

SECTION 18. 78.03 (6) is amended by substituting "section 20.09 (5n)" for "subsection (3) of section 20.05".

SECTION 19. 114.01 (introductory paragraph) is renumbered 114.013 (introductory paragraph).

SECTION 19a. 218.01 (5) (b), as amended by chapter 219, laws of 1943, is amended by substituting "licensor" for "commission" in the first line.

SECTION 20. 366.19 (5), created by chapter 247, laws of 1943, is amended by substituting "subsection (3) of this section" for "subsection (4)".

SECTION 21. This act does not give effect to any mentioned bill which is never enacted. If any bill herein referred to fails, any section of this bill relating thereto is of no effect.

Approved July 27, 1943.

No. 432, S.]

[Published July 30, 1943.

### CHAPTER 553.

AN ACT to repel unintended repeals, reconcile conflicts, renumber for better location, correct references, correct errors, supply omissions, clarify language and eliminate duplications in various acts of the 1943 session of the legislature.

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

SECTION 1. This act does not give effect to any mentioned bill which is never enacted. If any bill herein referred to fails, any provision of this bill so far as it relates thereto is of no effect.

SECTION 1a. Section 14.42 (13a), created by Chapter 251, Laws of 1943, is amended by striking out in the first sentence the words "together with such payment".

SECTION 2. 20.036, created by section 1 of chapter 443, laws of 1943, is amended by substituting "post-war" for "veterans" in the reference to "the veterans rehabilitation trust fund".

SECTION 2a. 20.90 (1) of the statutes is created to read:

20.90 (1) All moneys in the Wisconsin municipal retirement fund are appropriated to the board of trustees which administers said fund, for the execution of its functions including, without

excluding because of enumeration, payment of expenses of operation, administration and investment and the payment of all kinds of annuities, death benefits and separation benefits provided for in section 66.90.

SECTION 2b. 25.17 (2a) of the statutes is created to read:

25.17 (2a) To have exclusive control of the investment and collection of the principal and interest of all moneys loaned or invested from the Wisconsin municipal retirement fund created by section 66.90.

SECTION 3. 40.07 (2), (4) and (4a), as amended by chapter 470, laws of 1943, are amended to read:

(40.07) (2) Except as provided in subsection (8) when a petition, signed by 100 electors in any common school district asking that the district officers be chosen at an election, or asking that a referendum election be had on a specified subject or item of business, shall be filed with the district clerk \* \* \* 30 days prior to the annual meeting *date*, the clerk shall incorporate, in his notice of the annual district meeting, a statement that such election (specifying the business or subject thereof) will be held *and shall within 3 days after filing of such petition publish notice of the filing of such petition in 4 public places in the school district or in a newspaper having general circulation in the district*; and that the polls will be open therefor from 3 p. m. to 8 p. m. of the annual meeting day; except that in counties having a population of 500,000 or more, the polls shall be open from 1 p. m. to 8 p. m. and except that in counties having a population of 40,000 or more and less than 500,000, the polls may be open from 1 p. m. to 8 p. m., on the day of the annual school meeting. Whenever such petition asking that the district officers shall be chosen at an election shall be filed as hereinbefore provided, such election shall be held annually thereafter, unless the annual meeting of the electors shall by resolution determine otherwise. If in such petition or in any separate petition a request is made for more than one polling place, the board shall provide polling places to the number requested, not exceeding the number of election precincts in the district.

(4) The election shall be by ballot, and suitable ballot boxes shall be provided. *The provisions of sections 11.54 to 11.68 shall apply to the operation of this section so far as applicable.* Except in counties having a population of 500,000 or more, the polls

shall be open from 1 p. m. to 8 p. m., and except that in counties having a population of 40,000 or more and less than 500,000, the polls may be open from 1 p. m. to 8 p. m. The time of opening and closing the polls and the place of holding the election shall be specified in the notice, but a failure to so specify the time and the place shall not invalidate the election.

