

CHAPTER 24

PUBLIC DOMAIN AND THE TRUST FUNDS

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SUBCHAPTER I

PUBLIC LANDS ADMINISTRATION

24.01 Definitions and classification. In chs. 23 to 29, unless the context requires otherwise or unless otherwise defined:

(1) “Agricultural college lands” embraces all lands granted to the state by an act of congress entitled “An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,” approved July 2, 1862.

(2) “Board” means the board of commissioners of public lands.

(3) “Department” means department of natural resources.

(4) “Marathon county lands” embraces all lands acquired by the state pursuant to chapter 22 of the general laws of 1867.

(5) “Normal school lands” embraces all parcels of said “swamp lands” which the legislature has declared or otherwise decided, or may hereafter declare or otherwise decide, were not or are not needed for the drainage or reclamation of the same or other lands.

(6) “Public lands” embraces all lands and all interests in lands owned by the state either as proprietor or as trustee which constitute any part of the lands defined or specified in this section.

(7) “School lands” embraces all lands made a part of “the school fund” by [article X, section 2, of the constitution](#).

(8) “Secretary” means secretary of natural resources.

(9) “Swamp lands” embraces all lands which have been or may be transferred to the state pursuant to an act of congress entitled “An act to enable the state of Arkansas and other states to reclaim the swamp lands within their limits,” approved September 28, 1850, or pursuant to an act of congress entitled “An act for the relief of purchasers and locators of swamp and overflowed lands,” approved March 2, 1855.

(10) “University lands” embraces all lands the proceeds of which are denominated “the university fund” by [article X, section 6, of the constitution](#).

(11) “Warden” means conservation warden, and includes county, special and deputy conservation wardens.

History: 1977 c. 9; 1981 c. 390; 1983 a. 189, 192; 1987 a. 119.

24.02 Addition to the public lands. Addition to any class of lands specified in s. 24.01, except lands purchased for forest reserve and Marathon county lands, may be effected by grant, conveyance or devise made as a donation to the state for the purpose of the fund to which such class belongs. But no such proffered donation shall be accepted until the title of the donor has been examined and approved by the attorney general.

24.03 Escheats. The board of commissioners of public lands shall, whenever it shall have reason to believe that any lands have escheated to the state for defect of heirs, cause due inquiry to be made to ascertain the rights of the state, and the attorney general shall bring any suit or action or take any requisite proceeding necessary to protect and secure the rights of the state. The board may either take possession of, or cause to be sued for and recovered as

aforesaid when necessary, any real estate believed to have escheated to the state, or may proceed directly to sell all the right, title and interest of the state therein, without first obtaining possession thereof and without establishing title thereto by action.

24.04 Administrative receipts and disbursements.

(1) RECEIPTS. The board shall collect from purchasers of land a fee of \$5 for every certificate and \$5 for every patent issued by it. The board shall pay the moneys collected, together with all moneys for expenses of advertising, damages and costs received either by redemption or resale of any public lands forfeited after being sold by the state, into the state treasury to the credit of the common school fund. The executive secretary of the board may take the acknowledgments of the board to all certificates and patents, and no fees may be charged therefor.

(2) DISBURSEMENTS. All expenses necessarily incurred in carrying for and selling public lands shall be deducted from the gross receipts of the fund to which the proceeds of the sale of the land will be added.

History: 1975 c. 39 s. 734; 1977 c. 418; 1979 c. 34; 1983 a. 423; 1993 a. 16.

24.05 Survey of lands. Whenever it shall appear to the board necessary that surveys should be made in order to ascertain the true boundaries of any tract or portion of the public lands, or to enable it to describe and dispose of the same in suitable and convenient lots, it may cause all such necessary surveys to be made.

24.06 Plat of lands. The board may subdivide any parcel of public lands into smaller parcels or village lots, with streets and alleys if necessary, whenever it believes a larger net price can be obtained by selling the land in such smaller parcels or lots. A survey and plat of such subdivision, verified by its maker as true and correct, shall be returned and recorded in the office of the board, and the parcels or lots designated thereon shall be appraised before they are offered for sale. Such subdivision shall be ordered, the proceedings therefor governed and such appraisal made in substantial accord with s. 24.08.

24.07 Sale of land with water power. Whenever a water power exists upon any public lands offered for sale the board may sell together all the tracts or lots upon which such water power is situated and such other tracts or lots as are necessary for the use and enjoyment of the same, not exceeding 160 acres, or it may sell each tract or lot separately, as in its opinion the larger proceeds may be derived from such sale.

24.08 Minimum price. (1) LANDS APPRAISED. Every parcel of public land that was never appraised, every parcel of public land forfeited to the state under s. 24.28 and every parcel of land mortgaged to secure any loan of trust funds and bid in by the state at a sale of that land under the mortgage shall be appraised under this section before it is offered or reoffered for sale at public auction, at private sale or exchanged for other lands. These lands may be reappraised whenever necessary.

(2) APPRAISER. The board may make and enter in its minutes an order that any parcel or parcels of the public lands be appraised, describing the lands, appointing an appraiser and stating the reasons why the appraisal is deemed necessary. So far as practical the appraiser shall be a person in the employ of the board, of good character, approved integrity, sound judgment and well acquainted with the public lands; but the board may employ under contract any competent appraiser if it deems it necessary.

(3) APPRAISAL. The appraisal shall be made from actual view and at cash value. It shall be in writing and be verified by the affidavit of the appraiser who shall testify that the appraisal is just and was made as required by law. The appraisal shall be filed with the executive secretary of the board and recorded.

(4) APPRAISED VALUE, MINIMUM PRICE, GOVERNMENT MINIMUM. Such appraised value shall be the minimum price of the land until sold or reappraised. Until an appraisal under this section, the appraisal last heretofore made of any parcel of public land, if any

has been made, shall fix the minimum price thereof. Notwithstanding this section no parcel of public land having a minimum price for the sale thereof fixed by the act of congress granting the same to the state, shall be sold for a lesser price than that so fixed.

History: 1973 c. 90; 1983 a. 423; 1993 a. 16.

24.09 Procedure before sale or exchange; withdrawal; resale. (1) (a) Except as provided under par. (c), the board may not sell or exchange any public lands which were not appraised or appraised under s. 24.08. Except as provided under pars. (b), (bm) and (c), the board may not sell or exchange any public lands except at public auction.

(b) Lands required for federal, state, county, city, village, town or school district use may be sold at the appraised value to or exchanged for land of approximately equivalent value with the federal government, other state departments, boards or commissions, counties, cities, villages, towns or school districts.

(bm) The board may exchange part or all of any parcel of public lands for any other land of approximately equal value if the board determines that the exchange will contribute to the consolidation or completion of a block of land, enhance conservation of lands or otherwise be in the public interest.

(c) Lands located within the federally recognized exterior boundaries of Indian reservations or located adjacent to the federally recognized boundaries of Indian reservations may be sold to or exchanged with the Indian tribe or tribes located on those reservations or sold to or exchanged with the federal government for the benefit and use of such tribe or tribes upon prices, terms and conditions agreeable to the board and without being subject to the restrictions and procedure otherwise provided by law for the sale of public lands.

(d) All sales other than sales under par. (b) or (c) shall be made at the times and public places the board designates. Prior to any sale, the board shall publish a class 3 notice, under ch. 985, specifying the time and place and describing the lands to be sold in a newspaper published in the county where the lands are situated.

(2) The board may, whenever it believes the public interest will be served thereby, withdraw and withhold from sale all or such portions of the public lands as in its opinion it may not be advantageous to sell, for so long a time as in its opinion will be most beneficial to the state; but when reoffered the lands so withdrawn shall first be offered at public sale in the manner prescribed by law.

History: 1983 a. 423; 1987 a. 76.

24.10 Procedure at sale. At the time and place specified in such notice the board shall commence the sale and thereafter continue the same from day to day (Sundays excepted) between 9 a.m. and the setting of the sun, until all lands described in said notice have been offered. The order of such sale shall be to begin at the lowest number of the sections, townships and ranges in each county and proceed regularly to the highest, until all then to be sold are offered for sale. Each lot or tract of such lands shall, except such as may be withheld as provided in s. 24.09, be offered separately at the minimum price fixed by law, and shall be cried at public auction long enough to enable every one present to bid; and if the minimum price or more be bid, such lot or tract shall be struck off to the highest bidder; but if such price be not bid the tract shall be set down unsold.

24.11 Terms of sales. (1) FOR CASH OR INSTALMENTS. (a) Except as provided under sub. (4), public lands may be sold for cash to be paid at the time of the sale or according to the terms specified under par. (b).

