

CHAPTER 39.

SCHOOL ADMINISTRATION.

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Cross Reference: For definitions of terms used in this chapter, see 40.01.

39.01 State superintendent, qualifications. No person is eligible to the office of state superintendent of public instruction, unless at the time of his election thereto he has taught or supervised teaching in this state for a period not less than 5 years and, at such time, holds the highest grade of certificate which the state superintendent is by law empowered to issue.

39.02 State superintendent; duties. The state superintendent shall:

(1) **GENERAL SUPERVISION.** Ascertain the condition of the public schools, stimulate interest in education, spread as widely as possible a knowledge of the means and methods which may be employed to improve the schools.

(2) **SECTARIANISM.** Exclude all sectarian books and instruction from the public schools.

(3) **EDUCATIONAL MEETINGS.** Attend such educational meetings and make such investigations as he may deem important, and such as will acquaint him with the different systems of public schools in the United States.

(4) **SUPERVISION OF SCHOOLS.** Supervise and inspect the public schools, county schools of agriculture and domestic science, manual training schools, county normal schools, day schools for handicapped children; and advise with the principals and local authorities thereof, and give assistance in organizing such schools.

(5) **STATE SCHOOLS FOR THE VISUALLY HANDICAPPED AND DEAF.** Maintain and govern the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf.

(5b) **CHARGES AGAINST EMPLOYEES OF STATE SCHOOLS FOR THE VISUALLY HANDICAPPED AND DEAF.** In compliance with the provisions of the compensation plan established pursuant to s. 16.105 (4) he shall have authority to make and determine charges for meals, living quarters, laundry and other services furnished to employes of the several institutions and members of the employe's family maintained as such. All moneys received from each and every person for or on account of such services shall be paid within one week after receipt into the general fund and are to be credited to the appropriation provided for this purpose by ch. 20.

(5c) **MAINTENANCE CHARGES FOR OTHERS.** All moneys received from participants of institutes and training programs and from visitors at the state schools for the deaf and the visually handicapped for meals and living quarters shall be paid within one week after receipt into the general fund and are to be credited to the appropriation provided for this purpose by ch. 20.

(6) **PUBLIC INFORMATION.** By reports, bulletins, circulars, correspondence and public addresses give the public information upon the different methods of school organization and management and the subject of education generally.

(7) **APPEALS.** Examine and determine all appeals, which by law may be made to him, and prescribe rules of practice in respect thereto, not inconsistent with law.

(8) **EDUCATIONAL LITERATURE.** Collect in his office such schoolbooks, apparatus, maps and charts as may be obtained without expense to the state. He may purchase at an expense not exceeding \$250, in any one year, books and periodicals bearing upon the different phases of education.

(9) **FORMS FOR SCHOOL OFFICERS.** Prepare for the use of school officers suitable forms for making reports and suitable outlines as aids in conducting school meetings.

(10) COURSES OF STUDY. Prepare and publish, from time to time, courses of study for the public schools, and the other schools under his supervision, and furnish copies thereof to the school district boards.

(11) PHYSICAL TRAINING. Prescribe a course in physical education and training adapted to the public schools, and have general supervision of physical education in the public schools.

(12) SPECIAL PROGRAM. Compile and distribute annually to the public schools, in pamphlet form, matter suitable for the observance of Memorial day and Arbor day.

(13) MUSICAL EDUCATION. Promote and supervise musical education in the public schools; appoint, as a member of his department, a supervisor of musical education.

(14) SCHOOL FUND INCOME. Apportion the school fund income as provided by law.

(15) COPIES OF RECORDS. Make certified copies, when required, of any papers deposited or filed or records kept in his office, and of any act or decision made by him, and his fees therefor shall be 12 cents per folio.

(16) REPORT TO GOVERNOR. Report to the governor, during the last half of each even-numbered year:

- (a) The condition of all schools under his supervision.
- (b) An abstract of the public school reports made to him.
- (c) His visits to educational institutions.
- (d) The work done by the assistants, inspectors and others in the performance of the duties of his office.

(e) Plans for improving the schools and advancing education.

(f) A summary of the receipts and disbursements of all schools under his jurisdiction.

(g) Such other matters as he deems expedient.

(17) TEACHERS' INSTITUTES. Supervise the public school teachers' institutes.

(18) ANNUAL CONVENTIONS. Annually hold conventions of county superintendents, of city superintendents, and of supervising teachers.

(19) REPORTS TO SUPERINTENDENT. Require from school district officers, superintendents, principals and teachers, and district officers shall make to him, such reports as will enable him to distribute and award the state school fund appropriations and the several state educational appropriations to the various schools and persons entitled thereto, and to properly discharge the other duties of his office.

(20) FORMS FOR REPORTS. Prepare, print and distribute blank forms upon which superintendents, clerks, principals, teachers and school district officers shall make the returns and reports required of them.

(21) LICENSING AND CERTIFICATION OF TEACHERS. License all teachers for the public schools of the state, and make rules and regulations and prescribe standards of attainment for the examination, licensing and certification of teachers within the limits prescribed in s. 40.43 (3); file in his office all papers relating to state teachers' certificates and register each such certificate.

(21a) NONPROFESSIONAL EMPLOYES. The state superintendent may, by order, establish classes of nonprofessional school employes and authorize their employment in the instructional program of the elementary and high schools for specific purposes and reimbursement from the instructional budget. Such employes shall not be covered by the teachers retirement program established by ch. 42, the minimum salary law under s. 40.71 (7) or the continuous contract law under ss. 40.40 to 40.42, but shall be eligible under the Wisconsin retirement system if it is made applicable to the school district employing them.

(22) COUNTY SCHOOL COMMITTEE. Advise and consult with county school committees.

(23) TEXT MATERIAL. The state superintendent, the dean of the college of agriculture at the state university and the conservation commission shall co-operate in the preparation of outlines to be used by teachers in the courses offered under ss. 37.29 and 40.46 (8). They may request the assistance of any teacher or professor in any of the schools of the state in the preparation of such outlines. They may also make a recommended list of material for guidance to teachers of these courses.

