Hence the failure to account for the profits tach against the sureties on the treasurer's official graph of the complaint charging the realization of unaccounted profits from the sale of securities lawfully purchased with city funds did state a cause of action against the sureties on the treasurer's bonds, since such profits did attach as an accretion to the funds lawfully invested so as to make the failure to account for the profits a breach of the bonds. Milwaukee v. Drew, 220 W 211, 265 NW 690.

A bond of a special deputy commissioner of banking, for the faithful discharge of the duties of his office in assisting in liquidating and distributing the assets of a delinquent bank under 220.06 is an "official bond." Ranking Comm. v. Nat. Surety Corp., 243 W 542, 11 NW (2d) 171.

An official bond of a public officer, in the form prescribed by 19.01 (2), is not a "sealed instrument"; and the mere fact that the corporate seal of the surety company was affixed to the official bond of an assistant city treasurer did not, without anything further, make the bond a sealed instrument, in respect to application of the statute of limitations. Maxwell v. Stack, 246 W 487, 17 NW (2d) 603.

An official bond should contain only such provisions as are found in 19.01 (2), together with such additional provisions as are authorized by the statute providing for bond. 13 Atty. Gen. 619.

A public officer is an insurer of public funds lawfully in his possession and is liable for losses which occur even without his fault. 26 Atty. Gen. 237.

The bond required by 19.01, Stats. 1949, covers nonfeasance, as well as malfeasance and misfeasance. 30 Atty. Gen. 440.

A county has authority to pay premiums on surety bonds of officers and employees where such bonds are required by some provision of the statutes or by some appropriate action of the county board or by some duly delegated agency thereof. 30 Atty. Gen. 250.

A county may properly pay bond premiums for deputy county clerks appointed for the sale of hunting and fishing licenses. 39 Atty. Gen. 578.

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upon the former's bond for the breach thereof resulting from the nonpayment. Mulholland v. Estate of Gerry, 61 W 947, 51 NW 869.

An action on an official bond of the state treasurer to recover for unauthorized surrender of securities whereby individuals were injured need not be brought by the state itself represented by the attorney general but may be brought by such individuals in the name of the state. State ex rel. Sheldon v. Dahl, 156 W 73, 135 NW 474.

14.02 Art. IV, and ties at the time required by sec. 1, art. X, and who fails to take the oath required by sec. 28, 1905 153, 161, 164; Stats. 1917 ss. 14.03, 19.04, 19.06, 19.10.

14.03 The provision requiring security for costs is mandatory. No notice of motion for dismissal of an action on the ground that security has not been furnished is necessary; so 269.81 is inapplicable. Sheldon v. Nick & Sons, Inc. 235 W 182, 32 NW 269.

The requirements in 19.03 that a person commencing an action against an officer and his surety on his official bond shall give security for costs by an undertaking as prescribed in 271.36 (3) or 307.09, and serve a copy thereof on the defendants at the time of the service of the summons, are neither conditions precedent to the court's obtaining jurisdiction nor absolute requirements which can never be waived, but prescribe the procedure to be followed in bringing the lawsuit. Broadbent v. Hegge, 44 W (2d) 719, 172 NW (2d) 34.

Waiver of the requirements of 19.03 must be express or necessarily implied from acts entirely inconsistent with raising the issue of noncompliance with statutory requirements. Broadbent v. Hegge, 44 W (2d) 719, 172 NW (2d) 34.

19.04 History: 1898 c. 196 s. 3; R. S. 1878 s. 988; Stats. 1898 s. 989; 1917 c. 152 s. 7; Stats. 1917 s. 19.04.

19.05 History: 1898 c. 196 s. 1, 2; R. S. 1878 s. 989; Stats. 1898 s. 989; 1917 c. 152 s. 6; Stats. 1917 s. 19.05.

19.06 History: 1898 c. 196 s. 3, 4; R. S. 1878 s. 990; Stats. 1898 s. 990; 1917 c. 152 s. 9; Stats. 1917 s. 19.06.

19.07 History: 1925 c. 113; Stats. 1925 s. 19.07; 1937 c. 429; 1953 c. 245.

A schedule bond covering all county officers and employees may not be filed under 18.07 (1) (b), in lieu of the official bonds required by county officers by 59.13 (1) and 19.01 (2). 37 Atty. Gen. 521.

19.10 History: R. S. 1849 c. 9 s. 9, 27, 42, 44, 45; R. S. 1868 c. 10 ss. 10, 16, 29, 53, 55, 60; R. S. 1878 ss. 128, 153, 161, 164; Stats. 1898 ss. 128, 153, 161, 164, 1903 c. 37 s. 1; 1903 c. 191 s. 1; 1908 c. 271 s. 1; Supp. 1908 ss. 153, 164; 1913 c. 172 s. 130; 1917 c. 822 s. 3; Stats. 1917 s. 14.03; 1969 c. 276 ss. 9, 11, 18, 586 (3); Stats. 1969 s. 19.11.

