

No. 623, S.]

[Published November 24, 1955.

CHAPTER 652

AN ACT to repeal, renumber, amend and reenact various provisions of the statutes and to amend section 5 of chapter 570, laws of 1955, for the purpose of correcting errors, supplying omissions, clarifying language, correcting titles of agencies and schools, correcting and clarifying references, renumbering for better location, eliminating duplications and unnecessary and obsolete provisions, reconciling conflicts and repelling unintended repeals.

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

SECTION 1. 15.18 (1) (c) 2 of the statutes is amended to read:

15.18 (1) (c) 2. Conform with * * * *ch. 20.*

SECTION 2. 15.94 (4) and (5) of the statutes, as created by chapter 98, laws of 1955, are amended to read:

15.94 (4) If from its findings of fact the commission concludes that any such claim is one on which the state is legally liable, or one which involves the * * * *causal* negligence of any officer, agent or employe of the state, or one which on equitable principles the state should in good conscience assume and pay, it shall report its findings and conclusions to the legislature for action, together with its recommended awards drafted in bill form.

(5) This * * * *section* shall not be construed as relieving any third party liability * * * *or* releasing any joint tort-feasor.

SECTION 3m. 16.351 of the statutes is amended to read:

16.351 Any person in the classified service in any such county who is now or hereafter becomes an active member of the military or naval forces of the United States during a period officially proclaimed to be a national emergency or limited national emergency, shall be granted leave of absence, such leave to be continuous for the duration of the existing emergency, plus 90 days. Service toward seniority or salary advancement shall be deemed not to be interrupted by such military service, provided that persons occupying a probationary status upon commencing such military leave shall revert to such status upon reinstatement. Application for reinstatement shall be made within 90 days from honorable discharge from the military service. Evidence of honorable discharge shall be presented to the civil service commission with such application. The position of the person so on leave shall not be filled except by appointment through the certification of the persons next eligible. Upon application of the person so on leave and presentation of evidence of such honorable discharge and of such evidence of physical fitness to perform the duties of the position formerly occupied as shall be satisfactory to the civil service commission he shall be reinstated in the position formerly occupied by him or in a position having similar character and standards of duties and compensation, *if such military service was not for more than 4 years unless extended by law.* The person appointed to fill such position during the absence of the person so on military leave shall, upon the latter's reinstatement, be transferred to a similar position if one is available, or if not, his name shall be placed on the appropriate reinstatement list in accordance with the rules of the civil service commission.

SECTION 3. 16.105 (2) (c) 4 and (2) (e) 1 of the statutes are amended to read:

16.105 (2) (c) 4. Not more than 10 per cent of the employes currently eligible to receive a merit increase in a given department shall receive increases amounting to as much as 2 intermediate steps. In computing the 10 per cent limitation, any resulting fraction shall be rounded to the next higher unit. * * *

(2) (e) 1. Eighty per cent of the amount which would be required if every employe eligible for a merit increase during the budgetary period were to receive an increase equal to one intermediate step; but if such 80 per cent is not an exact multiple of \$5, it shall be increased to the next higher \$5 multiple * * *.

SECTION 4. 17.29 of the statutes is amended to read:

17.29 The provisions of this chapter supersede all contrary provisions in either the general law or in special acts, except the provisions of chs. 6 and 10 relating to election officers appointed for the election precincts or polling places in the state and the provisions of ch. 21 relating to the military staff of the governor and to officers of the Wisconsin national guard * * *; and shall govern all offices whether created by general law or special act, unless otherwise specially provided.

SECTION 5. 21.02 (3) (f) and (4) (g) of the statutes, as repealed and recreated by chapter 377, laws of 1955, are amended to read:

21.02 (3) (f) In carrying out their functions under this * * * *section*, the state and each political subdivision of the state shall utilize, so far as possible, the services, equipment, supplies and facilities of existing agencies of the state and of the political subdivisions thereof. All such agencies and the personnel thereof, shall co-operate and extend such services, equipment, supplies and facilities as are required of them.