(24) ADMISSIONS TO FIRST GRADE. Prescribe procedures, conditions and standards under which admissions to first grade may be made at an age earlier than that specified in s. 40.44 (1) in exceptional cases.

(25) TO DECLARE HIGH SCHOOL GRADUATION EQUIVALENCY. The state superintendent of public instruction may grant persons declarations of equivalency of high school graduation if in his judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. He may establish the stand-

ards by which high school graduation equivalency may be determined. Such standards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the state superintendent, successful completion of correspondence study courses given by acceptable correspondence study schools, course credits received in schools meeting the approval of the state superintendent or by other standards established by him.

(26) **FEDERAL AIDS.** Accept federal funds for any function over which the state superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds.

History: 1961 c. 344.

39.022 Indian scholarships. The state superintendent may award scholarships to any Indian student resident of the state to help defray the costs of tuition, incidental fees, room and board while attending any accredited degree-granting college located in and financed by the state of Wisconsin.

(1) The state superintendent shall set standards to determine the amount to be granted. The grant to any one student shall not exceed \$600 in any one academic year. No student shall be eligible for a second or subsequent scholarship unless he has completed the prior year's work satisfactorily, and no student shall be eligible for more than 4 years. The moneys shall be paid to the college upon the certificate of the state superintendent. If the course of study is less than 36 weeks per year, the scholarship shall be prorated.

(2) An eligible Indian student is:

(a) Any student who has one-fourth or more Indian blood; and

(b) Is a resident of Wisconsin; and

(c) Has the capacity to profit from appropriate college work; and

(d) Has completed high school in the upper two-thirds of his class.

39.024 Co-ordinating committee. (1) **PURPOSE.** The purpose of this section is to provide for the co-ordination of the activities of the University of Wisconsin and the state colleges and county teachers colleges by providing a permanent joint committee to make a continuing study of the state-supported institutions of higher education under their jurisdiction, the relation thereto of the needs of the people of Wisconsin, to recommend necessary changes in programs and facilities, to provide for a single, consolidated, biennial budget request for the University of Wisconsin and the state colleges, and to report the results of its studies and recommendations to the governor and the legislature.

(2) **COMMITTEE.** (a) *Composition.* To carry out the purposes of this section, there is created a co-ordinating committee of 17 members, 4 from the regents of the University of Wisconsin, 4 from the board of regents of state colleges, 4 citizens, the president of the board of regents of the University of Wisconsin, the president of the board of regents of state colleges, the state superintendent of public instruction and 2 members of a county teachers college board, other than a county superintendent of schools, appointed annually by the governor from recommendations made by the association of county teachers college boards. The appointive regent members of the committee shall be selected by a majority vote of the board of which they are members and shall be selected each year at the annual meeting of the board. The citizen members shall be appointed by the governor with the advice and consent of the senate. The governor shall first appoint one each for 2, 4, 6 and 8 years, and thereafter for 8 years.

(b) *Chairman.* The chairman of the committee for the first year of its existence shall be the president of the board of regents of the university of Wisconsin. The chairman for the second year of its existence shall be the president of the board of regents of state colleges. Thereafter the chairmanship of the committee shall be alternated annually in the same order.

(c) *Secretary; meetings of committee.* The committee shall select a secretary from its membership. The committee shall hold regular meetings at least once every 3 months at such time and place as may be determined by the chairman. Special meetings may be called at the request of a majority of the committee or on the chairman's own initiative upon 5 days' notice. Members of the committee shall be compensated for their services on the committee in the manner provided for their services under chs. 36 and 37.

(3) **POWERS.** Without limitation because of enumeration the committee is authorized and directed to make studies and recommendations in the following fields:

(a) *Educational planning.* The committee shall determine what over-all educational programs shall be offered in the several units of the university, the state colleges and county teachers colleges to avoid unnecessary duplication and to utilize to the best advantage the facilities and personnel available for instruction in fields of higher education. No educational program for which the legislature has made an appropriation existing at

any institution of higher education shall be abandoned except with legislative approval.

(b) *Physical plant.* The committee shall adopt a co-ordinated plan for the integration and most efficient use of existing facilities and personnel, and an order of priority for the construction of new facilities at the University of Wisconsin and the state colleges.

(c) *Budget requests.* The committee shall review the separate budget requests of the university and the state colleges and shall recommend a single, consolidated, biennial budget request to the governor for the support of all institutions under its jurisdiction, retaining the identity of the appropriation sections contained in ch. 20 relating to said institutions. It shall also review and make appropriate recommendations to the department concerning the biennial budget requests of the department of public instruction for state aids for county teachers colleges.

(d) *Grants to institutions.* The committee shall establish a plan which will encourage and promote grants by private individuals and agencies to all such institutions.

(e) *Legislative recommendations.* The committee shall continuously study the needs of the people of Wisconsin for state-supported higher education and recommend any legislative proposals needed to carry out its decisions resulting from such study.

(f) *Personnel.* The committee is authorized to use the services of the administrative and technical staffs of the institutions of higher learning to aid in the studies and activities of this committee as authorized by s. 20.904, and the compensation for such services shall be paid by the respective board or institution regularly employing such personnel.

(g) *Report.* Semiannually the committee shall issue reports of its findings and recommendations, which reports shall be delivered to the board of regents of the University of Wisconsin, the board of regents of the state colleges, the boards of the several county teachers colleges, the governor, to both houses of the legislature when in session, and to the secretary of the legislative council when the legislature is not in session. The first such report of findings and recommendations shall be made 6 months from the date of first convening of the committee.

