it determines to do so and shall thereupon make provision for the transfer or disposition of any lands held by such authority.

History: 1963 c. 156.

Duties and authority of state highway commission under (7) discussed. 52 Atty. Gen. 374.

The function of the authority is to acquire and hold abandoned rights of way for possible use in the future and not to engage in the financing or constructing of a mass transportation system. 53 Atty. Gen. 141.

66.945 Creation, organization, powers and duties of regional planning commissions. (1) DEFINITIONS. For the purpose of this section "local governmental units" or "local units" includes cities, villages, towns and counties, and "governing body" means the town, village or county board or the legislative body of a city. "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the head of the planning function in the department of local affairs and development.

(2) CREATION OF REGIONAL PLANNING COMMISSIONS. A regional planning commission may be created by the governor, or such state agency or official as he may designate, upon petition in the form of a resolution by the governing body of a local governmental unit and the holding of a public hearing on such petition. If the petition shall be joined in by the governing bodies of all the local units in the proposed region, including the county board of any county, part or all of which is in the proposed region, the governor may dispense with the hearing. Notice of any public hearing shall be given by the governor by mail at least 10 days in advance to the clerk of each local unit in the proposed region. If the governor finds that there is a need for a regional planning commission, and if the governing bodies of local units within the proposed region which include over 50 per cent of the population and equalized assessed valuation of the region as determined by the last previous equalization of assessments, shall consent to the formation of such regional planning comission, the governor may create the regional planning commission by order and designate the area and boundaries of the commission's jurisdiction taking into

account the elements of homogeneity based upon, but not limited to, such considerations as topographic and geographic conformations, extent of urban development, the existence of special or acute agricultural, forestry, conservation or other rural problems, uniformity of social or economic interests and values, park and recreational needs, civil defense, or the existence of physical, social and economic problems of a regional character.

(3) COMPOSITION OF REGIONAL PLANNING COMMISSIONS. (a) The membership composition of a regional planning commission which includes a city of the first class shall be as follows:

1. One member appointed by the county board of each county, part or all of which is initially within the region or is later added.

2. Two members from each participating county shall be appointed by the governer. At least one such appointee shall be a person, selected from a list of 2 or more persons nominated by the county board, who has experience in local government in elective or appointive offices or who is professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance, engineering or recreation and natural resources development. The governor in making appointments hereunder shall give due weight to the place of residence of the appointees within the various counties encompassed by the region.

3. The secretary of the department of local affairs and development or his designee shall serve as an ex officio, nonvoting member of each regional planning commission organized pursuant to this section.

(b) For any region which does not include a city of the first class, the membership composition of a regional planning commission shall be in accordance with resolutions approved by the governing bodies of a majority of the local units in the region, and these units shall have in the aggregate at least half the population of the region. For the purposes of this determination a county, part or all of which is within the region, shall be counted as a local unit, but the population of an approving county shall not be counted. In the absence of the necessary approval by the local units, the membership composition of a commission shall be determined as follows:

1. For regions which include land in more than one county par. (a) shall apply.

2. For regions which include land in only one county the commission shall consist of 3 members appointed by the county board; and 3 members appointed by the governing body of each city in the region having a population of 20,000 or more (if there is no city of 20,000 or more the governor shall appoint one member from each city with a population of 5,000 or more within the region); and in addition 3 members shall be appointed at large by the governor. All governor appointees shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance or engineering.

(c) Terms of office for regional planning commission members shall be as follows:

1. If the composition of the commission is approved by local units under par. (b), the terms shall be as prescribed in the resolutions of approval.

2. For members of all other commissions the term is 6 years after the initial term. At the first meeting of the commission it shall be determined by lot which of the initial members shall have 2, 4 and 6-year terms, respectively, and each group shall be as nearly equal as may be.

(d) All regional planning commission members shall be electors of the state and reside within the region.