(b) The first payment shall be not less than 15% of the purchase price, and shall be made at the time of the sale together with interest on the deferred payments in advance to February 1 of the following year. However, the first payment may not be less than the value of the timber, if any, on the lands sold. Annual payments of principal and interest shall be made for a maximum of 20 years after the date of the sale, with interest on the principal at the rate

of 7% per year, payable annually in advance on February 1 of each year.

(2) **PURCHASER TO PAY TAXES.** The board shall insert in every contract or certificate of sale of public land a clause providing that the vendee, the vendee's heirs, administrators or assigns shall pay or cause to be paid all taxes that are or that may be assessed against the land from and after the date of the said contract.

(3) **RESERVATION.** Every contract, certificate of sale, or grant hereunder of public lands shall reserve to the people the right of access to such lands and to any meandered or nonmeandered stream, river, pond or lake navigable in fact for any purpose whatsoever, bordered by such lands and all rights necessary to the full enjoyment of such waters, and of all minerals in said lands, and all mining rights therein, and shall also be subject to continued ownership by the state of all waterpower rights on such lands or in any manner appurtenant thereto. Such conveyance shall also be subject to a continuing easement in the state and its assigns to enter and occupy such lands in any manner necessary and convenient to the removal of such mineral from such lands and to the proper exercise of such mineral rights, and shall be further subject to the continuing easement in the state and its assigns to enter and occupy such lands in any manner necessary and convenient to the development, maintenance and use of any such water rights. Nothing contained in this section shall be construed to provide for the continued ownership in the state of any stone used for building purposes nor of any sand or gravel.

(4) **SPECIAL TERMS FOR ESCHEATED LANDS.** Upon the sale of any escheated lands the entire purchase price shall be paid at the time of the sale; whereupon the board shall execute and deliver to the purchaser a quitclaim deed of conveyance which shall vest in the grantee all the right, title and interest of the state in or to the land, and every right of action which the state has respecting the same; but no covenant or warranty of title, or of continued enjoyment, or against encumbrances, shall be expressed in or implied from such deed or any words therein. If by virtue of a better title a recovery of such land be had by any other person or party within 20 years after such purchase, the state shall refund to the purchaser or the purchaser's assigns or legal representatives the amount paid by the purchaser for the land together with interest thereon at the rate of 6% per year from the date of the purchase until the date of recovery and also the amount of all taxes on the land actually paid by the purchaser with like interest on each payment from the time of payment to the date of the recovery.

History: 1979 c. 110 s. 60 (13); 1983 a. 423; 1991 a. 316; 1995 a. 225.

State reservation of land and interests in lands under ch. 452, laws of 1911, 24.11 (3) and Art. X, sec. 8 discussed. 65 Atty. Gen. 207.

24.12 Forfeit for failure to pay. Every purchaser of any lot or tract at any sale as aforesaid shall pay the amount of the purchase money required by the terms of sale to be paid in hand immediately after having bid off the same; and if the purchaser shall refuse or neglect to so pay, the lot or tract so bid off by the purchaser shall again be offered for sale; and the purchaser shall, for such refusal or neglect to pay, forfeit \$25 for each lot or tract so bid off by the purchaser, which the board shall, in the name of the state, cause to be immediately sued for and collected, and when collected paid into the school fund.

History: 1991 a. 316.

24.14 Rights of swamp-land purchasers. Any person who has purchased from the United States or entered any of the lands patented to this state as swamp and overflowed lands, or lands patented in lieu of such lands, prior to the execution of such patents to this state, may whenever such entries have been canceled by the United States on account of conflict with the right and title of this state to such lands, purchase from this state, prior to the date fixed for the public sale thereof, such lands so purchased or entered from the United States, upon making satisfactory proof to the board that such person is the identical person, or the heir, legal representative or assign of the person, who purchased or entered such lands as aforesaid, and upon paying to this state for such

lands the same price at which such purchase or entries were made from the United States; but nothing contained in this chapter shall impair the rights acquired by any person who has preempted any such lands under the laws of this state.

24.145 State-owned swamp lands; proceeds; disposition. It is declared that none of the swamp and overflowed lands heretofore granted to this state pursuant to an act of congress entitled "An Act to enable the state of Arkansas and other states to reclaim the swamp lands within their limits", approved September 28, 1850, and the proceeds derived from the sale thereof, which have not heretofore been actually applied for reclamation of such lands, are necessary for the purpose of reclaiming any such swamp and overflowed lands by construction of levees and drains or otherwise. All such swamp and overflowed lands and the proceeds derived from the sale thereof including those placed and being in the drainage fund pursuant to [chapter 537, laws of 1865](#), which have not been actually applied for the purpose of reclaiming such lands, shall be and they are made a part of the normal school fund. This section shall be controlling over any inconsistent act or statute.

24.15 Private sale. All public lands, including forfeited lands and mortgaged lands bid in by the state, which shall have once been offered or reoffered at public sale and remain unsold, shall be subject to private sale at the minimum price fixed therefor by law to the person first making application therefor, if the person forthwith complies with the term of sale; but if 2 or more persons shall apply at the same time to purchase any of such lands the same shall be offered to the highest bidder, and the applicant who will pay the highest price shall be the purchaser.

History: 1991 a. 316.

24.16 Applications for private sale. Every person making application for the purchase at private sale of any such lands shall file in the office of the board an application in writing, describing the lot or tract which the person proposes to purchase by the proper number of the section, township and range, and the subdivision of the section, with the person's name subscribed thereto. The board shall, if the land applied for may then be sold, enter on books kept for that purpose a note of such application, specifying the day when made, the name of the applicant, and the description of the land applied for, and shall also give to such applicant a memorandum, stating such application and describing the lot or tract applied for, and stating the price at which the same may be sold and the amount to be paid at the time of the sale, which memorandum shall be signed by the executive secretary of the board.

History: 1991 a. 316; 1993 a. 16.

24.17 Receipt and certificate. (1) When the purchaser of any such lands shall make payment to the treasurer of the amount required to be paid on such sale, and, in case of a private sale, shall also produce the memorandum mentioned in s. 24.16, the treasurer shall give a receipt therefor to such purchaser, and unless such sale be made wholly for cash the board shall execute and deliver to such person a duplicate certificate of sale, in which it shall certify:

- (a) The description of the land sold;
- (b) The sum paid and the amount remaining due thereon;
- (c) The times, place and terms of payments;
- (d) That if such payments shall be duly made the purchaser or the purchaser's assigns or other legal representatives shall be entitled to a patent for such land;
- (e) And that in case of the nonpayment into the state treasury of the purchase money as it shall become due, or of the interest thereon by the first day of February in each year or on or before the June 30th thereafter, or of any taxes lawfully assessed thereon and then remaining unpaid by the purchaser or purchasers or by any person claiming under the purchaser or purchasers, then that the said certificate from the time of such failure shall be utterly

void and of no effect, and that the board may take possession of the land described in such certificate and resell the same.

(2) When the sale is wholly for cash, upon payment as above provided, the treasurer shall thereupon give to such purchaser a receipt stating the amount paid and giving a description of the lot or tract of land sold and that such purchaser is entitled to receive a patent according to law.

History: 1991 a. 316.

24.18 Entry of sale and patent. When any sale is made the board shall make a note thereof in the book of entries, and shall enter therein the day of sale, the name of the purchaser, the number of the certificate or patent, the sum paid, the amount of purchase money unpaid, if any, and a description of the lot or tract sold. If such sale be made wholly for cash it shall thereupon execute and deliver to the purchaser a patent for such lot or tract of land so sold. If sold at public auction it shall note that fact.

24.19 Certificate of sale. All original and duplicate certificates shall be properly numbered, and the original shall be filed in the office of the board, and as many distinct lots or tracts of land hereafter purchased by one person in one section at the same time as that person shall request shall be included in one certificate or one patent, as the case may be. All certificates may be acknowledged and recorded in the same manner that deeds may be. They may also be assigned in writing, which assignment may be acknowledged and recorded in like manner, and the person to whom the same shall be legally assigned shall have the same rights and remedies thereupon as the original purchaser would have had.

History: 1991 a. 316.

24.20 Payments and accounts. All money paid on account of sales of public lands shall be paid to the state treasurer who shall credit the proper fund therewith, crediting the general fund with the proceeds of sales of Marathon county lands, and the secretary of administration or the secretary's designee, upon countersigning the receipt given therefor, shall charge the treasurer therewith, and shall also enter the name of the person paying the same, the number of the certificate, if any, upon which the amount shall be paid and the time of the payment.