(h) *Merger of Milwaukee institutions.* On or before January 1, 1957, the committee shall merge the state facilities and programs for higher education in Milwaukee into a single institution of higher learning, offering a 4-year program of undergraduate instruction. Such merged institution shall be operated as an integral part of the university and shall be under the government of its board of regents. This unit of the university shall be under the supervision of a provost reporting directly to the president, with the same degree of self-government by its own faculty as is vested in other units of the university. All degrees granted upon the completion of prescribed courses shall be issued by the board of regents in the same manner and with the same status as degrees based upon work done in other units of the university. Upon the taking effect of the merger herein provided, the state college at Milwaukee and the university extension division in Milwaukee shall cease to exist as separate institutions, and the board of regents of the university shall succeed to all rights and duties, properties and obligations of these institutions. In validation of prior agreements and understanding, all teachers who are employed in the state college in Milwaukee immediately prior to the merger shall have the same status with regard to tenure which is provided for in s. 37.31. No employe of the state college or of the university extension division in Milwaukee shall be separated from the state service or suffer any loss of salary by reason of the consolidation of these institutions. All educational programs now carried on by either of the 2 institutions consolidated shall be continued, enriched and strengthened on an integrated basis, subject to such changes as the board of regents of the university may deem advisable.

(i) *Duties and functions of existing boards.* The co-ordinating committee shall have final authority in determining the single, consolidated, biennial budget requests of the University of Wisconsin and the state colleges to be presented to the governor and shall have full responsibility for such presentation. The over-all educational programs offered in the state-supported institutions of higher learning shall be those determined by the co-ordinating committee and facilities and personnel shall be utilized in accordance with the co-ordinated plan adopted by the committee. The boards of regents in the discharge of their duties shall observe all decisions of the co-ordinating committee made pursuant to this section. Except as expressly provided in this section, nothing herein shall be construed to deprive the board of regents of the university and the board of regents of the state colleges and boards of county teachers colleges of any of the duties and powers conferred upon them by law in the government of the institutions under their control.

History: 1961 c. 56.

39.025 School reports. The state superintendent may require the boards of all school districts to report to him the name of the school and its location, the name and

address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all pupils enrolled between the ages of 7 and 18, the names and post-office addresses and places of residence of the parents of such pupils, the number of the district and the distance such pupils reside from the schoolhouse, the number of days each pupil was present during each month, and any other information requested by him. The superintendent shall furnish report forms.

39.027 School enrollment data. On or before October 15, 1959, and annually thereafter each administrator of a public or private school system shall submit, on forms provided, a statement of the enrollment on October 1 in the elementary and secondary schools under his jurisdiction to the department of public instruction which shall promptly prepare such reports as will enable both the public and private schools to make essential projections as to problems such as school buildings, teacher supply and funds required. The data shall be available to the public during regular office hours.

39.03 Inspection of school buildings. (1) If any county or city superintendent of schools, member of a school board or board of education, or an elector of a school district, or a member of a board of health complains in writing to the state superintendent that any building used for school purposes in his district is in such a condition as to endanger the lives or health of the pupils, or that the schoolhouse is otherwise unfit for school purposes, the state superintendent shall investigate the matter.

(2) The state supervisors of schools shall be inspectors of public school buildings under the direction of the state superintendent.

(3) If conditions warrant, the state superintendent shall order the school board or other officers having control of the school to repair and improve or remodel such building, within a stated time, so as to render it safe and sanitary; or if he deems the building unfit for school purposes and not worth repairing, he shall so state, and shall order the erection of a new building by a stated date; and after said date use of such building shall deprive the district of its right to share in the school fund income.

(4) The state superintendent shall file said order in his office, and shall cause copies thereof to be promptly delivered by mail or otherwise to the clerk of the proper school district and to the proper county or city superintendent and to the clerk of the municipality in which the building is located.

(5) The state superintendent shall, upon the written application of the local school officers, grant a hearing in the matter; pending such hearing, execution of the order shall be stayed till the conclusion of the hearing, and the superintendent may affirm, amend or vacate his original order.

39.04 School lunch program. The state superintendent may contract for the operation and maintenance of school lunch programs, and for the distribution, transportation, warehousing, processing and insuring of food products provided by the federal government. The form and specifications of such contracts shall be determined by the state superintendent, and the funds received under the terms and conditions of such contracts shall be deposited within one week of receipt thereof in the state general fund. Amounts remaining unpaid for 60 days or more after they become payable under the terms of such contracts shall be deemed past due and shall be certified to the department of administration on October 1 of each year and included in the next apportionment of state special charges to local units of government as special charges against the school districts and municipalities charged therewith.

39.05 County superintendent; eligibility and disqualification. (1) **ELIGIBILITY.** To be eligible to the office of county superintendent of schools a person must be a resident of the county; must be the holder of any degree from any college or university and in addition must hold a school administrator's license as provided in orders of the department of public instruction, PI 3.10 (4). Qualification requirements provided by the 1959 amendment shall not apply to any person holding the office of county superintendent on June 15, 1959.

(2) **PROOF OF ELIGIBILITY.** Any candidate for the office of county superintendent shall file with the proper county clerk or clerks a statement approved by the state department of public instruction confirming his qualifications establishing eligibility for candidacy for election to and occupancy of the office of county superintendent as a condition precedent to having his name placed on the ballot. The requirement of the filing of this statement shall apply to write-in candidates before the board of canvassers of election shall issue a certificate of election.

(3) **DISQUALIFICATIONS.** No county superintendent shall teach or engage in any business, profession, occupation, pursuit or other activity which will interfere with the

proper discharge of his duties. Violation of this subsection shall subject the superintendent to removal from office and loss of salary during the time of such violation.

(4) INCOMPATIBILITY OF OFFICES. The offices of county superintendent and member of the county board of supervisors are incompatible.

39.06 County superintendent; election and salary. (1) ELECTION, TERM. A county superintendent of schools shall be chosen at the election held in each county on the first Tuesday in April in the year 1929 and every 4 years thereafter, for the term of 4 years from the first Monday of July following such election. He shall hold office until his successor has qualified. In counties having a population of 500,000 or more, the county superintendent shall be elected as provided in s. 5.24 (2).

(2) DISTRICTS. The county board of any county having a population in excess of 15,000 may divide the county into 2 superintendent districts (numbered 1 and 2), and may later reunite the county into a single district. When the county is so divided, the district superintendents shall be designated county superintendent of schools of district 1 or 2. The laws relating to the office of county superintendent apply to each of such districts.

