

No. 599, S.]

[Published August 16, 1951.

**CHAPTER 727.**

AN ACT to repeal, renumber and amend various provisions of the statutes, for the purpose of correcting errors, clarifying and harmonizing language, renumbering for better arrangement, reconciling conflicts, supplying omissions and eliminating unnecessary and obsolete provisions.

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

SECTION 1. 10.52 (1) of the statutes is amended to read:

10.52 (1) At the town meeting in years in which there is to be a town election there shall be an election by ballot of all town officers except the superintendent or superintendents of highways. *Such ballot shall be in substantially the form below.*

SECTION 2. The official town ballot printed under 10.52 (1) of the statutes is amended as follows:

a. Delete the sentence "Such ballot shall be in substantially the form provided herein and annexed hereto."

b. In the block "JUSTICE OF PEACE (FOR TWO YEARS)—" delete the words "(FOR TWO YEARS)".

c. Delete the following:

"JUSTICE OF PEACE (ONE YEAR)—	VOTE FOR ONE
John Doe .....	_____
John Doe .....	_____"

SECTION 3. 10.53 (1) of the statutes is amended to read:

10.53 (1) The annual town meeting in each town shall be held *on the first Tuesday in April* at the place where the last town meeting was held, or at such other place therein, or in a city or incorporated village in the county and convenient to the town, as shall have been ordered at a previous meeting; or when there has been no such previous meeting, at such place as shall be directed in the act or proceedings by which the town was organized.

SECTION 4. 10.56 (2) of the statutes is repealed.

SECTION 5. 16.105 (5) of the statutes is repealed.

SECTION 6. 16.17 (2) of the statutes is amended to read:

16.17 (2) The term of eligibility of applicants on original entrance and promotional lists shall be 6 months; but such term may be extended by the board after consideration of the recommendation of the director. The eligibility of individuals on reinstatement

lists may be extended in like manner. But such eligibility may not be extended for a period of more than 3 years \* \* \*.

SECTION 7. 16.275 (5) of the statutes is amended to read:

16.275 (5) Notwithstanding any provisions of law to the contrary no employe of the state employed on the prevailing hourly rate of pay basis shall be entitled to or be granted leave of absence with pay for sickness or vacation; but \* \* \* accumulated sick leave earned by such employes through June 1947, which remains unused at the close of that month, may be used by them any time subject to the rules and regulations of the bureau of personnel.

SECTION 8. 35.71 of the statutes is amended to read:

35.71 The supreme court shall, from time to time, appoint, subject to removal, a supreme court reporter; and with the approval of said court the reporter may, from time to time, appoint, subject to removal, an assistant. Every such appointment of an assistant shall be in writing, shall specify the salary of the appointee, and, after approval as aforesaid, shall be filed with the clerk of the court. Said court may also authorize and direct the reporter to employ such additional help as may be necessary to secure the prompt publication of its decisions. \* \* \* A certified copy of every order appointing a reporter, of every appointment of an assistant and the order approving the same, and of every order authorizing the employment of additional help, shall be filed in the office of the director of budget and accounts. All persons appointed or employed under the provisions of this section shall be deemed assistants and employes of the supreme court.

SECTION 9. The third sentence of 49.26 (5) of the statutes is repealed.

SECTION 10. 59.865 (a) to (e) of the statutes are renumbered 59.865 (1) to (5).

SECTION 11. The first sentence of 66.054 (5) (d) of the statutes is amended to read:

66.054 (5) (d) (first sentence) 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 \* \* \*.

SECTION 12. 73.02 (5) of the statutes is repealed.

SECTION 13. 74.125 of the statutes is repealed.

SECTION 14. 151.02 (2) (c), (4), (5) (introductory paragraph) (first sentence) and (5) (a) of the statutes are repealed.

SECTION 15. 151.02 (6) of the statutes is amended by deleting the words "or assistant pharmacist", "and assistant pharmacists" and "or assistant pharmacists".

SECTION 16. 168.01 (1) of the statutes is amended to read:

168.01 (1) Whenever in this chapter \* \* \* the term "supervisor" is used, \* \* \* it means the head of the division of petroleum products in the department of taxation. The \* \* \* terms "deputy inspector", \* \* \* and "inspector" \* \* \* mean the duly authorized inspectors of the division of petroleum products in the department of taxation engaged in the work of the inspection of petroleum products either exclusively or as part of other duties.

SECTION 17. The first sentence of 189.02 (9) of the statutes is amended to read:

189.02 (9) (first sentence) "Order" means every direction of determination of the department designated an order and made in writing over the signature of the director \* \* \* and the seal of the department and filed as part of the records of the department.

SECTION 18. 189.04 (1) (b) of the statutes is amended to read:

189.04 (1) (b) If the applicant is a foreign corporation it shall be licensed to do business under chapter 226 or shall file, in such form as the department may prescribe, its written instrument irrevocably appointing the director \* \* \* its true and lawful \* \* \* attorney upon whom may be served any summons, complaint, pleading, process, order or notice in any action or proceeding against such applicant in connection with any matters arising out of this chapter or out of transactions by such applicant as a dealer, and if the applicant is a nonresident and not a corporation it shall file, in such form as the department may prescribe, its written instrument irrevocably appointing the director \* \* \* its true and lawful \* \* \* attorney upon whom may be served any summons, complaint, pleading, process, order or notice in any action or proceedings against such applicant in connection with any matters arising out of this chapter or out of transactions by such applicant as a dealer or agent.