(4a) In counties having a population of 40,000 or more, the board may establish such additional polling places for the election of board members as it may deem necessary. Whenever practical, such polling places shall be established in the building where the annual school meeting is held. In such counties, the board shall also provide for an official printed ballot for the election of board members upon which shall be printed only the name of each person who files with the district clerk a written declaration of his candidacy at least \* \* \* 20 days prior to the date of such election. \* \* \* *Such primary and regular election ballots shall be so arranged as to admit of any other person being voted for by the elector if he so desires, and if more than 2 candidates have filed for any school district office, the clerk shall have ballots printed and shall within 3 days after the last legal date for filing such candidacy, cause notice to be published as specified in subsection (2) which notice shall state that a primary election will be held at the district polling place 10 days preceding the date of the annual meeting, except if such day should be a legal holiday, the notice of such primary election shall be for the day preceding the holiday. Two copies of the results of the canvass of the vote of such primary election shall be made by the inspectors and signed by them. One copy, together with one registry of voters, shall be sealed in a ballot box to be retained for 60 days by an inspector of the election who was not a candidate, and the other shall be forwarded to the district clerk. The district clerk shall cause ballots to be prepared for the regular election on which shall appear the names of the 2 persons receiving the highest and next to the highest number of votes respectively in the primary.*

SECTION 4. The first sentence of 40.47 (6), as amended by Section 13 of chapter 275, laws of 1943, is amended to read:

(40.47) (6) (first sentence) The municipal clerk shall enter upon the next tax roll such sums as may be due for such tuition from his municipality and the amount so entered shall be collected when and as other taxes are collected \* \* \*:

SECTION 5. 45.35 (12), created by section 2 of chapter 443, laws of 1943, is amended by substituting "post-war" for "veterans" in the reference to "the veterans rehabilitation trust fund."

SECTION 6. The amendments made to 49.26 (4) by chapters 212 and 522 and 476, laws of 1943, all stand. In printing 49.26 (4) in the statutes all of the amendments shall be incorporated.

SECTION 7. 57.06 (4), created by chapter 312, laws of 1943, is reenacted.

SECTION 8. The first sentence of 61.41 (4) is amended by inserting "and 66.54" after the reference to "sections 62.20 and 62.21."

SECTION 9. The second sentence of 62.23 (14) is amended by inserting "66.54," after "62.21."

SECTION 10. The first sentence of 66.065 (2) and the second sentence of 66.065 (4) are amended by inserting "and 66.54" after the reference to "sections 62.20 and 62.21."

SECTION 11. 66.20 (12) (j) is amended by inserting "or 66.54" after "62.21" the first and third times that reference occurs.

SECTION 11a. 66.90 (17) (f) of the statutes is repealed.

SECTION 11b. 66.90 (18) (c) of the statutes is amended to read:

66.90 (18) (c) All investments shall be clearly marked to indicate ownership by the fund \* \* \*.

SECTION 11c. 66.90 (19) (a) of the statutes is amended to read:

66.90 (19) (a) All money received by the board shall immediately be deposited with the state treasurer for the account of the fund. All disbursements shall be made only upon \* \* \* certification of the executive director pursuant to authorization by the board as properly recorded in the official minute books of the meetings of the board, *except that disbursements for securities purchased and the payment of accrued interest thereon and for any other investments shall be made upon certification of the director of investments of the state annuity and investment board.* \* \* \*.

SECTION 12. 66.33 (3), as renumbered and amended by chapter 503, laws of 1943, is amended to read:

(69.33) (3) In cases of legitimation \* \* \*, the names and statistical particulars shall be entered as of the date of birth but as though the parents were married at that time. The question of legitimacy shall be answered in the affirmative.

SECTION 13. The amendment made to 71.02 (2) (d) by chapter 64, laws of 1943, and chapter 369, laws of 1943 are not repealed by chapter 549 (220-S), laws of 1943, or by each other. If Bill No. 220-S is enacted, all three amendments stand. If Bill No. 220-S does not become law, the amendments made by chapters 64 and 369 both stand.