(3) SUPERINTENDENT FOR SEVERAL COUNTIES. The county boards of 2 or more counties may by the adoption of a joint resolution employ one superintendent of schools for their counties. Such joint resolution shall be filed with their respective county clerks and the state superintendent before January 1 of the year in which an election for county superintendent is to be held. Such filing of the joint resolution shall terminate the position of county superintendent in the adopting counties at the end of the existing term. The resolution shall state that the position of superintendent of schools for the counties of . . . is created to become effective on July . . ., 19 . . ., and that the election for that office shall be for superintendent of schools for the counties of The provisions of sub. (3a) (e) to (i) shall apply to such joint superintendencies.

(3a) JOINT COUNTY SUPERINTENDENCY. (a) Whenever a vacancy occurs in the office of county superintendent of schools or at any other time except between the first day for circulating nomination papers for county superintendent and a date one year after the date of the election of county superintendent, the state superintendent may determine whether it is feasible to include the territory of any county with other counties for services performed by the county superintendent. If, in the judgment of the state superintendent, the area in a county under the county superintendent's jurisdiction could feasibly be joined with other counties the state superintendent shall publish a plan for such jointure in one or more newspapers in each of the counties affected by the plan and send notice thereof to the county clerk of each of the counties affected and to each county superintendent concerned. Such publication and notice to the county clerk shall give notice of the plan for attachment of the area within the county which is to be joined with another county for service by the county superintendent and it shall contain notice of the time and place of a public hearing and shall be published at least 10 days before the date of the hearing.

(b) The county clerk of each county affected by the plan proposed shall immediately notify the chairman of the county board of such proposal and each member of the education committee (if there is one) of such county board. If any county does not have a standing education committee, the chairman of the county board of such county shall immediately appoint a special committee consisting of supervisors who reside in the area served by the county superintendent of schools equal in number to the membership of the education committee of any other county affected. If the education committee of any county affected consists of less membership than the same committee of any other county affected, the chairman of the county board having the lesser membership on its committee shall appoint additional members from the area served by the county superintendent of schools until the committee membership equals in number the membership of the committee of any other county concerned. The chairman and each of these members shall be notified by the county clerk of the time and place of the public hearing published by the state superintendent.

(c) The public hearing shall be conducted by the state superintendent or a member of his staff designated by him. After the public hearing, the chairman of each county board and the membership of the education committee (or its equivalent) from the counties concerned who are in attendance, shall confer with the state superintendent or his representative. Before concluding such conference, the chairman of the county boards and the members of the education committee of the counties shall vote on the question, "Shall the county superintendent's district of the counties concerned be merged into a joint county superintendency?"

(d) If the majority of the representatives of the county boards who were notified and

are present and voting as individuals vote in the affirmative, they shall report their recommendation to the county board of supervisors of each county. The county boards shall vote to confirm or reject the proposal within 30 days of their notification. Confirmation shall be by majority vote of each county board voting as provided in sub. (4). The county boards shall report their action to the state superintendent. If any board votes in the negative, and a vacancy in the office of county superintendent exists, the state superintendent shall proceed to appoint a superintendent for any county in which a vacancy exists as otherwise directed by statute. If the proposal is made by reason of any vacancy, and is approved, the county superintendent of the county in which no vacancy exists, upon notification of affirmative action by all county boards concerned, shall become the county superintendent of the joint county superintendency. If no vacancy exists, the plan shall be put into operation only when the term of the incumbent county superintendent expires unless a vacancy in the county superintendency occurs earlier in any county concerned whereupon the plan shall be put into effect immediately.

(e) When the joint county superintendency has gone into effect the county superintendent shall call a meeting of the education committees of the counties concerned, or if there is no education committee, of the special committee appointed by the chairman to perform this function. Upon meeting, these committees shall organize into a joint county education committee by electing a chairman and vice-chairman. The county superintendent shall be secretary of the joint county education committee. The joint county education committee shall:

1. Determine the location of the office or offices of the county superintendent of schools.
2. Establish the salary of the superintendent and a procedure for the payment thereof.
3. Determine the method of compensating the county superintendent for his expenses as set forth in sub. (6).
4. Determine which county treasurer shall be treasurer of the joint county superintendency district.
5. Formulate a budget for the office.

(f) Each county shall assume its proportionate share of the costs of the operation of the joint county superintendency according to the ratio that the latest equalized valuation of the area served by the county superintendent in each county concerned bears to the total equalized valuation of the county superintendent's district in the counties concerned. When the tax levy necessary for the operation of the office of the county superintendent is approved by the county boards of the counties, the county clerks shall place such levy upon the tax roll. Upon collection of the tax by the county treasurers the same shall be deposited to the credit of the joint county superintendent's account and dispersed according to the budget and reallocations made by the joint county education committee.

(g) Such joint county superintendency shall be entitled to the number of supervising teachers to which any other county superintendent's district would be entitled under s. 39.20.

(h) The county clerk of the county having the plurality of children between the ages of 4 and 20 years on its census on the preceding June 30 in the area served by the county superintendent shall be responsible for conducting the election of the county superintendent in the joint county superintendency which shall be allocated as a charge to each county as set forth in par. (f). The county clerk of any other county concerned shall co-operate in conducting such an election as may be necessary, but filing of candidacy shall be with the county clerk of the county having the plurality of children on its census as herein provided. The county clerk of such latter county shall also receive the election results and certify the candidate who is elected as such canvass of the election results indicates.

(i) The county superintendent of the joint county superintendency shall perform all of the duties for each of the counties that are prescribed for the county superintendent in a single county or superintendency district. He is authorized to delegate any secretarial duties prescribed by statute to other personnel in his office. Insofar as feasible, and not otherwise provided herein, he shall be governed by the general statutes and duties prescribed by statute for the county superintendent of schools in a single county or superintendency district.

(j) The county superintendent shall publish the budget formulated by the joint education committee as provided in s. 65.90. He shall notify each member of the county boards eligible to vote, according to sub. (4), of the public hearing. After the public hearing the members present shall, by majority vote, determine the budget and tax levy. The county superintendent shall thereupon calculate the amount to be levied in each of the counties and certify the proper amount to the county clerks concerned.