SECTION 19. 189.13 (11) of the statutes is amended to read:

189.13 (11) If the issuer is the applicant and a foreign corporation or other non-resident, the issuer shall file a written instrument, in such form as the department may require, irrevocably appointing the director \* \* \* its true and lawful \* \* \*

attorney upon whom may be served any summons, complaint, pleading, process, order, or notice in any action or proceeding against such applicant in connection with any matter arising out of the sale or purchase of the securities covered by its application or out of this chapter.

SECTION 20. The second sentence of 189.17 (4) of the statutes is amended to read:

189.17 (4) (2d sentence) The director \* \* \* and the agents so appointed shall have the power to subpoena witnesses and administer oaths in connection with the administration of this chapter.

SECTION 21. 189.21 (1), (2) and (3) of the statutes are amended by striking through the words "or the deputy director".

SECTION 22. The first sentence of 189.27 of the statutes is amended to read:

189.27 (first sentence) In any action or proceeding in this state, arising out of or founded upon any misrepresentation or fraud or any violation of this chapter or of any order, rule or regulation of the department in which any issuer, dealer, or other person, who shall have appointed the director \* \* \* its \* \* \* attorney, shall be a party, service of any summons, complaint, pleading, process, order or notice may be made by service upon \* \* \* such \* \* \* attorney or by filing a copy of same with the department.

SECTION 23. The last sentence of 230.455 of the statutes is repealed.

SECTION 23h. 237.02 (2) of the statutes is amended to read:

237.02 (2) If the decedent shall leave a widow and issue or a widower and issue, to the widow or widower so long as not remarried, and upon marriage or death to the original decedent's heirs according to section 237.01, *provided that the limitation as to the value of the homestead in section 272.20 shall not apply to a widow and the heirs of her husband during widowhood.*

SECTION 23m. 276.14 (1) of the statutes is amended to read:

276.14 (1) In partition, a widow's homestead and a widower's estate by the curtesy shall be deemed life estates. If part of the premises is subject to a life estate which has not been set off the commissioners shall first set off the same to the party entitled thereto and thereafter they shall, in dividing said real estate include and partition, the reversionary interest in the real estate which is subject to a life estate determining the value of such reversionary interest for the purpose of such partition, by deducting from the entire value of the land, the value of the life estate ascertained according to section 314.06, and they may allot the whole or any part of such reversionary estate to any of the parties to the action in severalty, as the whole or as a part of his share. *The provisions of this section shall also apply to the distribution of the surplus where the homestead is sold in probate court to pay mortgage indebtedness.*

SECTION 24. 296.08 (1) (a) is amended to read:

296.08 (1) (a) When such application is made on behalf of a minor or incompetent, who has no general guardian, the court or presiding judge must appoint some suitable person special guardian of such minor or *incompetent* in the proceeding; such special guardian shall give a bond to the judge of the court, to be filed in the county court or with the clerk of the circuit court, in such sum, with such sureties, and in such form as the county or circuit court or judge shall direct, conditioned for the faithful performance of the trust reposed, for paying over, investing, or accounting for all moneys that shall be received by such guardian, according to law and for observance of the directions of the court in relation to the said trust.

SECTION 24k. 316.11 (1) of the statutes is amended to read:

316.11 (1) Whenever the exempt homestead of the decedent is part only of a tract of land which was subject to a mortgage at the time of his death, and all other real estate and personal property of the decedent has been applied to the payment of his debts and the expenses specified in section 316.01, or is insufficient therefor and the part of the mortgaged premises not included in the exempt homestead can not be sold separately therefrom without injury to the interests of the parties, the court may order the sale of the whole tract; or if a part of the tract can be sold separately, and only a part is necessary to be sold in connection with the exempt homestead to prevent such injury, then an order to first sell the part which can be so separately sold, and the remainder afterwards, may be made. The order, in either case, shall direct that the entire estate, including the interest of the mortgagee, be sold; but no such order to sell shall be made when the mortgage debt is not wholly due unless the mortgagee shall consent in writing thereto; if such consent is given and the sale is made for less than the amount of such debt with interest and costs of sale, the mortgagee shall have the same right to proceed, in an independent action, against every party who may be personally liable for the debt secured by the mortgage and to a personal judgment for any deficiency

against such party as if such sale had not been made. *In the event of sale of the homestead with other lands of the deceased to pay a mortgage, the widow shall be paid one-third of the net proceeds of the sale after the mortgage debt, as to lands other than the homestead, and she shall be paid the value of her dower and homestead interests in the proceeds of sale of the homestead, based upon her life expectancy, and to be computed by the annuity tables on a life estate as in partition.*

SECTION 25. 330.21 (3) of the statutes is amended to read:

330.21 (3) An action brought \* \* \* to recover damages \* \* \* for death \* \* \* caused by the wrongful act, neglect or default of another.

Approved August 3, 1951.

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