History: 1991 a. 316.

24.21 Accounts with purchasers. The board shall open and keep an account with each purchaser for every lot or tract of land that shall be sold, either at public or private sale, in books kept for that purpose, in which it shall charge the purchaser with the whole purchase money and give the purchaser credit for all the purchaser's payments, making proper charges for interest as the same shall become due, and for all taxes returned to it as unpaid by the proper officer; and upon all payments being completed and the patent issued the account shall be balanced.

History: 1991 a. 316.

24.22 Excessive payments to be refunded. Whenever full payment of the principal due upon any certificate of sale by the state shall be made subsequent to the payment of the annual interest thereon, the excess of the interest so paid shall be refunded to the person entitled thereto from the proper fund, on the warrant of the department of administration; and in case of the double or erroneous payment of interest, charges or taxes on any certificate of sale or loan by the state the amount so erroneously paid shall be in like manner refunded.

24.23 Title; patents. The title and fee of all public lands shall remain in the state until patents shall issue for the same; and no such patent shall issue except upon full payment of the purchase money and interest and all taxes returned and lawful charges thereon.

24.24 Effect of certificate. (1) The certificate of sale, issued pursuant to s. 24.17, until the same becomes void by forfeiture under s. 24.28, shall entitle the purchaser, the purchaser's

heirs or assigns, to all the rents, benefits and provisions of any lease existing thereon at the time of such purchase and thereafter accruing, and shall be sufficient evidence of title, and shall vest in the purchaser, the purchaser's heirs and assigns, the same rights of possession, enjoyment, descent, transmission and alienation of the lands therein described, and the same remedies for the protection of said rights, as against all persons except the state, that the purchaser would possess if the purchaser were the owner thereof in fee.

(2) No such certificate shall confer the right to cut down, destroy or dig up or carry off any standing wood or timber, or any mineral, without the written consent of said board, except that such wood or timber may be cut when to be used, and it shall be exclusively used, in the erection of fences or buildings on such lands, or for necessary firewood for the household use of the persons actually occupying the same, or when done in good faith for the actual and fair improvement of such land for cultivation.

(3) But no such cutting shall be deemed to have been done for the purposes of cultivation unless the entire surface from which such wood and timber is cut shall have been at the time further prepared therefor by thoroughly clearing it of all brush and growing wood of every kind thereon, except that shade or ornamental trees on not more than 10 adjoining acres selected for building purposes, and trees valuable for saw or rail timber, not to exceed 20 upon each acre, may be left standing. Any wood, timber or mineral otherwise cut, dug out or removed from any such land shall be and remain the property of the state.

History: 1991 a. 316.

24.25 Patent and record thereof. Whenever full payment shall have been made for any such lands as required by law, and the purchaser or the purchaser's legal representatives shall produce to the board the duplicate certificate of sale, with the receipt of the state treasurer indorsed thereon, showing that the whole amount of the principal and interest due thereon has been paid and that the holder of such certificate is entitled to a patent for the lands described therein, the original and duplicate certificates shall be canceled, and the board shall thereupon execute and deliver a patent to the person entitled thereto for the land described in such certificate. All patents issued by the board shall be recorded in its office; and the record of patents heretofore issued by it is hereby declared a legal record. Purchasers may, at any time before due, pay any part or the whole of such purchase money and the interest thereon. In all cases where patents have been or may hereafter be issued to a person who may have died or who shall die before the date thereof, the title to the land described therein shall inure to and become vested in the heirs, devisees or assignees of such person to the same extent as if the patent had issued to that person during that person's lifetime.

History: 1991 a. 316.

24.251 Patents, issuance; county may record. Whenever it shall appear to the board of commissioners of public lands that all the conditions relating to the issuance of patents have been complied with, the board may issue patents, and the county board of any county may cause such patents to be recorded in the county and pay the cost of such recording.

24.26 Patentee's rights. Except as provided otherwise by s. 24.11 any person, the person's heirs or assigns, who shall receive a patent pursuant to law for any public lands shall thereby acquire the right to all timber, lumber, trees, wood, bark, stone, earth, and other materials cut, dug, taken or removed therefrom before the issue of such patent, unless the same shall have been cut, dug, taken or removed by the assent of said board or sold by the state, and may maintain any proper action for the recovery thereof, or for any injury done to or trespass committed upon said lands before such patent shall have been issued, in the same manner and with the like effect, and the person shall be entitled to like damages

as if such injury or trespass had been committed after the patent had issued.

History: 1991 a. 316.

24.27 Purchase money a loan. The purchaser of public lands, when the balance of the purchase money becomes due, may retain the same as a loan from year to year on payment annually in advance, or on or before May 31, of the interest on the sum due, at the rate of interest specified in the certificate of sale, and the taxes annually assessed on the land described in the certificate, until required to pay the whole or part by the board or until the legislature shall otherwise direct.

History: 1981 c. 169; 1983 a. 423.

24.28 Forfeiture. In the case of the nonpayment of interest when due according to the terms of the certificate of sale, or of any taxes which before said annual interest is paid shall have been returned to the board of commissioners of public lands by the county treasurer as due and unpaid upon such land, or of the principal when required by the board, such certificate shall become void from the time of such failure, and the purchaser, the purchaser's heirs and assigns, shall forfeit all right and interest in the lands described in such certificate; and the board may take immediate possession thereof and may resell the same as hereinafter provided.

History: 1991 a. 316.

24.29 Redemption. At any time before the 5 days next preceding the reoffering of such land at public sale, the former purchaser or the former purchaser's assigns or legal representatives may, by the payment of the sum due with interest, and all taxes returned thereon to the state treasurer which are still unpaid, and all costs occasioned by the delay, together with 3% damages on the whole sum owing for such land, prevent such resale and revive the original contract.

History: 1991 a. 316.

24.30 Liability of former purchaser. In case of such forfeiture the former purchaser of such land shall be liable for any waste or unnecessary injury which the former purchaser may have done to the same, or to the timber or mineral thereon; and any action therefor may be prosecuted by the board in the name of the state.

History: 1991 a. 316.

24.31 Advertisement and resale of forfeited lands. Whenever any public lands have been forfeited for the nonpayment of either principal, interest or taxes, and have remained forfeited for 3 months, the board shall first cause such lands to be appraised as provided by s. 24.08 and shall thereupon advertise such land for sale as provided by s. 24.09, and shall further state in the notice that the lands have been forfeited and give the names of the former purchasers. Such sale shall be made either in the county where the lands lie or at the capitol on a day not less than 3 months nor more than 6 months after the first insertion of the notice. The board shall publish a class 3 notice, under ch. 985, of the sale giving the time and place where such sale will be held and the county in which such lands are situated, but omitting any description of such lands; the last insertion of the notice shall be at least one week previous to the time of commencing such sale.

24.32 Resale and redemption. (1) Unless such resale be prevented by payment as hereinbefore provided by s. 24.29, such lands shall be offered for sale at public auction to the highest bidder, in the manner and upon the terms provided, for original sales, and if not then sold shall be subject to private entry thereafter.

(2) Every such tract may be redeemed by the former purchaser thereof, the former purchaser's assigns or legal representatives at any time before the June 30th next following the date of such resale, upon presenting to the board satisfactory proof, which shall be filed and preserved by it, that such tract was, at the time of resale, in whole or in part under cultivation or adjoining a tract partly cultivated, belonging to the former purchaser, the former

purchaser's assigns or legal representatives and used in connection therewith, and upon depositing with the state treasurer, for the use of the purchaser at such resale the amount paid by the purchaser for such land, together with 25% of the amount of such taxes, interest and costs in addition thereto; and every certificate issued upon any such resale shall be subject to the right of redemption whether it be expressed in such certificate or not. And no patent shall be issued on any such resale until the expiration of such redemption period.

(3) Upon such redemption the board shall cancel such certificate, and shall make and deliver to the party so redeeming a certificate thereof, and shall also record the same in a book to be kept in its office for that purpose.

History: 1991 a. 316.

24.33 Resale may be canceled. Whenever any land has been so forfeited and resold, within 3 months thereafter, upon proof that there are valuable improvements thereon and that such forfeiture was occasioned by the death of the holder of the first certificate, or the neglect of that person's executor or administrator, and payment to the treasurer of the amount actually due on such first certificate at the time of such resale, with interest, costs and charges, with interest on the amount for which such land was sold at the rate of 10% per year, the board, by its order in writing, duly recorded, of which a copy shall be forthwith served on the last purchaser, may avoid and cancel such resale and restore and revive such first certificate. Thereafter there shall be paid out of the state treasury to the last purchaser the amount paid by the last purchaser and the said interest thereon collected of such person so redeeming, on surrender of the certificate, receipt or patent given the last purchaser at such resale.