(4) CITIES WITH SCHOOL SUPERINTENDENT. (a) Cities which have a city superintendent of schools, and the territory of any school districts that include a city or cities within

their boundaries and operate both elementary and high school grades and employ a superintendent to supervise and manage their schools, shall form no part of the county superintendent's district, shall bear no part of the expenses connected with the office of county superintendent of schools, and shall have no part in the determination of any question or matter connected with or arising out of the operation of said office, nor shall any elector or supervisor of any such city have any voice therein. This provision shall not apply to cities with a population of less than 700.

(b) In counties having a population of 500,000 or more, notwithstanding the provisions of par. (a) and s. 40.80 (2), any school district, that includes a city within its boundaries and operates both elementary and high school grades, which formed a part of the territory served by the county superintendent of schools on July 1, 1958, shall remain in such superintendent's service and support area until the school board of the school district and the common council of any city which has territory in such school district shall determine otherwise. Such determination shall be made by formal resolution passed by a majority of such boards and filed with the county clerk, the state superintendent of public instruction and the county superintendent of schools, and shall be and state that it is effective on July 1 next following its adoption.

(5) ACTING SUPERINTENDENT. If it appears that a county superintendent, because of illness or other incapacity, is unable to perform the duties of his office, the county judge, upon the request of the state superintendent, shall determine such question. If the county judge finds that the county superintendent is unable to perform the duties of his office, he shall certify such fact to the state superintendent, who shall thereupon appoint a person to perform the duties of the office with the title of "acting superintendent." The duties of acting superintendent shall cease when the county judge notifies him and the state superintendent that the county superintendent is able to resume the duties of the office. The county board may compensate such acting superintendent in an amount agreed upon by the county board and the acting superintendent.

(6) SALARY. Except as otherwise provided in this section the county board, or joint county education committee, at its annual meeting next preceding the election of the county superintendent, shall fix his salary and when so fixed, it shall continue to be his salary until changed by the board or joint county education committee or by operation of law. The monthly salary shall be not less than the monthly salary to which such county superintendent would be entitled under the minimum salary schedule for supervising teachers of like training and experience as adopted and promulgated by the state superintendent under s. 39.20 (7) and shall be paid for 12 months a year. Additional compensation may be provided the county superintendent by the county board or joint county education committee both for performance of his regular duties and for his work as secretary of the county school committee. Compensation for additional duties may be authorized by the county board or joint county education committee at any time. Such minimum salary shall apply to salaries paid to the county superintendents after July 1, 1961. The county superintendent shall be allowed his reasonable, actual and necessary expenses for travel, including travel outside his district when necessary to the performance of his duties, meals and room rent while on travel, stationery, mimeographing, postage and printing incurred in or necessary for the proper discharge of the duties of his office. The county board or joint county education committee may authorize the county superintendent to travel outside the state at county expense. The county superintendent shall present itemized monthly statements of his expense to the county clerk. The county board shall make provision for the monthly payment of the county superintendent's salary and expenses.

(7) MENOMINEE COUNTY. Menominee county shall be attached to Shawano county for the purpose of the office and functions of the county superintendent of schools and shall not elect a county superintendent of schools, the county of Menominee not being organized for that purpose. The county superintendent of schools of Shawano county shall be the county superintendent of schools for Shawano and Menominee counties.

(8) STATE SUPPORT FOR THE OFFICE OF COUNTY SUPERINTENDENT. If the state superintendent is satisfied that any county or counties having 55 or more teachers under the jurisdiction of the county superintendent have paid the superintendent a salary equal to or greater than the minimum required by sub. (6) he shall certify to the department of administration for payment out of the fund established by s. 20.650 (26) to the county or counties which employed such superintendent, an amount equal to 20 per cent of the salary to which such superintendent is entitled under the salary schedule. Upon receipt of such certification the department of administration shall draw a warrant for the amount certified in favor of the treasurer of such county or treasurer of joint county superintendents districts.

History: 1961 c. 16, 332, 622.

39.10 County superintendent; duties. The county superintendent shall:

- (1) Provide educational leadership.
- (2) Visit the schools under his administration whenever necessary.
- (3) Inquire into matters relating to the course of study, records, modes of instruction, textbooks and discipline of the schools.
- (4) Keep informed upon new techniques and procedures of instruction.
- (5) Advise school boards and teachers as to their powers and duties.
- (6) Make all reports and investigations requested by the state superintendent.
- (7) Certify to joint district clerks the full valuations of the various parts of a joint school district as provided in s. 40.35 (8).
- (8) Perform such services as the boards of education and superintendents of cities operating under the city school plan in ss. 40.80 to 40.827 and the school boards and administrative officers of any school districts not under the supervision of the county superintendent may request on a contract basis.
- (9) Direct the school board to make any alterations and repairs which, in his opinion, are necessary to the health, comfort or progress of the pupils; and to abate any nuisance upon the school premises, provided the same can be done for \$50.
- (10) Report annually to the county board the condition of the schools under his supervision.
- (11) Name each rural schoolhouse in his district, and notify the district clerk thereof.

History: 1961 c. 17.

39.105 Transportation of handicapped children. In counties containing a city of the first class the county superintendent shall organize, supervise and control the transportation of handicapped children within his county when authorized to do so under sub. (1).

(1) In counties containing a city of the first class the county superintendent shall organize and contract for the transportation of all handicapped children as defined in s. 41.01 (4) for all school districts within his jurisdiction when the county board has approved his doing so. When such authority has been given to the county superintendent of schools it will supersede the responsibility placed upon school boards in s. 40.53 (2). The superintendent shall, upon authorization by the county board, possess all of the authority and perform all of the functions regarding the transportation of handicapped children granted to school districts under ss. 40.53 (2), (4), (5) and (8), 40.54 (1) and 40.56 (1), (2) and (3), except that the second sentence of s. 40.53 (5) (b) shall not apply. The county superintendent shall promulgate a plan for the transportation of handicapped children, which plan, upon approval by the state superintendent of public instruction, shall govern the transportation of disabled children as provided in s. 40.53 (2) and of making application for state reimbursement as provided in ss. 40.56 (3) and 41.03 and the receiving of the same in the name of the county.