(4) COMPENSATION; EXPENSES. A per diem compensation may be paid members of regional planning commissions. This shall not affect in any way remuneration received by any state or local official who, in addition to his responsibilities and duties as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

(5) CHAIRMAN; RULES OF PROCEDURE; RECORDS. Each regional planning commission shall elect its own chairman and executive committee and shall establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. The commission may authorize the executive committee to act for it on all matters pursuant to rules adopted by it. The commission shall meet at least once each year. It shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(6) DIRECTOR AND EMPLOYES. The regional planning commission shall appoint a director and such employes as it deems necessary for its work and may hire such experts

and consultants for part-time or full-time service as may be necessary for the prosecution of its responsibilities.

(7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on all phases of the commission's program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

(8) FUNCTIONS, GENERAL AND SPECIAL. (a) The regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties; it may make plans for the physical, social and economic development of the region, and may adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region; it may publicize and advertise its purposes, objectives and findings, and may distribute reports thereon; it may provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a co-ordinating agency for programs and activities of such local units and agencies as they relate to its objectives. All public officials shall, upon request, furnish to the regional planning commission, within a reasonable time, such available information as it requires for its work. In general, the regional planning commission shall have all powers necessary to enable it to perform its functions and promote regional planning. The functions of the regional planning commission shall be solely advisory to the local governments and local government officials comprising the region.

(b) The regional planning commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region, and shall submit 2 copies of the report to the legislative reference bureau.

(9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for such physical development and may include, among other things without limitation because of enumeration, the general location, character and extent of main traffic arteries, bridges and viaducts; public places and areas; parks; parkways; recreational areas; sites for public buildings and structures; airports; waterways; routes for public transit; and the general location and extent of main and interceptor sewers, water conduits and other public utilities whether privately or publicly owned; areas for industrial, commercial, residential, agricultural or recreational development. The regional planning commission may amend, extend or add to the master plan or carry any part or subject matter into greater detail.

(10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be made with the general purpose of guiding and accomplishing a co-ordinated, adjusted and harmonious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. The regional planning commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may by resolution adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The resolution shall refer expressly to the maps, plats, charts, programs and descriptive and explanatory matter, and other matters intended by the regional planning commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the chairman of the regional planning commission and a copy of the plan or part thereof shall be certified to the legislative bodies of the local governmental units within the region. The purpose and effect of adoption of the master plan shall be solely to aid the regional planning commission and the local governments and local government officials comprising the region in the performance of their functions and duties.

(11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSION. The officer or public body of a local governmental unit within the region having final authority thereon shall refer to the regional planning commission, for its consideration and report the following matters: The location of or acquisition of land for any of the items or facilities which are included in the adopted regional master plan. Within 20 days after the matter is re-

ferred to the regional planning commission or such longer period as may be stipulated by the referring officer or public body, the commission shall report its recommendations to the referring officer or public body. The report and recommendations of the commission shall be advisory only. Local units and state agencies may authorize the regional planning commission with the consent of the commission to act for such unit or agency in approving, examining or reviewing plats, pursuant to ss. 236.10 (4) and 236.12 (2) (a).

(12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION; CONTRACTS. (a) Any local governmental unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.

(b) In addition to the other powers specified in this section a regional planning commission may enter into a contract with any local unit within the region under s. 66.30 to make studies and offer advice on:

1. Land use, thoroughfares, community facilities, and public improvements;
2. Encouragement of economic and other developments.

(13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. Aid, in any form, for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this section. The regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which such grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(14) BUDGET AND SERVICE CHARGES. (a) For the purpose of providing funds to meet the expenses of a regional planning commission, the commission shall annually on or before October 1 of each year prepare and approve a budget reflecting the cost of its operation and services to the local governmental units within the region. The amount of the budget charged to any local governmental unit shall be in the proportion of the equalized value for tax purposes of the land, buildings and other improvements thereon of such local governmental unit, within the region, to the total such equalized value within the region. The amount charged to a local governmental unit shall not exceed .003 per cent of such equalized value under its jurisdiction and within the region, unless the governing body of such unit expressly approves the amount in excess of such percentage. All tax or other revenues raised for a regional planning commission shall be forwarded by the treasurer of the local unit to the treasurer of the commission on written order of the treasurer of the commission.