History: 1979 c. 110 s. 60 (13); 1991 a. 316.

24.34 Void sales. In case of the sale of any public lands made by mistake, or not in accordance with law, or obtained by fraud, and in cases where the state had no title to such lands, or its title has failed, such sale shall be void and no contract, certificate of purchase or patent issued thereon shall be of any effect, but the person named as vendee, or that person's successor in interest, as the case may be, may furnish to the board such proof as shall satisfy it of the facts. Thereupon it shall order all amounts, either of principal or interest, paid for the lands described in the contract, certificate or patent, together with the interest thereon from the time of each such payment, at the rate of 6% per year, simple interest, to be refunded and paid out of the state treasury, from the fund to which it has been credited, to the person entitled thereto; provided that no money shall be paid to any person participating in any such fraud.

History: 1979 c. 110 s. 60 (13); 1991 a. 316.

24.341 Offset to refund on void sales. Whenever any claim shall be made under s. 24.34, the board of commissioners of public lands shall make an investigation and determination, and offset the value of the use of said land, property removed therefrom and the damage or injury thereto by such claimant, together with interest thereon, against the amounts actually paid to the state and to any other persons on account of the purchase, possession, use, damage or injury to such lands by said claimants. The refund or payment to be made under s. 24.34 shall in no case be more than the excess, if any, of the amounts paid out by such claimant with interest over such offset.

24.35 Annulment of certificates and patents. Whenever the board shall have erroneously or improperly issued any certificate or patent for any public lands, whereby wrong or injustice has been or may be done, including cases where the state had no title to the lands, or its title has failed, it may, upon the written application of the purchaser, or the purchaser's successor in interest revoke and annul such certificate or patent by its order, which with such application, shall be filed and recorded in its office. A certified copy of such order may be recorded in the office of the register of deeds for the county where such lands lie, and thereupon such

certificate or patent shall be absolutely null and void. When such order is so recorded there shall be paid out of the state treasury, from the fund to which it has been credited, to the purchaser, or the purchaser's successor in interest the amounts in the manner and as provided in s. 24.34.

History: 1991 a. 316.

24.355 Limitation of actions. All claims under s. 24.34 or 24.35 shall become barred, unless application therefor be made within 5 years from the time of such payment, or, in cases where the state never had title, from the time when the invalidity of the title of the state was established.

24.36 Lost certificates and patents. Whenever any duplicate certificate of sale shall have been lost or destroyed before the patent shall issue, or whenever any patent shall have been lost or destroyed the board, upon satisfactory proof of the fact by affidavit to be filed with it, may issue a certified copy of the original certificate of sale or of the record in its office of such patent, or a quitclaim deed in place of such patent, to the person entitled thereto, which shall have the same force and effect as the original duplicate certificate or patent. Its certificate to such copy and quitclaim deed shall recite the loss or destruction of the original.

24.37 Ejectment. If any person shall hold or continue in possession of any public lands without written permission from the board, or contrary to the conditions or covenants of any lease or written agreement, or after such lands have been forfeited to the state, that person shall be liable to an action by the state or any purchaser from the state for an unlawful detainer or other proper action to recover possession of such lands with damages for the detention of the same.

History: 1991 a. 316.

24.38 Boundaries. The lines, boundaries and descriptions of the swamp lands as exhibited by the plats and field notes of the United States survey are adopted and shall be deemed conclusively to be the true lines, boundaries and descriptions thereof.

24.39 Leases, etc. (1) The board of commissioners of public lands may grant leases of parts or parcels of any public lands except state park lands and state forest lands; grant easements, leases to enter upon any of said lands to flow the same or to prospect for and to dig and remove therefrom ore, minerals and other deposits, and sell therefrom such timber as the board shall find necessary to prevent future loss or damage. All sales of standing live timber shall be on a selective cutting basis in line with federal forest practices. Such easements, leases, licenses and sales shall be made only for a full and fair consideration paid or to be paid to the state, the amount and terms whereof shall be fixed by said board, and such easements, leases, licenses and sales shall conform to the requirements, so far as applicable, prescribed by ch. 26 for the exercise by the department of natural resources of similar powers affecting state park lands and state forest lands.

(2) In negotiating for such leases, licenses or sales, and in exercising the other powers conferred by this section the board of commissioners of public lands shall, so far as it finds it desirable and practicable, request and make proper use of such services and information as the department of natural resources may be able to furnish.

(3) All moneys received by the board from the leasing of land under the U.S. flood control act of 1954 and subsequent amendments thereto, shall be paid into the general fund of the state within one week and are appropriated therefrom to the board to be paid to the county clerk of the county in which the leased land is located for the benefit of the general fund of such county within 30 days of its receipt by the board.

(4) (a) Subject to pars. (c) and (d) the board of commissioners of public lands may:

1. Lease to riparian owners rights to the beds of lakes and rights to fill in beds of lakes or navigable streams, held by the state in trust for the public, when the purpose of the lease is for the improvement of navigation or for the improvement or construction of harbor facilities as defined in s. 30.01; and

2. Lease such rights to municipalities as defined in s. 30.01 and in locations where the municipality is the riparian owner, when the purpose of the lease is for the improvement or provision of recreational facilities related to navigation for public use.

(b) All revenues from such leases shall be paid into the general fund.

(c) No leases under par. (a) may be executed without a prior finding of the department of natural resources under s. 30.11 (5) that any proposed physical change in the area contemplated as the result of the execution of any term lease is consistent with the public interest in the navigable waters involved.

(d) This subsection applies only to Lake Michigan and Lake Superior, the Mississippi and St. Croix rivers, the Fox river from Green Bay upstream to the point where it meets the Wolf river, and to the segments of all other bodies of water in which the U.S. Army Corps of Engineers provides and maintains commercial navigation channels.

(e) Such lease shall be for a term not to exceed 50 years, and shall include therein any and all conditions and terms the board of commissioners of public lands believes to be necessary in the public interest. A lessee or the lessee's heirs, successors or assigns of a lease which has reached the end of its term shall have first opportunity to contract with the board of commissioners of public lands for a new lease.

(f) A municipality may sublease rights leased to it under par. (a) 1. or 2. to corporations or private persons. A municipality may also make physical improvements on and above the bottoms to which rights were leased from the board of commissioners of public lands and may sublease these improvements to corporations or private persons. Any subleases under this paragraph shall be consistent with this subsection and with whatever standards or restrictions the department of natural resources, acting under s. 30.11 (5), may have found at the time of execution of the original lease by the board of commissioners of public lands to the municipality.

(g) The lease may be terminated for nonuse or for a nonconforming use any time after 5 years from date of issue, or such shorter period of time as may be specified in the lease. It may also be terminated for any other ground recognized at law for termination of a lease.

(h) All rights to submerged lands and rights above submerged lands ceded, granted or leased to municipalities, or other persons by prior acts of the state [1961] shall not be affected by this subsection or by s. 30.11 (5).

(i) All leases entered into by the board of commissioners of public lands under this subsection and s. 30.11 shall be deemed to be subject to this section and any other applicable laws of this state or of the United States.

History: 1981 c. 390; 1991 a. 316.

24.40 Easements; annexation. (1) Every board, commission, department and agency of the state having real estate belonging to the state under its control may grant easements in said property for public utility service through, over, along or to said property, including without limitation by enumeration the necessary poles, wires, structures, lines, conduits, pipes or pipe lines for heat, light, water, gas, sewer, power, telecommunications, telegraph and transmission of messages.

(2) Every such board, commission, department and agency may petition or join in a petition for and on behalf of the state as the owner of such property to annex or detach the same or any part or parts thereof to or from an adjoining municipality.

History: 1985 a. 297 s. 76.

24.51 Constitutional board. The board created by [article X, section 7, of the constitution](#) may be styled in any law or any action or proceeding in court as “The Board of Commissioners of Public Lands”.

History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.51; 1983 a. 192.

24.52 Jurisdiction. Together with the power and duty of selling the school and university lands and investing the funds arising therefrom, prescribed for the board by [article X, section 7, of the constitution](#), it is invested with power to dispose of all other public lands and all interests in lands held by the state for sale, and with such further powers as may be necessary or convenient to enable it to exercise the functions and perform the duties imposed upon it by law.

History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.52; 1983 a. 192.