SECTION 14. 71.19 (1), as amended by chapter 525, laws of 1943, is amended to read:

(71.19) (1) Annually, beginning July 1, 1939, out of the moneys collected for normal income taxes, there shall be set aside the amount of the appropriation made by section 20.09 (4). The amount of said appropriation shall be borne by the state, the counties, and the towns, cities and villages in the proportion that normal income taxes were distributed to the state and to each such instrumentality during the next preceding fiscal year. The pro rata share of said appropriation to be borne by the state and by each such instrumentality shall be set aside out of the first moneys collected for normal income taxes and distributable to the state and to each such instrumentality. The remainder of all normal income taxes collected, after setting aside that portion of the appropriation made by section 20.27 which is chargeable to the normal income tax, shall be divided as follows, to wit: Forty per cent to the state, 10 per cent to the county, and the balance to the town, city or village from which the income was derived as provided in section 71.18, except that when such balance in any calendar year exceeds \* \* \* 2 per cent of the equalized value of all taxable property in such town, city or village for the preceding year under section 70.61, such excess shall be paid to the county to be distributed and paid to all of the several towns, cities and villages of the county, according to the school population therein. If, subsequent to January 1, 1937, there shall be paid over to any town, city or village in any calendar year any amount in excess of \* \* \* 2 per cent of the equalized value of all taxable property therein for the preceding year, such excess payment shall be recoverable by the county. *The 2 per cent limitation above mentioned shall revert to one per*

*cent of the equalized value of all taxable property in such town, city or village for the preceding year under section 70.61 after the date upon which the second annual income tax payment is due said municipalities after the termination of the present war as proclaimed by the President or the Congress.*

SECTION 15. 72.75 (2) (a) and (b), as renumbered by chapter 490, laws of 1943, are amended by substituting "section" for "chapter"; and 72.75 (7) (d) as amended by chapter 369, laws of 1943 and as renumbered by chapter 490, laws of 1943, is amended by substituting "paragraph (b)" for "subsection (b) of this section."

SECTION 16. To harmonize the provisions of chapters 133 and 278, laws of 1943, relating to special assessments and the collection of taxes, and more clearly express the legislative intent, 74.03 (3) and 74.031 (4) are amended by substituting "sections 62.21 and 66.54" for "section 62.21"; 74.03 (7) (b), 74.03 (8) (c) and (g), 74.031 (9) and 74.031 (12) (c) are amended by substituting "section 62.20, 62.21 or 66.54" for "section 62.20 or 62.21"; and 74.03 (9) (h) and 74.031 (11) (h) are amended by substituting "sections 62.20, 62.21 and 66.54" for "sections 62.20 and 62.21."

SECTION 17. 78.04 (4) is amended to read:

(78.04) (4) (a) Every person, firm or corporation, not a wholesaler, who shall use any Class 1 motor fuel in this state or who has in his possession any Class 1 motor fuel (other than that contained in the ordinary fuel tank attached to a motor vehicle), upon which the said tax has not been paid by any wholesaler in this state, shall \* \* \* make returns, collections and payments on such motor fuel in the same manner as is provided for wholesalers.

(b) Every person, firm or corporation, not a wholesaler, who shall sell for use or use Class 2 motor fuel to propel motor vehicles upon the public highways (other than that which may have been brought into this state in the ordinary fuel tank attached to a motor vehicle) and in machinery and equipment in connection with the construction, repair and maintenance of the public highways upon which said tax has not been paid by any wholesaler shall on or before the twenty-fifth day of \* \* \* each month \* \* \*, make a return to the \* \* \* department, duly signed and sworn to, showing the amount of Class 2 motor fuel sold for

use, or used *during the preceding month*, to propel motor vehicles upon the public highways and in machinery and equipment in connection with the construction, repair and maintenance of the public highways and shall thereupon make payment of the tax herein provided, to the \* \* \* *department* in the same manner as is provided for wholesalers. If any person who shall sell for use, or use, Class 2 motor fuel to propel motor vehicles upon the public highways and in machinery and equipment in connection with the construction, repair and maintenance of the public highways shall be unable to produce a receipted invoice showing the name and address of the person from whom such Class 2 motor fuel was acquired, the date the same was acquired, the quantity thereof, and showing payment of the tax herein imposed with respect to such Class 2 motor fuel, it shall be presumed that no tax has been paid with respect to such Class 2 motor fuel.