(b) Where one-half or more of the land within a county is within a region, the chairman of the regional planning commission shall certify to the county clerk, prior to August 1 of each year, the proportionate amount of the budget charged to the county for the services of the regional planning commission. Unless the county board finds such charges unreasonable, and institutes the procedures set forth below for such a contingency, it shall take such necessary legislative action as to provide the funds called for in the certified statement.

(c) Where less than one-half of the land within a county is within a region, the chairman of the regional planning commission shall before August 1 of each year certify to the clerk of the local governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. Such clerk shall extend the amount shown in such statement as a charge on the tax roll under s. 144.07 (2).

(d) If any local governmental unit makes a finding by resolution within 20 days of the certification to its clerk that the charges of the regional planning commission are unreasonable, it may: 1. submit the issue to arbitration by 3 arbitrators, one to be chosen by the local governmental unit, one to be chosen by the regional planning commission and the third to be chosen by the first 2 arbitrators. If the arbitrators are unable to agree, the vote of 2 shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to the local governmental unit and the regional planning commission within 30 days of their appointment unless the time be extended by agreement of the commission and the local governmental unit. The decision shall be binding. Election to arbitrate shall be waiver of right to proceed by action. Two-thirds of the expenses of arbitration shall be paid by the party requesting arbitration and the balance by the other, or 2. if a local governmental unit does not elect to arbitrate, it may institute a proceeding for judicial review as provided in ch. 227, except that the place of appeal shall be the circuit court of a county within the region other than the county in which the local governmental unit seeking review is located.

(e) By agreement between the regional planning commission and a local governmental unit, special compensation to the commission for unique and special services provided to such local governmental unit may be arranged.

(f) The regional planning commission may accept from any local governmental unit supplies, the use of equipment, facilities and office space and the services of personnel as part or all of the financial support assessed against such local governmental unit.

(15) DISSOLUTION OF REGIONAL PLANNING COMMISSIONS. Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county board of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the commission has been paid and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made therefor, the governor shall issue a certificate of dissolution of the commission which shall thereupon cease to exist.

(16) WITHDRAWAL. Within 90 days of the issuance by the governor of an order creating a regional planning commission, any local unit of government within the boundaries of such region may withdraw from the jurisdiction of such commission by a two-thirds vote of the members-elect of the governing body after a public hearing. Notice thereof shall be given to the commission by registered mail not more than 3 nor less than 2 weeks prior thereto and by publication of a class 2 notice, under ch. 985. A local unit may withdraw from a regional planning commission at the end of any fiscal year by a two-thirds vote of the members-elect of the governing body taken at least 6 months prior to the effective date of such withdrawal. However, such unit shall be responsible for its allocated share of the contractual obligations of the regional planning commission continuing beyond the effective date of its withdrawal.

History: 1961 c. 104, 256; 1965 c. 167, 221, 252; 1967 c. 211 s. 21 (1).

Highway traffic surveys can be conducted by regional planning commissions. 52 Atty. Gen. 139.

66.95 Prohibiting operators from leaving keys in parked motor vehicles. The governing body of any city may by ordinance require every passenger motor vehicle to be equipped with a lock suitable to lock either the starting lever, throttle, steering apparatus, gear shift lever or ignition system; prohibit any person from permitting a motor vehicle in his custody from standing or remaining unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of said vehicle is locked and the key for such lock is removed from the vehicle; and provide forfeitures for such violations. The foregoing provisions shall not apply to motor vehicles operated by common carriers of passengers under ch. 194.

History: 1965 c. 249.