24.53 Investigate land claims; deduct expenses. The board of commissioners of public lands shall investigate the rights of the state to school lands, normal school lands, university lands and agricultural college lands. The expenses incurred in making these investigations and taking necessary steps to protect common school lands, normal school lands, university lands and agricultural college lands and timber on those lands, as well as the expense of necessary surveys, records, appraisals and sales, upon the approval of the board, shall be deducted from the gross receipts of the fund to which the proceeds from the sale of the land or timber will be added.

History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.53.

24.54 Records; copies as evidence. (1) The department of administration shall provide an office for the board. The board shall conveniently arrange and preserve in that office all records, books, reports, surveys, maps, field notes, plats and other papers pertaining to the public lands owned by the state, including all public lands that have been or shall be received from the United States or any officer of the United States. The board may perfect the records, books, reports, surveys, maps, field notes, plats and other papers when incomplete, and cause copies of those documents to be made when from injury, loss, use or accident it shall become necessary. Any copy, when certified to be a correct copy by the executive secretary of the board under the executive secretary’s signature and the official seal of the office to have been made for any of the causes specified in this subsection, shall have the same force and effect in all courts and places as the original. Any copy from the original records, books, reports, surveys, maps, field notes, plats or other papers, or from any record or paper required by law to be kept in the office, or any copy from a certified copy of one of those documents, when certified by the executive secretary of the board or any member of the board of commissioners of public lands under the official seal of the board, shall be received in evidence with the same effect as the original.

(2) All records, books and files kept by the board shall at all business hours be open, under proper regulations made by it, to the inspection of any person, free of charge. The board also may in like manner make, perfect, and complete proper records, books, reports and other papers pertaining to the lands of which the state has been or is trustee for the United States.

History: 1979 c. 34 s. 699g; 1979 c. 176; Stats. 1979 s. 24.54; 1989 a. 31; 1993 a. 16.

24.55 Executive secretary; deputy; staff; appointments; duties; oath. The board shall appoint an executive secretary outside the classified service. The executive secretary shall appoint a deputy who shall, during the absence of the executive secretary, have all of the authority given by law to the executive secretary. The executive secretary and deputy shall take and file the official oath.

History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.55; 1993 a. 16.

24.56 Not to buy lands. The board, and all persons employed by it or about any of its respective offices, are prohibited from purchasing any of the public lands, directly or indirectly,

either in their own name or in the name of any other person in trust for them or either of them; and for every tract or parcel of land purchased in violation hereof each such person offending shall forfeit not more than \$250.

History: 1975 c. 365; 1979 c. 34 s. 699g; Stats. 1979 s. 24.56; 1993 a. 16.

24.57 Report of board. The board shall include in any report submitted under s. 15.07 (6) a report of its official proceedings for the period since the proceedings reported in the most recent report, showing the quantity of land sold or leased and the amount received therefor, the amount of interest moneys accrued or received and a specific account of the several investments made by them, stating in all cases of loans, the name of each borrower, the sum borrowed and a description of the property mortgaged. The report also shall include such other matters as it thinks proper to communicate or as the legislature requires.

History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.57; 1983 a. 27.

24.58 Appraisers. The board may select employes of the department to appraise lands or perform other services in field and forest. The board shall reimburse the department under a contract with the department for the performance of public land management services.

History: 1975 c. 94; 1979 c. 34 s. 699g; Stats. 1979 s. 24.58; 1993 a. 16.

SUBCHAPTER II

TRUST FUNDS

24.60 Definitions. In this subchapter, unless the context indicates otherwise:

(1) “Consortium” means an association of 2 or more of any of the following entities for the purpose of implementing, expanding or participating in a distance education or educational technology project:

- (a) A school district.
- (b) A technical college district.
- (c) A county, if the county acts on behalf of a county library board that has adopted a resolution under s. 24.66 (3m).
- (d) A city, village or town, if the city, village or town acts on behalf of a municipal library board that has adopted a resolution under s. 24.66 (3m).

(1g) “Distance education” has the meaning given in s. 16.992 (1) (b).

(1r) “Educational technology” has the meaning given in s. 16.992 (1) (c).

(2) “Municipality” means a town, village, city, county, public inland lake protection and rehabilitation district, town sanitary district created under s. 60.71, metropolitan sewerage district created under s. 66.22 or 66.882, joint sewerage system created under s. 281.43 (4), school district or technical college district.

(3) “School district” has the meaning designated under s. 115.01 (3).

(4) “State trust fund loan” means a loan authorized under s. 24.61 (3).

(5) “Trust funds” means the common school fund, the normal school fund, the university fund and the agricultural college fund.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.60; 1983 a. 27 s. 2202 (42); 1983 a. 196; 1985 a. 49, 225; 1993 a. 399; 1995 a. 27, 227.

24.61 Authorized investments and loans. (1) INVESTMENTS AND LOANS; SEPARATE ACCOUNTS. The board shall loan or invest moneys belonging to the trust funds as those moneys accumulate in the treasury. The board shall keep a separate account of all investments and loans from each fund.

(2) INVESTMENTS. (a) *Authorized investments.* The board may invest moneys belonging to the trust funds in the purchase of any of the following:

1. Bonds or notes of the United States.

2. Securities issued under the provisions of the federal farm loan act of July 17, 1916, ([12 USC 641](#), et seq.) or the farm credit act of 1971 (P.L. [92–181](#)).

3. Bonds of this state.

4. Bonds issued pursuant to law by any town, village, city, county or school district of this state.

5. Bonds issued by a local exposition district under subch. [II](#) of ch. [229](#).

6. Bonds of the University of Wisconsin Hospitals and Clinics Authority.

7. Bonds issued by a local professional baseball park district created under subch. [III](#) of ch. [229](#).

(b) *Deposited with state treasurer.* All bonds, notes and other securities so purchased shall be deposited with the state treasurer.

(3) **LOANS.** (a) *Authorized loans.* The board may loan moneys under its control or belonging to the trust funds to:

1. A school district by whatever name designated, to be used for the operation and maintenance of schools, in erecting and remodeling school buildings, teacherages, in the purchase of teacherages, teacherage sites, schoolhouse sites, bus garage sites, transportation vehicles, bus garages, school equipment, or school playgrounds, or in refunding any indebtedness incurred for a lawful purpose and within the constitutional limitations, and for the purpose authorized by s. [67.04](#) or otherwise authorized by law;

2. A town, village, city or county as provided under s. [67.04](#) or otherwise authorized by law; or

3. A technical college district as provided under s. [67.04](#) or otherwise authorized by law.

4. A public inland lake protection and rehabilitation district for the purposes of the exercise of its powers under s. [33.22](#).

5. A town sanitary district created under s. [60.71](#) for the purposes for which the district may issue its bonds under s. [60.78](#).

6. A metropolitan sewerage district created under s. [66.22](#), as provided under s. [67.04](#) or otherwise authorized by law.

7. A metropolitan sewerage system created under s. [66.882](#), as provided under s. [67.04](#) or otherwise authorized by law.

8. A joint sewerage system created under s. [281.43 \(4\)](#) for the purpose of exercising its powers under s. [281.43 \(4\)](#).

9. A consortium.

10. A cooperative educational service agency representing 2 or more school districts in the area served by the agency for the purpose of conducting a distance education project by the school districts.

(b) *Terms; conditions.* A municipality or cooperative educational service agency may obtain a state trust fund loan for the sum of money, for the time and upon the conditions as may be agreed upon between the board and the borrower subject to the limitations, restrictions and conditions set forth in this subchapter.

(c) *Reserve for school districts; priority for certain school districts.* 1. To the extent practicable, in the 1989–90 to 1992–93 fiscal years, annually the board shall reserve an amount equal to at least 50% of the money available for loans under this subchapter for loans to school districts.

2. The board shall give first priority for loans to school districts under this subchapter to school districts that meet all of the following criteria:

a. The school board is subject to an order issued by the department of education under s. [115.33 \(3\)](#) after December 31, 1991, regarding noncompliance with the standard under s. [121.02 \(1\) \(i\)](#).

NOTE: Subd. par. a. is shown as amended eff. 1–1–96 by [1995 Wis. Act 27](#). The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. [95–2168–OA](#). Prior to 1–1–96 it read:

a. The school board is subject to an order issued by the state superintendent of public instruction under s. [115.33 \(3\)](#) after December 31, 1991, regarding noncompliance with the standard under s. [121.02 \(1\) \(i\)](#)

b. The school district's equalized valuation divided by its membership in the previous school year is less than 50% of the statewide average for all school districts. In this paragraph,

“equalized valuation” has the meaning given in s. [121.004 \(2\)](#) and “membership” has the meaning given in s. [121.004 \(5\)](#).

c. The school district's levy rate in the previous year is greater than 140% of the statewide average for all school districts.