SECTION 18. 78.08 (1), as renumbered and amended by chapter 456, laws of 1943, is amended to read:

(78.08) (1) Every person, firm or corporation, who purchases or obtains motor fuel outside of this state and operates any motor vehicle into this state upon the public highways of this state and transports motor fuel in the fuel tanks or tanks attached or unattached to said motor vehicle for the sole purpose of operating said vehicle, shall make and file returns in the same manner as is provided for wholesalers and shall pay the tax herein imposed on all of said motor fuel used within the state, except that this section shall not apply to any motor vehicle coming into the state with not to exceed 20 gallons of motor fuel in its tanks or with a motor fuel tank capacity not to exceed 20 gallons. Said returns shall show a description of the car, bus, truck or other motor vehicle; the license number and state in which issued; the engine or motor number; the capacity in gallons of the fuel tank attached to said motor vehicle; the average number of miles per gallon of said motor vehicle; the loading capacity of such motor vehicle; the point of origin of trip in neighboring state; the official or other route number of the Wisconsin public highway used by said motor vehicle; the name and address of the person from whom said motor fuel was last purchased or obtained outside of Wisconsin; the number of gallons in said fuel tank at the time of entering this state, and the number of miles traveled by said

motor vehicle in this state. Every person required by this section to make returns and pay the tax imposed by this chapter *and who has not registered with the state treasurer* shall register with the \* \* \* *department* \* \* \*. Applications for registration shall be upon forms prescribed by the \* \* \* *department*, shall be under oath and shall show the size, kind and number of motor vehicles used by said applicant; the engine and license number of each motor vehicle; the routes, schedules and number of trips made daily by each motor vehicle; the capacity in gallons of the fuel tank on each motor vehicle; the number of miles each motor vehicle travels on one gallon of motor fuel and such other information as the \* \* \* *department* may require. Every person required by this section to register, make returns and pay the tax herein imposed shall be subject to all of the provisions of this chapter and all fines and penalties herein imposed for violations thereof.

SECTION 19. 78.08 (2), created by chapter 456, laws of 1943, is amended by substituting "department" for "state treasurer" wherever those words occur.

SECTION 20. The first sentence of 78.09 (1) is amended to read:  
 (78.09) (1) (first sentence) Every person other than a wholesaler who operates a tank wagon or truck upon the highways of this state, and who purchases or obtains motor fuel outside of this state and hauls, transports or delivers the said motor fuel or kerosene to persons or places in this state, or who purchases or obtains motor fuel or kerosene in one place within this state and transports, hauls or delivers the same over the public highways to another place in this state shall register with the \* \* \* *department* \* \* \*.

SECTION 21. The first sentence of 78.13 (2) is amended by substituting "chapter" for "act."

SECTION 22. 78.14 (2), as amended by chapter 337, laws of 1943, is amended to read:

(78.14) (2) Any person who uses motor fuel, upon which has been paid the tax required to be paid under this chapter, for the purpose of operating or propelling stationary gas engines, tractors used for agricultural purposes, motor boats *or* airplanes, or who shall purchase or use any motor fuel for cleaning or dyeing or for any commercial use or purpose other than operating a motor vehicle upon the public highways of this state, shall be

reimbursed and repaid the amount of the tax so paid upon making and filing \* \* \* *a duly certified claim*, \* \* \* witnessed by 2 witnesses or acknowledged before a notary public, *with the department*, upon forms prescribed and furnished by \* \* \* *it*. Such claim *must* be filed within 90 days after the purchase of the motor fuel, or the claim will not be allowed. The wholesaler or jobber shall, upon request, furnish each purchaser with the original invoice or bill stamped to indicate that it is an original, showing the quantity of motor fuel purchased, the date thereof, and the purchaser shall send such invoice to the \* \* \* *department* when making \* \* \* claim for refund. \* \* \* The claim shall state whether or not the applicant owns an automobile or truck or any other motor driven machinery or appliance which uses motor fuel; the total number of gallons of motor fuel purchased; the number of gallons of such fuel purchased on which refund is claimed; a detailed statement of the uses of such fuel on which refund is claimed, describing the machinery, equipment or appliance in which used, giving the serial or manufacturer's number of the motor and the approximate number of gallons used in each; or if such fuel were not used in any such machinery, equipment or appliance, then a description of the purposes for which the fuel was used with the approximate number of gallons used for each such purpose; a statement whether or not deduction has been made for motor fuel used in applicant's automobile or truck; and such other information as the \* \* \* *department* may deem necessary. The penalty provided in this chapter for presenting a false or fraudulent statement shall be printed in full on the form of statement. On the filing of such claim, accompanied by the paid invoice \* \* \*, the \* \* \* *department* shall determine the amount of refund due. The \* \* \* *department* may make such investigation of the correctness of the facts stated in such claim as \* \* \* *it* deems necessary. When the \* \* \* *department* has approved such claim, \* \* \* *it* shall pay the claimant the reimbursement herein provided, out of the moneys collected under the provisions of chapter 78 to be used for carrying out the provisions of *this* section. \* \* \* No refund shall be claimed by or allowed to any person on account of any motor fuel carried from this state in the ordinary fuel tank of a motor vehicle.