This section was passed as a crime deterrent, not to protect 3rd persons from the conduct of thieves. Causal negligence cannot be attributed to the owner who violates the ordinance. Meihost v. Meihost, 29 W (2d) 537, 139 NW (2d) 116.

66.99 Inclusion of public employes under social security. (1) As used in this section:

(a) "Public agency" means the state and any county, city, village, town, school district or other unit of government, or agency or instrumentality of one or more thereof which is eligible for inclusion under the federal old age and survivors insurance system.

(ab) With respect to members of the state teachers retirement system "public agency" means the state, except that for the purposes of sub. (6), and the applicable portions of subs. (7), (8) and (8a) "public agency" means the employer school district or other local unit of government.

(am) With respect to members of a retirement fund created under s. 119.24 "public agency" means the state, except that for purposes of sub. (6) and the applicable portions of subs. (7), (8) and (8a) "public agency" means a city of the first class.

(b) "Federal regulations" means the provisions of section 218 of Title II of the social security act enacted by the congress of the United States as amended by the 83rd congress, and applicable regulations adopted pursuant thereto, and applicable provisions of the U. S. internal revenue code.

(c) "Coverage group" has the meaning given that term by federal regulations.

(d) "Director" means the executive director of the Wisconsin retirement fund.

(2) Each public agency other than the state may determine to be included under the federal old age and survivors insurance system through the adoption of a resolution by the governing body thereof with respect to the coverage groups specified in such resolution, which shall also state the effective date of coverage.

(3) Every state employe and state officer while employed in any position which is not included under any retirement system established by statute is included under the agreement authorized by sub. (4) if eligible for inclusion, and all participating municipalities which have acted pursuant to s. 66.902 to be included under the Wisconsin re-

tirement funds are included when the participating employes thereof are eligible, and each city and village is pursuant to ss. 62.13 (9) (e) and (9a) and 61.65 (6) included under the agreement as to policemen, and each public agency affected by s. 66.902 (5) (b) is pursuant thereto included under the agreement as to the employes affected by such paragraph. This subsection is not applicable to services performed in any fireman's position.

(3a) Notwithstanding the provisions of subs. (2), (3) and (4) the persons included under any retirement system, or any coverage group therein permitted under federal law, may be included under the federal old-age and survivors insurance system pursuant to a referendum held in conformity with section 218 (d) (3) of the federal social security act and a certification by the governor pursuant thereto, and the governor is authorized to take any and all actions which may be required in connection therewith. In the case of each public agency other than the state, a referendum shall be conducted only upon, and in conformity with, a request submitted by the governing body thereof. The agreement with the secretary of health, education and welfare may be modified to cover any such coverage group.

(3b) For the purposes of sub. (3a) the members of the combined group of the state teachers retirement system constitute a coverage group. Members of the state teachers retirement system may be included under the federal old-age and survivors insurance system under sub. (3a) only in accordance with s. 42.241.

(3c) Effective April 1, 1966, with the exception of the exclusions provided by sub. (4a) the only exclusions covering positions not under a retirement system which shall be in effect under the state-federal agreement pursuant to action taken under sub. (2) shall be those exclusions which are mandatory under federal law. This provision shall not apply to any retirement system created by ch. 155 or 201, laws of 1937, as amended.

(3m) For the purposes of sub. (3a) the members of the combined group of a retirement fund created under s. 119.24 constitute a coverage group. Members of any such retirement fund may be included under the federal old-age and survivors insurance system under sub. (3a) only in accordance with s. 119.24 (3).

(3t) Effective July 1, 1966, all services performed by teachers in positions covered by the retirement systems pursuant to ss. 42.20 to 42.531 and 119.24, but who are ineligible to be members of such retirement system, shall be covered under the federal old age, survivors and disability insurance system if such coverage is not prohibited by federal law or regulation. This shall not affect the status of members of the separate group of either retirement system who became members of the separate group by reason of eligibility for a choice in 1957 pursuant to ss. 42.241 (4) and 119.24 (3) (d).