(d) *Reserve for loans for educational technology and distance education projects.* Subject to the priority established under par. (c), to the extent practicable, in fiscal years 1996–97 to 1999–2000, annually the board shall reserve \$15,000,000 for the purposes of giving priority to loans to school districts, counties, municipalities and consortia, other than consortia that include one or more technical college districts, for educational technology and distance education projects under s. [16.992](#).

(4) **LOAN LIMITATIONS.** Notwithstanding sub. (3), the board may not loan moneys to a county unless the governing body of the county demonstrates to the board's satisfaction that s. [67.045 \(1\) \(a\), \(b\), \(c\), \(d\), \(e\)](#) or (f) applies.

(5) **LOANS TO CONSORTIA OR CITIES, VILLAGES OR TOWNS SERVED BY JOINT LIBRARY BOARDS.** Whenever a consortium applies for a loan under sub. (3), or whenever a group of cities, villages or towns served by a joint county or municipal library board applies for a loan for an educational technology or distance education project, the board shall treat the application as a loan to each of the members of the consortium or each city, village or town served by a county or municipal library board in an amount equal to the total amount of the loan divided equally by the number of members of the consortium or the number of cities, villages and towns served by the library board, unless all members of the consortium or all cities, villages and towns served by a joint library board agree to a different arrangement specified by the members or cities, villages and towns on their applications. The procedure for application, approval and repayment of the loan by each member of a consortium or group under this subsection shall be the same as provided in this subchapter for application, approval and repayment of a loan to that member individually, except that the loan shall not be made unless all members qualify.

(6) **EDUCATIONAL TECHNOLOGY OR DISTANCE EDUCATION LOANS.** The board shall not make a state trust fund loan to a school district, county, city, village, town or consortium for an educational technology or distance education project from moneys reserved for such loans under sub. (3) (d), unless the educational technology board has first notified the board that it has approved the loan under s. [16.992 \(3\)](#).

(7) **LOANS TO COOPERATIVE EDUCATIONAL SERVICE AGENCIES.** Whenever a cooperative educational service agency applies for a loan under sub. (3), the board shall treat the application as a loan to each of the school districts on behalf of which the loan is sought in an amount equal to the total amount of the loan divided equally by the number of school districts, unless the cooperative educational service agency specifies on its application a different arrangement that has been agreed to by all school districts for which the loan is sought. The board shall not make the loan unless each school district for which the loan is sought qualifies for a loan in the amount specified in this subsection, or a different amount if that amount is specified on the application. If the cooperative educational service agency fails to make a timely repayment of the principal or payment of the interest on the loan, each school district for which the loan is made is liable to repay the principal and pay the interest in the amount determined under this subsection.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227.

24.62 Expenses. (1) Except as authorized in sub. (2), the board shall deduct its expenses incurred in administering investments and loans under s. [24.61](#) from the gross receipts of the fund to which the interest and income of the investment or loan will be added.

(2) The board may charge its expenses incurred in the sale of a state trust fund loan or participation therein under s. [24.69](#) to the purchaser of the loan or participation, or may deduct the expenses

from the gross receipts of the fund to which the interest and income of the loan or participation will be added, or both. If the board sells any state trust fund loan or participation therein under s. 24.69 in any fiscal year, the board shall, no later than October 1 following that fiscal year, prepare and file in its office a report which identifies in detail the board's expenses incurred during that fiscal year that are directly attributable to the sale of state trust fund loans and participations under s. 24.69.

History: 1979 c. 34; 1981 c. 169; Stats. 1981 s. 24.62; 1989 a. 31.

24.63 Term, amount, interest rate. (1) LOANS OTHER THAN TO SCHOOL DISTRICTS. A state trust fund loan, other than a loan to a school district, may be made for any term not exceeding 20 years and may be made payable in instalments. A state trust fund loan to a municipality other than a school district shall be in an amount which does not, together with all other indebtedness of the municipality applying for the loan, exceed 5% of the valuation of the taxable property within the municipality as equalized for state purposes. If a state trust fund loan is made to pay off existing indebtedness, it may be advanced to the borrower in instalments as fast as the indebtedness or the evidence of indebtedness is canceled.

(2) SCHOOL DISTRICT LOANS. A state trust fund loan to a school district may be made for any time, not exceeding 20 years, as is agreed upon between the school district and the board, and for an amount which, together with all other indebtedness of that district, does not exceed its allowable indebtedness as determined under s. 67.03 (1).

(2m) COOPERATIVE EDUCATIONAL SERVICE AGENCY LOANS. A state trust fund loan to a cooperative educational service agency may be made for any term, not exceeding 20 years, as is agreed upon between the agency and the board, and for a total amount which, for each school district for which the loan is sought, in the proportion determined under s. 24.61 (7), together with all other indebtedness of the school district, does not exceed the school district's allowable indebtedness under s. 67.03 (1).

(3) INTEREST RATES. All state trust fund loans shall bear and draw interest at a rate not less than 2% payable annually.

(4) REPAYMENT BEFORE DUE DATE PERMITTED. Any borrower after March 15 and prior to August 1 of any year may repay one or more instalments in advance of the due date, and all interest upon such advance payment shall thereupon terminate.

History: 1975 c. 224, 422; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.63; 1983 a. 423; 1985 a. 225; 1987 a. 76; 1995 a. 27.

24.65 Date when interest and principal become due. The annual interest and instalments of principal of all state trust fund loans are payable into the state treasury on or before the date specified in s. 24.70 (4) or 24.71 (4).

History: 1975 c. 224; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.65; 1987 a. 76, 378.

24.66 The application. (1) FOR ALL MUNICIPALITIES. No trust fund loan may be made unless an application is made to the board under this section. The application shall state the amount of money required, the purpose to which it is to be applied, the times and terms of repayment, whether the loan is sought for an educational technology or distance education project under s. 24.61 (3) (d), and if so, whether the educational technology board has approved a grant to pay a portion of the interest on the loan under s. 16.992 (3) (b) and in the case of a cooperative educational service agency, the names of the school districts participating in the distance education project for which the loan is sought. The application shall be accompanied by satisfactory proof:

(a) Of the valuation of all the taxable property within the municipality as equalized for state purposes;

(b) Of all the existing indebtedness of the municipality; and

(c) Of the approval of the application as required by subs. (2) to (4).

(2) FOR MUNICIPALITIES OTHER THAN SCHOOL DISTRICTS, PUBLIC INLAND LAKE DISTRICTS, TOWN SANITARY DISTRICTS OR SEWERAGE

DISTRICTS. Every application shall be approved and authorized for a town, by the signatures of a majority of its supervisors acknowledged as conveyances of land are acknowledged; for a village, by a majority vote of its trustees; for a city, by a majority vote of the members of its common council; and for a county, by a majority vote of the members of its board of supervisors at some regular or special session thereof. Every vote so required shall be by ayes and noes duly recorded.

(2m) FOR PUBLIC INLAND LAKE DISTRICTS. Every application shall be approved and authorized for a public inland lake protection and rehabilitation district by a majority of the commissioners of the district.

(2p) FOR SEWERAGE DISTRICTS. Every application for a loan under this section to a sewerage district created under s. 66.22 shall be approved and authorized by a majority of the commissioners of the district; to a sewerage district created under s. 66.882, as provided under s. 66.886 (2) (a); and to a joint sewerage system created under s. 281.43 (4), as provided under s. 281.43 (4) (d).

(2r) FOR TOWN SANITARY DISTRICTS. Every application for a loan under this section to a town sanitary district created under s. 60.71 shall be approved and authorized by a majority of the commissioners of the district.

(3) FOR SCHOOL DISTRICTS. (a) For long-term loans by common, union high and 1st class city school districts. Every application for a loan, the required repayment of which exceeds 10 years, shall be approved and authorized for a common, union high or 1st class city school district by a vote of a majority of its legal voters voting on this question. If the vote is taken at a special meeting the objects thereof shall be clearly stated in the notice of the meeting. The application shall state the facts in detail respecting the holding of the meeting, and the taking and the result of the vote required. The application shall be signed by a majority of the members of the district board and verified by the clerk. The statement accompanying the application shall contain a correct map or plat of the district. If the district is a joint district, the statement accompanying the application shall show the assessed valuation in its several parts separately, so that the valuation of each part of the district which lies in each town or municipality may be readily shown.

(am) For short-term loans by common, union high and 1st class city school districts. Every application for a loan, the required repayment of which is 10 years or less, shall be approved and authorized for a common, union high or 1st class city school district under par. (a) or under the procedure in s. 67.12 (12), to the extent applicable.