SECTION 23. The second sentence of 78.17 (2) is amended by substituting "theretofore" for "heretofore."

SECTION 24. 81.43 (5), as renumbered by chapter 334, laws of 1943, is amended by inserting "or 66.54" after "62.20."

SECTION 25. 85.08 (20) (c), as amended by chapter 521, laws of 1943, is amended by substituting "subsection (27m)" for "section 85.08 (27) (m)" in the reference to 85.08 (27) (m).

SECTION 26. 85.475, created by chapter 403, laws of 1943, is amended to read:

85.475 TIME OF EFFECT OF 85.45 (2) (bm), 85.47 (1m), (2m) AND (4m). The provisions of sections 85.45 (2) (bm) and 85.47 (1m), \* \* \* (2m) and (4m) shall be in effect for the duration of *the* present emergency and until the termination thereof as proclaimed by the President or Congress of the United States, and until such time as the commissioner, with the approval of the governor, determines by order that said sections are no longer necessary; but in no event shall said sections remain in effect beyond 2 years after the termination of the present war. At the time when said sections are so declared to no longer be of any effect the provisions of sections 85.45 (2) (b) and 85.47 (1), \* \* \* (2) and (4) shall again take effect.

SECTION 27. 110.06 (4), as amended by chapter 420, laws of 1943, is repealed and recreated to read:

(110.06) (4) The orders and determinations, rules and regulations made by the commissioner shall be subject to review in the manner provided in chapter 227.

SECTION 28. 146.11 (6), created by chapter 385, laws of 1943, is renumbered 146.11 (1a).

SECTION 29. 149.06 (1), as amended by chapter 480, laws of 1943, is amended to read:

(149.06) (1) One complying with *the provisions of this chapter relating to applicants for registration as nurses* and passing a satisfactory examination shall receive a certificate of registration. The holder of such a certificate of another state shall be granted a certificate without examination if her credentials of general and professional educational qualifications are equivalent to those required in Wisconsin during the same period. The committee on nursing education shall evaluate the credentials and determine the equivalency in each such case.

SECTION 30. Section 60 of chapter 375, laws of 1943, is repealed, and the amendment to 153.06 (2) made thereby is repealed.

SECTION 31. 201.25 (1) (d) is amended to read:

(201.25) (1) (d) In the mortgage bonds of the farm loan banks authorized under the federal farm loan act \* \* \* and in obligations secured by mortgages or trust deeds authorized in paragraph (c) of this \* \* \* subsection.

SECTION 32. The amendment made to 203.06 (1) by chapter 408, laws of 1943, is not repealed by chapter 472, laws of 1943. Both amendments stand. The purpose of this enactment is to declare that the later act did not repeal the earlier one.

SECTION 33. 215.07 (6), as amended by chapters 512 and 516, laws of 1943, is amended to read:

(215.07) (6) To invest, with the advice and approval of the commission, in shares or evidences of indebtedness of \* \* \* *savings and loan associations or building and loan associations doing business in this state*, in bonds or evidences of indebtedness of the United States government, or assign as collateral security its mortgages and bonds or notes. But no association, having notices of withdrawal unpaid, shall be permitted to hold government, or government guaranteed securities, which together with its cash on hand exceed 2 per cent of its \* \* \* *share* liability. Nothing herein contained shall prohibit any association from setting up reserves in cash or bonds, or both, for taxes, insurance, repairs on real estate, and such other reserves as the banking commission may order.