(2) The county superintendent shall appoint a handicapped children transportation committee for his county of not to exceed 7 members composed of school board members and school administrators actively concerned with the transportation of handicapped children. Such committee shall meet not to exceed 3 times per year to consider problems and advise the superintendent regarding the transportation of handicapped children in the county in matters relating to routes and schedules, adequacy of transportation facilities, cost of service and apportionment thereof among the several districts for whom transportation is provided. Members of the committee shall receive the same per diem and mileage allowed to members of the county school committee, except that school district employees shall not receive the per diem when meetings are held during the regular school day.

(3) Preceding the date of preparing and publishing budgets the county superintendent shall transmit to the various district boards who anticipate service for transportation of handicapped children the approximate cost of providing such service, the anticipated state aid and the net cost to the district. After receiving state aid the county superintendent shall bill the respective districts for the net balance of transportation costs prorated according to the number of handicapped children who reside within the district who are transported and the nature and cost of the transportation furnished. Upon receiving the bill from the county superintendent for the net cost of transportation service supplied by the county under this section, each school district shall draw its order-check for the amount thereof to the county treasurer who shall deposit such amount to the account of the county superintendent of schools for transportation of handicapped children.

(4) In counties other than those containing a city of the first class the county superintendent shall organize and contract, subject to the approval of the county handicapped

children's education board, for the transportation of all handicapped children who are included under the definition in s. 41.01 (4) for all school districts within his jurisdiction when the county board of supervisors approves. When such authority has been given to the county superintendent of schools it will supersede the responsibility placed upon school boards by s. 40.53 (2). The county superintendent shall, with approval of the county handicapped children's education board promulgate a plan for the transportation of handicapped children which plan, upon approval by the state superintendent of public instruction, shall govern the transportation of such children included in s. 41.01 (4). The county board of supervisors may direct that the superintendent proceed under sub. (3) or provide that the jurisdictional area of the county superintendent of schools shall bear the cost of transportation of all handicapped children resident of the jurisdictional area of the county superintendent transported to special schools or instructional centers, and the county superintendent shall make application for state reimbursement as provided in ss. 40.56 (3) and 41.03 and shall receive the same in the name of the county. The county treasurer shall deposit all state transportation aids to the account of the county superintendent for transportation of handicapped children.

39.11 County superintendents' conventions. The county superintendent shall annually attend at least one convention called by the state superintendent for the purpose of consultation, advice and instruction pertaining to the public schools. His necessary and actual expenses for such attendance at the most accessible convention shall be paid by the county upon allowance by the county board of proper bills for such expense with the certificate of the state superintendent attached, showing that the claimant attended such convention for the number of days specified in the bill.

39.12 School board convention. The county superintendent may annually hold one or more school board conventions for the purpose of consultation, advice and instruction pertaining to the schools of his county. Each district clerk shall, and the director and treasurer may, attend such convention. Each district school officer shall be allowed \$8 for each day's attendance and mileage at the rate of 6 cents per mile actually traveled from his home to the convention and return by the usually traveled route (provided his certificate of attendance shall show that he was present at each session of the convention). The county superintendent shall keep a record of the attendance at each session of the convention, and shall issue to each school officer in attendance a certificate setting forth his actual attendance, which certificate shall be filed with the school district clerk. The convention may consist of one or more sessions which may be held in the daytime or in the evening or both.

39.14 County superintendents' reports, proceedings thereon. (1) Each county superintendent shall annually before September 15 submit to the state superintendent a written report as of June 30 containing a list of the districts and schools under his supervision, an abstract of the reports of school district clerks, and such other facts as are required by the state superintendent.

(2) Each county superintendent shall, each year before June 10, forward to each school district clerk the necessary blanks upon which the school census and other facts, required by law, are to be reported.

(3) The state superintendent, on receipt of a satisfactory annual report within the time specified by law, shall issue to the county superintendent who made the report a certificate setting forth the fact that such report has been so received and approved.

(4) Any county superintendent, who fails to make such report to the state superintendent, shall be liable to each school district to the amount which it loses by such neglect or refusal with interest to be recovered in an action.

(5) The county superintendent shall send to the clerk of the district a written report of each personal visit he made to any school. He shall call the attention of the board to any needed supplies or equipment or needed improvements to the school buildings, out-buildings or grounds. The county superintendent shall send to the district clerk of each school visited by the supervising teacher a report based on such teacher's report.

39.15 County superintendent; clerks. The county board may authorize the county superintendent to employ clerical personnel, and shall fix the compensation, which shall be paid in monthly instalments or in other regular manner used by the county in paying its personnel; and the board may appropriate money to enable the superintendent to employ assistants in examinations for common school diplomas, and may limit their per diem and the total amount to be paid for such assistants.

39.16 Teachers' institutes. The county superintendent may each year conduct one or more institutes for the teachers of his district.

39.20 Supervising teachers. (1) **EMPLOYMENT.** (a) The county superintendent of a county having 50 or more departments under his supervision in the name of the county shall employ a supervising teacher, and, if there are more than 120 departments under his supervision, he shall employ 2 supervising teachers. The contract shall provide for a leave of absence for the supervising teacher by reason of actual personal sickness, without deduction from salary of such teacher, at the rate of at least 5 days per year and accumulation of 30 days of unused sick leave from year to year. Any county entitled to employ 2 supervising teachers during the school year 1945-1946 shall continue to be entitled to employ that number until such time as the number of departments shall drop below 100. A single room school shall be considered as one department; a multiple room school shall be considered as having as many departments as there are teachers each of whom has under his individual control and instruction a body of pupils assembled in a room or rooms.

(b) Determination of the number of supervising teachers which the county superintendent shall employ for any given school year shall be made on the basis of the number of teachers employed on March 15 of the preceding school year.