The term of office of the state superintendent-elect who fails to take the oath required by sec. 28, art. IV, and 14.03, Stats. 1949, and assume duties at the time required by sec. 1, art. X, and 14.62, causes a vacancy in the office. The governor's appointment of the same person for the unexpired term is valid, and since he

qualified under this appointment and assumed the duties of the office after ch. 495, Laws 1949, increased the salary incident to the office, he is entitled to increased salary. 38 Atty. Gen. 445.
A county clerk is required to preserve in his office and not destroy tally sheets and poll lists delivered to him under $9.59, Stats. 1925. 14 Atty. Gen. 476.

Health records of public school pupils and consents to vaccination and immunization are not public records and matter of their preservation is one of policy. 27 Atty. Gen. 265.

If it is administratively desirable the annuity board may disclose to third party accumulations to credit of member of retirement system and amount of monthly annuity which such member could receive upon retirement. 31 Atty. Gen. 195.

The board of medical examiners is not required to preserve examination papers indefinitely. These do not constitute public records under 18.01 (1) or 327.10, Stats. 1945, and together with routine correspondence may be destroyed after a reasonable time. However, no official records may be destroyed without legislative permission and this applies to such correspondence as may partake of the nature of an official record. 35 Atty. Gen. 279.

Notwithstanding 18.01, 59.14 (1) and 59.23, Stats. 1951, the public enjoys no right of inspection of telephone and radio logs, criminal complaint reports, criminal investigation reports, automobile accident reports, or other papers, documents and physical evidence relating to law enforcement activities in the office of the sheriff or of a city police department. 41 Atty. Gen. 237.

For discussion of the confidentiality of various types of reports and records filed in public offices, see 51 Atty. Gen. 242.

Under 18.01, Stats. 1967, tape recordings of county board proceedings must be made available to the public except in those instances where harm to the public interest would outweigh the benefits. 56 Atty. Gen. 290.

It is improper to subpoena public records for use in court proceedings, where certified copies of such records can be obtained under 989.18, Stats. 1967. 37 Atty. Gen. 196.

18.22 History: 1917 c. 178 s. 3; Stats. 1917 a. 18; 1969 c. 269 ss. 6, 27 (2); Stats. 1969 a. 19.22.

18.23 History: 1917 c. 178 s. 4; 1917 c. 671 s. 4; Stats. 1917 s. 18.03; 1947 c. 67, s. 16; 1951 c. 451; 1969 c. 259 s. 6; 1969 c. 276 ss. 562 (11), 1196; Stats. 1969 s. 19.23.

18.24 History: R. S. 1849 c. 12 s. 45; R. S. 1858 c. 15 s. 81; R. S. 1878 s. 4553; Stats. 1986 s. 4553; 1225 c. 4; Stats. 1925 s. 248.32; 1925 s. 696 s. 4; Stats. 1925 s. 14.04; 1925 c. 369 s. 6; 1969 c. 259 s. 6; Stats. 1969 s. 19.24.

18.25 History: R. S. 1849 c. 131 s. 41; R. S. 1858 c. 133 s. 62; R. S. 1878 s. 2963; Stats. 1986 s. 2963; 1225 c. 4; Stats. 1925 s. 275.49; 1925 c. 341 s. 317; Stats. 1925 s. 14.04; 1925 c. 369 s. 6; 1969 c. 276 s. 91; Stats. 1969 s. 19.25.

CHAPTER 20.
Appropriations and Budget Management.


On the public-purpose doctrine see notes to sec. 1, art. IV; and on limitations respecting appropriations see notes to sec. 2, art. VIII.

The allotment for permanent improvements made from a nonlapsing appropriation continues available for the purpose of the allotment, and for that purpose only, until expended. The sum annually appropriated includes not merely the stated amount, but also such increase as may be made thereto in the discretion of the executive, up to the expressed limitation, where the entire amount is referred to as appropriated annually. 9 Atty. Gen. 465.

When an order for goods has been given and accepted an "indebtedness" has been "incurred" within the meaning of 20.77 (6), Stats. 1921. 10 Atty. Gen. 1864.

Where goods are ordered by a department of the state, and the order is accepted, but the goods are not delivered until the ensuing fiscal year, the bill is payable out of the appropriation for the year in which they were ordered. 10 Atty. Gen. 1125.

Under 20.77 (6), Stats. 1937, any indebtedness incurred under the appropriation which reverts to the general fund, where such indebtedness is incurred prior to the time such fund reverts, is to be paid from the appropriation or balance thereof which reverts unless...