SECTION 34. The amendments made to 215.15 by chapters 512 and 516, laws of 1943, both stand. The purpose of this enactment is to declare that neither act repealed the changes made in 215.15 by the other.

SECTION 35. 232.495 (2), created by chapter 513, laws of 1943, is amended by substituting "subsection" for "paragraph"; and 232.495 (3) created by said chapter is amended by substituting "subsections" for "paragraphs."

SECTION 36. 235.701 is amended to read:

235.701 BUILDING LOANS; TRUST FUNDS. The proceeds of any such mortgage referred to in section 215.15 \* \* \* and section 235.70, shall, when paid out by such state building and loan association \* \* \* or such federal savings and loan association or of any other mortgage from any other source and received by the owner of the premises or by any contractor or subcontractor performing the work and labor forthwith constitute

a trust fund in the hands of such owner or contractor or subcontractor for the payment pro rata of all claims due and to become due or owing from such contractor or subcontractor for lienable labor and materials until all such claims have been paid. The use of any of such moneys by any owner, contractor or subcontractor for any other purpose until all claims, except those which are the subject of a bona fide dispute, shall have been paid in full, or pro rata in cases of a deficiency, shall constitute embezzlement of any moneys so misappropriated. It shall be the duty of the district attorney of the county where the premises are situated, on the complaint of any aggrieved party to prosecute such owner, contractor or subcontractor misappropriating such moneys for such embezzlement.

SECTION 36a. Section 247.28 of the statutes is repealed.

SECTION 37. 274.01 (2), created by chapter 261, laws of 1943, is reenacted. The purpose of this enactment is to declare that the amendment of 274.01 by chapter 505, laws of 1943, did not repeal the earlier act.

SECTION 38. 289.01 (2) (b), as last amended by chapter 322, laws of 1943, is amended to read:

(289.01) (2) (b) Such lien shall be prior to any lien which originates subsequent to the visible commencement in place of the work of improvement, except as otherwise provided by sections 215.15 \* \* \* and 235.70. The lien shall also be prior to any unrecorded mortgage given prior to the commencement of the improvement, but of which the lienor has no notice.

SECTION 39. 315.06, as amended by chapter 514, laws of 1943, is amended to read:

315.06 A certified copy of such judgment shall be recorded in the office of the register of deeds of any county in which any such lands are situated, and such judgment or the record thereof shall be presumptive evidence of the facts found and determined therein in all courts and places and conclusive evidence against the persons \* \* \* to whom notice shall have been given as provided in section 324.18 or who have appeared in such proceedings and those claiming under them.

SECTION 40. 348.411 is amended to read:

348.411 SLANDERING COMMERCIAL OR FINANCIAL STANDING. Any person who shall wilfully and maliciously make, circulate or transmit to another or others, any false state-

ment, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, savings bank, banking institution, building and loan association \* \* \* or trust company doing business in this state, or cooperative association organized under chapter 185, or any domestic mutual insurance company, including town mutuals, lawfully entitled to transact in this state the business of writing fire or casualty or workmen's compensation insurance, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be punished by a fine of not more than \$1,000 or by imprisonment for a term of not more than one year, or both.

SECTION 41. The amendments made to the introductory paragraph of section 60, chapter 423, laws of 1923, by chapters 450 and 453, laws of 1943, both stand. The purpose of this enactment is to repel any implication of implied repeal of either act by the other.

SECTION 42. Section 1 of chapter 295, laws of 1941, as amended by chapter 449, laws of 1943, is amended to read:

(Chapter 295, laws of 1941) Section 1. There is conferred upon the judge of the district court in any county having a district court which is a court of record, all of the powers with respect to the examination of persons alleged to be insane or *feeble-minded* either at the time of the commission of an offense properly within the jurisdiction of said district court or at the time of trial thereof, as provided by sections 357.11 and 357.13 of the statutes, except that persons charged merely with the violation of local ordinances and found insane shall be committed as provided by section 51.05 of the statutes.

SECTION 43. Sections 5, 10 and 13 of chapter 491, laws of 1943, are repealed, and any changes in statutes proposed thereby are repealed.

Approved July 27, 1943.