(b) For long-term loans by unified school districts. Every application for a loan, the required repayment of which exceeds 10 years, shall be approved and authorized for a unified school district by a majority vote of the members of the school board at a regular or special meeting of the school board. Every vote so required shall be by ayes and noes duly recorded. In addition, the application shall be approved for a unified school district by a majority vote of the electors of the school district at a special election as provided under sub. (4).

(bm) For short-term loans by unified school districts. Every application for a loan, the required repayment of which is 10 years or less, shall be approved and authorized for a unified school district under par. (b) or under the procedure in s. 67.12 (12), to the extent applicable.

(3m) FOR EDUCATIONAL TECHNOLOGY OR DISTANCE EDUCATION LOANS. An application by a county, city, village or town to undertake an educational technology or distance education project, or by a consortium that includes a county, city, village or town under s. 24.61 (3) (d) shall be accompanied by a resolution of the county or municipal library board for that county, city, village or town, or the county or municipal library board of each county, city, village or town participating in the consortium, requesting the county,

city, village or town to apply for the loan for the purpose of conducting an educational technology or distance education project.

(3s) FOR COOPERATIVE EDUCATIONAL SERVICE AGENCIES. An application for a loan by a cooperative educational service agency shall be accompanied by a certified copy of a resolution of the board of control of the agency approving the loan and shall contain satisfactory proof of the valuation of all taxable property within each school district for which the loan is sought as equalized for state purposes, of the existing indebtedness of each such school district and of approval of the application by each school district in the same manner as provided for a loan to that school district for the same amount and terms under sub. (3).

(4) POPULAR VOTE, WHEN REQUIRED. If any municipality is not empowered by law to incur indebtedness for a particular purpose without first submitting the question to its electors, the application for a state trust fund loan for that purpose must be approved and authorized by a majority vote of the electors at a special election called, noticed and held in the manner provided for other special elections. The notice of the election shall state the amount of the proposed loan and the purpose for which it will be used.

(5) IRREPEALABLE TAX LEVY. (a) Every application for a loan under this section by a municipality shall be accompanied by a certified copy under the hand of the proper clerk of a recorded resolution adopted by the municipality applying for or approving the loan, levying, except as provided in par. (b), upon all the taxable property of the municipality a direct annual tax for the purpose of paying and sufficient to pay the principal and interest on the proposed loan as they become due. In a 1st class city school district, the application shall be accompanied by a certified copy of a resolution, adopted by the board of school directors, stating that it is the intention of the board of school directors to include in its budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of money necessary to pay the principal and interest on the loan as they become due. Every application for a loan under this subsection by a cooperative educational service agency shall be accompanied by a copy of a recorded resolution adopted by the school board of each school district for which the loan is sought, certified by the school district clerk of that school district, levying upon all taxable property of the school district a direct annual tax for the purpose of paying and sufficient to pay the school district's share of the principal and interest on the proposed loan as they become due. The levy imposed by the municipality shall be void if the board declines to make the loan; otherwise it shall remain valid and irrevocable until the loan and all interest on the loan are fully paid.

(b) To the extent that the proceeds of a loan to a municipality will be used in a utility district established under s. 66.072, the direct annual tax under par. (a) may be levied in whole or in part upon all taxable property within the utility district.

(6) PROCEEDINGS TO BE RECORDED AND BECOME CONCLUSIVE EVIDENCE. The application, statement and all accompanying exhibits and documents shall be recorded in the office of the board and, together with the record, is conclusive evidence of the facts stated.

History: 1979 c. 221, 355; 1981 c. 169; Stats. 1981 s. 24.66; 1983 a. 196, 423; 1985 a. 49, 218, 225; 1987 a. 76, 79; 1995 a. 27, 227, 417.

24.67 Certificates of indebtedness. (1) If the board approves the application, it shall cause certificates of indebtedness to be prepared in proper form and transmitted to the municipality or cooperative educational service agency submitting the application. The certificate of indebtedness shall be executed and signed:

- (a) For a school district, by its president.
- (b) For a town, by its chairperson.
- (c) For a village, by its president.
- (d) For a city, by its mayor.
- (e) For a technical college district, by its district board chairperson.

- (f) For a county, by the chairperson of its board.
- (g) For a public inland lake protection and rehabilitation district, by the chairperson of the board of commissioners.
- (h) For a town sanitary district, by the president of the commission.
- (i) For a metropolitan sewerage district created under s. 66.22, by the president of the commission.
- (j) For a metropolitan sewerage system created under s. 66.882, by the chairperson of the commission.
- (k) For a joint sewerage system, by the head of the commission.
- (L) For a cooperative educational service agency, by the president of each school district for which the loan is made.

(2) The certificate of indebtedness shall be countersigned:

- (a) For the town, village or city, by the clerk of that town, village or city.
- (b) For a technical college district, by the district board secretary who shall return the certificate and deposit it with the board.
- (c) For a public inland lake protection and rehabilitation district, by the secretary of the board of commissioners.
- (d) For a town sanitary district, by the secretary of the commission.
- (e) For a metropolitan sewerage district created under s. 66.22, by the secretary of the commission.
- (f) For a metropolitan sewerage system created under s. 66.882, by the secretary of the commission.
- (g) For a joint sewerage system, by a member of the commission designated by the commission who is not the person acting as head of the commission.

(3) If a municipality has acted under subs. (1) and (2), it shall certify that fact to the department of administration. Upon receiving a certification from a municipality, or upon direction of the board if a loan is made to a cooperative educational service agency, the secretary of administration shall draw a warrant upon the state treasurer for the amount of the loan, payable to the treasurer of the municipality or cooperative educational service agency making the loan or as the treasurer of the municipality or cooperative educational service agency directs. The certificate of indebtedness shall then be conclusive evidence of the validity of the indebtedness and that all the requirements of law concerning the application for the making and acceptance of the loan have been complied with.

History: 1971 c. 154; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.67; 1987 a. 76; 1993 a. 184, 399, 491; 1995 a. 27.

24.68 Payment of state trust fund loans. All the taxable property in any municipality which obtains a trust fund loan shall stand charged for the payment of the principal and interest on that loan.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.68; 1987 a. 378.

24.69 Sale of state trust fund loans. (1) The board may sell state trust fund loans or participations therein, and may contract to do so at a future date, for such price, upon such other terms and in such manner as the board may determine. The sale may be to any person, including, without limitation, a trust or other investment vehicle created for the purpose of attracting private investment capital. The board shall remit the proceeds of the sale to the state treasurer for deposit in the appropriate trust fund and shall invest the proceeds in accordance with s. 24.61.

(2) Before entering into the sale of any state trust fund loan, the board shall refer the terms of the proposed sale to the investment board for its recommendations.

(3) The board may agree to administer any state trust fund loan so sold or participated, and, in connection therewith, may exercise the collection powers and procedures set forth in ss. 24.70 and 24.71 and may agree to repurchase any such state trust fund loan

or participation upon the occurrence of a default thereon or upon the occurrence of other events specified in the sale agreement.

(4) The board shall invest the proceeds of the sale of trust fund loans or participations therein in a manner that, to the greatest extent practicable, will ensure the safety of the principal.

History: 1989 a. 31.

24.695 Payment of interest by state. The board shall, upon request of the educational technology board, certify to the educational technology board the amount of interest due on any loan for which the educational technology board has made a grant for interest payments under s. 16.992 (3) (b). The board shall accept payment from the educational technology board for the interest payable on any such loan and shall deduct the amount of any payment received from its certified statement of the amount payable under s. 24.70 (2) or 24.71 (2) for the year in which the payment is received. The applicant remains liable for payment of any interest that is not paid by the educational technology board.

History: 1995 a. 27.

24.70 Collection from borrowers other than school districts. (1) **APPLICABILITY.** This section applies to all outstanding state trust fund loans to borrowers other than school districts.

(2) **CERTIFIED STATEMENT.** If a borrower other than a school district has a state trust fund loan, the board shall transmit to the clerk of the jurisdiction, or the person signing the application on behalf of the borrower in the case of a cooperative educational service agency, a certified statement of the amount due on or before October 1 of each year until the loan is repaid. The board shall submit a copy of each certified statement to the state treasurer. A cooperative educational service agency shall transmit a copy of the statement to the clerk of each school district on behalf of which the agency has obtained a loan.