(3x) All persons included under the conservation warden pension fund are subject to this section.

(4) The director with the approval of the governor shall pursuant to sub. (3) or upon the submission to him of a certified copy of a resolution adopted by the governing body of any public agency in accordance with sub. (2), execute upon behalf of the state an agreement or modification of an agreement, with the secretary of health, education and welfare for the inclusion of a coverage group of the employes and officers of such public agency under the federal old-age and survivors insurance system established by federal regulations in conformity with such resolution or in conformity with sub. (3) and in conformity with federal regulations. The state and each public agency included under such agreement or modification thereof shall be bound by federal regulations, and by rules and regulations promulgated under sub. (11) including any regulation requiring payment of interest.

(4a) No student or member of a board or commission, except members of governing bodies, shall be included under such agreement when filling a position or office which does not normally require actual performance of duty for at least 600 hours in each year.

(5) Each public agency included under an agreement made pursuant to this section shall be liable for and shall make the contributions required of an employer under the federal insurance contributions act.

(6) Each public agency included under such an agreement shall withhold from the persons compensated by such public agency who are covered by such agreement the portion of such compensation equal in amount to the tax which would be required to be withheld under the federal insurance contributions act if such services constituted employment within the meaning of that act.

(7) The contributions required under subsection (5) and the amounts withheld under subsection (6) shall be remitted by each public agency in conformity with the provisions of federal regulations and the regulations promulgated under subsection (11). The state shall be liable for all such remittances due from public agencies in conformity with the

agreement provided for in subsection (4), and shall make payment of all sums which shall become due under subsection (7) and become delinquent.

(8) Whenever any public agency fails to remit within the period fixed by rules and regulations promulgated under sub. (11) any sum payable under sub. (7) or any interest or minimum fee due under rules and regulations the director shall certify such amount or the estimated amount thereof to the department of administration and such shall be included in the next apportionment of state special charges to local units of government. When the exact amount due is determined and the fund has received from any public agency a sum in excess of such amount, the fund shall pay such excess amount to the public agency.

(8a) If any public agency shall fail to transmit to the director any report which it is required to submit to him by law or by any rule or regulation established pursuant thereto for 30 days after the date such report is due, the director shall cause such report to be prepared and furnished to him. Thereupon the director shall submit to said public agency a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same. Duplicates of such statement shall be filed in the office of the department of administration. Within 60 days after the receipt of the above statement by the public agency such statement shall be audited as other claims against the public agency are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.515 (2) (t). In default of payment by the public agency, the amount specified in the aforesaid statement shall become a special charge against the public agency and shall be included in the next certification of state taxes and charges and shall be collected, with interest at the rate of 10% per annum from the date such statement was submitted to the public agency, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.515 (2) (t).

(9) All money received by the state pursuant to this section shall be deposited with the state treasurer in a separate fund which shall be designated the "public employes social security fund." All disbursements from the public employes social security fund shall be made by the state treasurer upon the warrant of the department of administration and the certification of the director.

(10) The director may refund any money paid into the public employes social security fund in error. To effect such a refund the director shall certify to the department of administration the name of each public agency entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.913, the department of administration shall draw its warrant for the amount and in favor of the public agency so certified, and the state treasurer shall pay the same and charge it to the public employes social security fund created by sub. (9).

(11) The director, with the approval of the governor, may promulgate such rules and regulations as may be necessary for the administration of this section.

History: 1961 c. 622; 1963 c. 6, 20, 343; 1965 c. 173, 433 s. 121; 1965 c. 489, 540; 1967 c. 92, 291 s. 14.

Members of Ashland county board should be reported for social security coverage since July 1, 1957 under resolution adopted by county board April 17, 1951, and 66.99 (4a) as amended by ch. 331, Laws 1957. 51 Atty. Gen. 172.