(c) The county superintendent may employ supervising teachers in addition to those provided for by par. (a) in such number as may be approved by the county board. Such appointments shall be governed by the provisions of subs. (1) to (5) but subs. (6) and (7) shall not be applicable. The county superintendent may employ specialists and additional supervising teachers to those provided for in par. (a) in such number as may be approved by the county board. The qualifications for this personnel shall be approved by the state superintendent of public instruction but shall not be governed by the provisions of this section.

(2) **COMPENSATION.** The county board shall fix the salary of such teacher which shall be not less than the amount specified in the schedule set up by the state superintendent for 10 months in each year as provided in sub. (7). The supervising teacher shall be reimbursed for actual and necessary expenses incurred in the performance of her duties. The county board shall provide for the monthly payment of her salary and expenses.

(3) **ELIGIBILITY.** A supervising teacher must have taught at least 3 years, one of which was in the elementary schools, and must hold a state license to teach based upon 4 or more years of professional training in an accredited teacher training institution. Such training shall contain a minimum of 20 credit hours in elementary education, and a minimum of 6 hours credit in elementary school supervision. This requirement shall not disqualify any person employed as a supervising teacher on August 6, 1949.

(4) **DUTIES.** The supervising teacher shall, under the direction of the county superintendent, supervise and assist the school teachers in her district, devoting special attention to the less experienced teachers; assist in organizing the schools, classifying them according to the work done, and in grading pupils. She shall stimulate interest among the pupils, teachers and parents in agriculture and other subjects pertaining to rural communities and shall consult and advise with school boards. She shall report weekly to the county superintendent the schools visited, the time spent in each school, the names of school officers she met, the number of pupils enrolled, the number present, her opinion of the order, discipline, grading and spirit of the school, and such other information as is required by the county superintendent. When the schools are not in session, she shall visit the homes in her district to promote a general educational interest and to increase her personal knowledge of the rural school, its needs and accomplishments and report the same to the county superintendent, and shall perform such other professional work as he directs. She shall attend institutes and conferences called by the state superintendent, but she shall not be reimbursed for expenses incurred in attending such institute until she has filed with the county clerk a certificate of attendance signed by the state superintendent.

(5) **REMOVAL.** Any supervising teacher may be discharged for cause by the county superintendent after opportunity has been given her to be heard.

(6) **REPORT OF COST TO COUNTY.** The county superintendent shall in July of each year make a report to the state superintendent of the name and qualifications of each supervising teacher employed in the county, the number of months employed, the total amount of her salary and actual and necessary expenses paid during the year ending the preceding June 30 and such other facts as may be required by the state superintendent.

(7) **STATE REIMBURSE COUNTY.** If it appears from an actual inspection by direction of the state superintendent that the work of such supervising teacher has been efficient, and that she has devoted her time exclusively to the duties of the position, the state superintendent shall certify, in favor of the county which employed her, the amount of the salary paid but not to exceed an amount to which such teacher is entitled under a salary schedule for supervising teachers to be adopted and promulgated by him which shall

provide for a salary range of from \$4,700 to \$7,800 per year, varying with length of service and professional training. The county shall also be entitled to reimbursement for the actual and necessary expenses paid to her for the year preceding; the statement shall be filed with the department of administration, whereupon it shall draw its warrant for the proper amount in favor of the proper county treasurer.

History: 1961 c. 338.

39.35 Emergency substitute teachers; compensation. (1) The legislature hereby finds and declares: The difficulty of obtaining qualified persons to substitute during the absence of regularly employed teachers because of illness or other emergency is a serious problem in the day to day operation of the public schools. The shortage of teachers renders the problem particularly acute. Any steps to relieve the situation in any way are in the public interest. The number of qualified persons in a community who have made it known they are available to act as substitute teachers is inadequate. Former teachers in the public schools of this state, and especially those with sufficient number of years of teaching experience to retire and receive benefits under the state retirement law, ss. 42.20 to 42.54, are especially qualified to serve as substitute teachers. Registration of qualified persons available to be called in emergencies to act as substitute teachers in the public schools of this state and maintenance of a roster thereof will assist those in charge of the operation of said schools in speedily obtaining substitute teachers when emergency absences of regularly employed teachers make the same necessary. In the main the benefits being received under said state retirement law by those former teachers in the public schools of this state who retired from active teaching prior to July 1, 1951, are comparably lower than the benefits received under said law by former teachers in said schools who retired on or after July 1, 1951. Those who retired under said law and were receiving benefits thereunder on June 30, 1951, in general feel inequitably treated by reason of this disparity. Their sense of aggrievement results in an attitude inappropriate to substitute teaching. Said teachers generally are not making themselves available for substitute teaching in the public schools. In order to promote in said retired teachers who were receiving retirement benefits under said law on June 30, 1951, an attitude conducive to acting as substitute teachers in said schools and to induce them to register their availability to be called to act as substitute teachers therein upon the short notice usual in such cases, it is necessary to compensate them during the time they are holding themselves in readiness to be called as such substitute teachers or for other educational services.

(2) There is hereby established in the office of the state superintendent of public instruction (hereinafter referred to as state superintendent) a roster of persons qualified to teach in the public schools of this state who are available to substitute therein as teachers or for other educational services during the absence of regularly employed teachers because of illness or other emergency.

(3) Any person who resides in the state, is qualified to teach in the public schools as defined in s. 42.20, and is not regularly employed as a teacher, and any former teacher who has retired from teaching and is receiving benefit payments under the state retirement law, upon application in writing to the state superintendent, in such form as he may prescribe, shall be placed upon said roster of substitute teachers or for other educational services. On August 1, 1953, the state superintendent shall prepare from said roster a list for each county which shall contain the names of all persons residing in such county who are registered on said roster, with their addresses and such other data as he may deem pertinent, and send a copy thereof to the county superintendent of schools of the county, the clerk of each school district in the county, and to the clerk or secretary of every board or body having the control and management of a public school located in the county. On the first of each month thereafter the state superintendent shall prepare a supplemental list for each county containing the names of all persons residing in the county who have been added to or removed from said roster during the preceding month and any changes of address of persons on said roster residing in said county, and transmit copies thereof to the officials above mentioned.