(3) **AMOUNT ADDED TO MUNICIPAL LEVY.** Upon receipt of a certified statement by a municipal clerk, the municipal clerk shall then cause the amount to be added to the municipal levy and collected in the same manner as the municipal tax except the amount for the state trust fund loan shall be separately designated. Upon receipt of a certified statement by a school district clerk from a cooperative educational service agency, the clerk shall cause the amount for which the district is responsible under s. 24.61 (7) to be added to the school district levy and collected in the same manner as the school district tax, except that the amount for the loan shall be separately stated.

(4) **PAYMENT TO STATE TREASURER.** The treasurer of each municipality shall transmit to the state treasurer on his or her order the full amount levied for state trust fund loans within 15 days after March 15. Each cooperative educational service agency shall similarly transmit the annual amount owed on any state trust fund loan made to the agency by that date. The state treasurer shall notify the board when he or she receives payment. Any payment not made by March 30 is delinquent and is subject to a penalty of one percent per month to be paid to the state treasurer with the delinquent payment.

(6) **FAILURE TO MAKE PAYMENTS.** If any municipality fails to remit the amount due by the date specified under sub. (4), the board may file a certified statement of the amount delinquent with the department of administration. The department of administration shall collect the amount due, including any penalty, by deducting that amount from any state payments due the municipality, shall remit that amount to the state treasurer and shall notify the treasurer and the board of that action.

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.70; 1987 a. 185, 378; 1995 a. 27.

24.71 Collections from school districts. (1) **APPLICABILITY.** This section applies to all outstanding trust fund loans to school districts.

(2) **CERTIFIED STATEMENT.** If a school district has a state trust fund loan, the board shall transmit to the school district clerk a cer-

tified statement of the amount due on or before October 1 of each year until the loan is paid. The board shall furnish a copy of each certified statement to the state treasurer and the department of education.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to 1–1–96 it read:

(2) **CERTIFIED STATEMENT.** If a school district has a state trust fund loan, the board shall transmit to the school district clerk a certified statement of the amount due on or before October 1 of each year until the loan is paid. The board shall furnish a copy of each certified statement to the state treasurer and the department of public instruction.

(3) **ADDED TO SCHOOL DISTRICT LEVY.** The school district clerk shall then cause the amount due to be added to the school district levy and collected in the same manner as the school district tax except the amount for state trust fund loans shall be separately designated.

(4) **PAYMENT TO STATE TREASURER.** The school district treasurer shall transmit to the state treasurer on his or her own order the full amount levied for state trust fund loans within 15 days after March 15. The state treasurer shall notify the board when he or she receives payment. Any payment not made by March 30 is delinquent and is subject to a penalty of one percent per month or fraction thereof, to be paid to the state treasurer with the delinquent payment.

(5) **FAILURE TO MAKE PAYMENT.** If the school district treasurer fails to remit the amounts due under sub. (4), the state superintendent, upon certification of delinquency by the board, shall deduct the amount due including any penalty from any school aid payments due the school district, shall remit such amount to the state treasurer and, no later than June 15, shall notify the school district treasurer and the board to that effect.

History: 1971 c. 262; 1973 c. 90; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.71; 1987 a. 185; 1995 a. 27 s. 9145 (1).

24.72 Use of funds. No money obtained by a borrower from a state trust fund loan may be applied to or paid out for any purpose except that specified in the application for the loan without the consent of the board.

History: 1971 c. 154; 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.72; 1995 a. 27.

24.73 Extension of loan. All loans made or which may be made from any state trust funds to any borrower may be extended for such time and upon such terms as may be agreed upon by and between the board and such borrower; provided, however, that no loan shall be extended upon which there is any default in the payment of interest at the time of making application therefor, nor to any period beyond 20 years from its inception, nor at any rate of interest less than the minimum established by law.

History: 1981 c. 169; Stats. 1981 s. 24.73; 1995 a. 27.

24.74 Duty of attorney general and revenue department. If any officer neglects or refuses to perform any duty required of the officer by law in relation to the levy or collection of any tax required to be raised to make any payment of principal or interest on any loan from the state, the attorney general shall apply to the supreme court for a mandamus to compel the performance of such duty; and the department of revenue may do or cause to be done the duty required of such officer with the same effect as if done by the officer.

History: 1981 c. 169; Stats. 1981 s. 24.74; 1991 a. 316.

24.75 Interest, how accounted for. All money collected as interest upon any state trust fund loan shall be paid into the state treasury. All moneys collected as interest upon any trust fund loan are considered gross receipts and shall be credited to the income of the fund from which the loan was made except that expenses may be deducted as provided under s. 24.62 (1).

History: 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.75; 1989 a. 31.

24.76 Common school fund. All moneys accruing to the state by virtue of [article X, section 2, of the constitution](#), and all other moneys paid into the state treasury on account of the capital of the school fund, constitute the school fund. All of said fund,

except that portion set apart for state universities by s. 24.80, having been found necessary for the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor, is set apart for those objects and denominated the “Common School Fund” which is a separate and perpetual fund.

History: 1981 c. 169; Stats. 1981 s. 24.76; 1983 a. 192.

24.77 Common school fund income. The common school fund income is constituted of the interest derived from the common school fund and from unpaid balances of purchase money on sales of common school lands; and all other revenues derived from the common school lands; but the common school fund income and interest and revenues derived from the common school fund and from common school lands do not include expenses deducted from gross receipts permitted under ss. 24.04 (2), 24.53 and 24.62 (1).

History: 1979 c. 34; 1981 c. 169; Stats. 1981 s. 24.77; 1989 a. 31.

24.78 Distribution of the common school fund income. Under article X, section 5, of the constitution the common school fund income shall be distributed to the school districts among the several towns, villages and cities of the state for the support of common schools therein, as provided in s. 43.70.

History: 1971 c. 152 s. 38; 1981 c. 169; Stats. 1981 s. 24.78; 1983 a. 192.

24.79 Swamp land grants. All swamp and overflowed lands and moneys in lieu thereof received from the United States by virtue of the act of congress approved September 28, 1850, entitled “an act to enable the state of Arkansas and other states to reclaim the swamp lands within their limits;” and all moneys received as purchase money for such lands, including loans and investments and moneys due upon certificates of sale thereof; and all swamp lands and moneys in lieu thereof received subsequent to the enactment of chapter 537, laws of 1865, or which are hereafter received, from the United States; and the proceeds of the sale of all lands conveyed to this state pursuant to the act of congress approved March 2, 1865, entitled “an act for the relief of purchasers and locators of swamp and overflowed lands,” are trust lands and moneys, to be applied, exclusively, as provided in s. 24.80.

History: 1981 c. 169; Stats. 1981 s. 24.79.

24.80 Normal school fund. The lands and moneys described in s. 24.79, not being granted for any other specified purpose, accrue to the school fund under article X, section 2, of the constitution; and having been found unnecessary for the support and maintenance of common schools, are appropriated to the support and maintenance of state universities and suitable libraries and apparatus therefor, and to that end are set apart and denominated the “Normal School Fund”. All lands, moneys, loans, investments and securities set apart to the normal school fund and all swamp lands and income and interest received on account of the capital of that fund constitute a separate and perpetual fund. All income and interest from the normal school fund shall be paid into the general fund as general purpose revenue. Normal school fund income, interest and revenues do not include expenses deducted from gross receipts permitted under ss. 24.04 (2), 24.53 and 24.62 (1).

History: 1979 c. 34; 1981 c. 169; 1981 c. 391 s. 210; Stats. 1981 s. 24.80; 1983 a. 192; 1989 a. 31.

24.81 University fund. All moneys accruing to the state under article X, section 6, of the constitution, and all other moneys paid into the state treasury on account of the capital of the university fund, constitute the university fund, which is a separate and perpetual fund. University fund income, interest and revenues do not include expenses deducted from gross receipts permitted under ss. 24.04 (2), 24.53 and 24.62 (1).

History: 1979 c. 34; 1981 c. 169; Stats. 1981 s. 24.81; 1983 a. 192; 1989 a. 31.

24.82 Agricultural college fund. All moneys derived from the sale of the lands and land scrip accruing to the state by virtue of the act of congress approved July 2, 1862, entitled “an act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and the mechanic arts,” and income and interest received on account of the capital of the agricultural college fund, constitute the agricultural college fund, which is a separate and perpetual fund and shall remain forever undiminished. Agricultural college fund income, interest and revenues do not include expenses deducted from gross receipts permitted under ss. 24.04 (2), 24.53 and 24.62 (1). If this fund is by any action or contingency impaired, a state tax is hereby levied sufficient to replace the same, to be collected with the state taxes for the next ensuing year and paid into this fund.

History: 1979 c. 34; 1981 c. 169; Stats. 1981 s. 24.82; 1989 a. 31.