(4) Persons shall be removed from said roster forthwith upon death or ceasing to reside in the state or when regularly employed as a teacher in any school, and may be removed therefrom for just cause in the manner provided herein. Upon the failure or refusal of any person upon said roster to act as substitute teacher or for other educational services in a public school of this state when requested so to do by any official charged with the obtaining of substitute teachers in said school, such official shall report the same to the board or body having the control and management of such school if such official deems that such failure or refusal was unreasonable. If such board or body deems such failure or refusal to be unreasonable, it may file with the state superintendent a written complaint, in duplicate, setting forth the circumstances thereof. The state superintendent shall send one copy thereof by registered mail to the person against whom such

complaint is filed, addressed to the last address of said person upon said roster. The state superintendent shall conduct such investigations as he may deem advisable in order to ascertain the facts relative thereto, and is authorized, but not required, to hold hearings thereon. If the state superintendent finds that such failure or refusal was without just cause, he shall remove the name of said person from said roster of substitute teachers and shall notify such person thereof by registered mail, addressed to the last address thereof upon said roster. The making of application for registration upon said roster shall constitute agreement by such applicant to accept and abide by all determinations of the state superintendent in respect to such applicant's removal from or re-instatement upon said roster.

(5) Any person removed from said roster may apply for reregistration thereon, in the same manner and subject to the same requirements as provided herein for initial registration. No person removed from the roster for just cause shall so apply within 3 months following the month of removal.

(6) Every former teacher in the public schools of this state who has been retired therefrom continuously since June 30, 1951, and on that date was receiving benefit payments under the state retirement law, ss. 42.20 to 42.54, shall receive as compensation for services in standing by as an available substitute teacher or for other educational services in the public schools of this state, the sum of \$25 per month for each month subsequent to the month of June, 1953, such former teacher is registered upon said roster, except as hereinafter provided, payable on the first of each month for the preceding month. For the purpose of this subsection, any former teacher in the public schools of this state whose last regular teaching service was at any time during the 60 days immediately preceding June 30, 1951, and whose granted application for payment of benefits under said state retirement law was made subsequent to June 30, 1951, but prior to January 1, 1952, shall be deemed to have been retired from teaching on June 30, 1951, and to have been on that date receiving benefit payments under said state retirement law, provided such former teacher is in all other respects eligible to receive the compensation provided in this subsection. Any person entitled to said compensation shall receive it for any month during which such person was registered on said roster for 15 days or more. On the first of each month the state superintendent shall prepare and certify a special pay roll for the payment of such monthly compensation to those registrants entitled thereto for the previous month.

(7) No person shall be entitled to receive for any month the compensation herein provided, to the extent said monthly compensation when added to the benefit received for that month under the state retirement law exceeds \$125. For the purpose of this subsection the benefit received for any month under the state retirement law shall not include any amount paid from additional deposits, including interest thereon. No person who has withdrawn all or any part of the required deposit made by said person under the state retirement law, including accumulations thereon, shall be entitled to the monthly compensation provided herein, except that one who taught 25 years or more in the public schools of the state prior to June 30, 1951, shall be entitled to the compensation provided herein even though such person prior to June 30, 1951, withdrew all or any part of the deposit made by such person under the retirement law.

(8) No person shall be paid compensation hereunder for any month during which such person serves as a substitute teacher or for other educational services in any school or schools in this state in excess of one-half of the normal teaching time of a regularly employed full-time teacher in such school or schools during said month. The state superintendent shall make such determination as may be necessary under this subsection upon such evidence or information as he is reasonably able to obtain.

(9) Every person who applies for and is registered upon said roster of substitute teachers or for other educational services shall thereby be constituted a special employe of this state as a standby potential substitute teacher or for other educational services but shall not by such registration be an employe of this state for any other purpose or be entitled to any benefit, payment, privilege, right or anything of any other kind or nature, except said monthly compensation herein provided, or be subject to any other law, rule or regulation applicable to state employes. Payment to any person upon said roster of said monthly compensation herein provided shall in no way affect the right of such person to benefits otherwise receivable under the state retirement law. Any amount paid as compensation hereunder shall not be considered as compensation received for teaching services for any of the purposes of said state retirement law.

(10) The state superintendent shall prepare and furnish such forms as he deems necessary in administering this section.

(11) "Public schools" as used herein means all schools supported wholly or in part by public funds, and under the control and management of this state, or any subdivision

thereof, empowered by law to employ teachers, except schools in cities of the first class included under s. 38.24.

(12) Except as authorization to pay for the month of June, 1957, the compensation herein provided, this section shall expire on and not be effective after June 30, 1957.

(13) (a) This section shall be continued in effect for persons who on June 30, 1957 are included on the roster and who are required to make contributions under the federal insurance contributions act as a result of compensation paid under this section until they reach the qualifying age for retirement under the federal old-age and survivors insurance system.

(b) Such persons may withdraw from said roster if they wish to qualify for adjusted benefits under s. 42.49 (10).

(c) Such persons shall be removed from said roster when they are no longer required to make contributions under the federal insurance contributions act as the result of compensation received under this section.

(d) Compensation may not be received under this section by any person receiving adjusted benefits under s. 42.49 (10).

(14) (a) Notwithstanding the provisions of subs. (1) to (12), any person who is deemed an active member of the state teachers' retirement system under s. 42.241 (7) or a teachers' annuity and retirement fund under s. 38.24 (3) (g) shall be placed upon the roster of substitute teachers established by this section, and shall be paid the compensation provided for under sub. (6) beginning December 1, 1957, without regard to the restrictions and limitations contained in subs. (1) to (12). Such compensation shall be paid to any such person until he again receives an annuity under the state teachers' retirement system or such teachers' annuity and retirement fund.

(b) The executive secretary of the state teachers' retirement system and the secretary of each teachers' annuity and retirement fund established under s. 38.24 shall certify to the state superintendent the names of the members of the respective systems who are entitled to be placed on the roster under par. (a) and such persons shall immediately be placed on such roster as of December 1, 1957, without applying therefor.

(c) This section shall be continued in effect until June 30, 1958, for the purposes of this subsection in addition to other purposes authorized by law.