(4) (g) If the total liability for workmen's compensation benefits, indemnification under par. * * * (f) and loss under * * * *sub. (5)* incurred in any calendar year exceeds \$1 per capita of the sponsor's population, the state shall reimburse the sponsor for such excess. Payment shall be made from the appropriation in s. * * * 20.270 (1) on certificate of the director of civil defense.

SECTION 6. 21.13 of the statutes, as amended by chapter 68, laws of 1955, is amended to read:

21.13 If any member of the national guard or the state guard shall be prosecuted by any civil or criminal action for any act performed by such member while in the performance of his military duty and in pursuance thereof, the action against such member may, in the discretion of the governor, be defended by counsel appointed therefor by the governor upon the recommendation of the attorney general. The costs and expenses of any such defense shall be audited by the director of budget and accounts and paid out of the state treasury and charged to the legal expense appropriation * * * *in s. 20.180 (2)* and if the jury or court finds that the member of the national guard against whom the action is brought acted in good faith the judgment as to damages entered against him shall also be paid by the state.

SECTION 7. 25.02 (1) and (2) of the statutes, as amended by chapter 442, laws of 1955, are amended to read:

25.02 (1) The loans provided for by s. 25.01 (3), other than those to school districts, may be made for any term not exceeding 20 years, may be made payable in instalments, and be in such amounts as shall not, in connection with all other indebtedness of the municipality applying therefor, exceed 5 per cent of the average assessed valuation of the taxable property therein for the 3 years next preceding * * *, except

that, as to any city which is authorized to issue bonds for school purposes, such debt limitation shall not exceed 8 per cent of the average of the value of the property therein as equalized for state purposes for the 3 years next preceding * * *. When such loan is made to pay off existing indebtedness it may be advanced to the borrower in instalments as fast as such indebtedness or the evidence thereof is canceled.

(2) Every loan to a school district may be made for such time, not exceeding 20 years, as may be agreed upon between said school district and the commissioners of the public lands, and for such amount as together with all other indebtedness of such district, shall not exceed 5 per cent of the value of the *taxable* property in such district as equalized for state purposes * * *, except that in determining such 5 per cent, * * * *such* valuation of all taxable personal property in excess of 50 per cent of * * * *such* valuation of the real estate shall be disregarded. The principal shall be payable in approximately equal annual instalments.

SECTION 8. 26.30 (8) of the statutes, as created by chapter 250, laws of 1955, is amended by substituting "section" for "act" in the reference to "this act".

SECTION 9. 29.33 (3) (a) of the statutes, as amended by chapter 272, laws of 1955, is amended by adding at the end thereof the following sentence: "No license is required for minnow seines not more than 75 feet in length and 6 feet in depth."

SECTION 10. 35.84 (14) of the statutes is amended by substituting "county teachers college" for "county training school for teachers" and by substituting "county school of agriculture" for "county school of agriculture and domestic economy."

SECTION 11. 37.11 (5), as amended by chapter 37, laws of 1955, and 37.11 (5m) of the statutes are amended by substituting "county teachers colleges" for "county rural normal schools".

SECTION 12. 40.57 (8) of the statutes is repealed.

SECTION 13. 40.71 (1) of the statutes, as amended by chapter 147, laws of 1955, is amended to read:

40.71 (1) Biennially following the release of data on property valuations by the state department of taxation in even-numbered years, the committee on education of the legislative council shall, with the co-operation of the state department of public instruction and representatives of the local school administrators, consider the advisability of readjusting the valuation per resident pupil in average daily attendance in the basic and integrated aid districts upward or downward in terms of changes in valuations or school costs, and shall report their findings to the governor and to the legislature, recommending action to be taken to properly adjust the aid program to the appropriation provided by s. 20.25 (3) * * *.

SECTION 14. 40.91 (4) (a) of the statutes as amended by chapter 414, laws of 1955, is amended to read:

40.91 (4) (a) The tuition for any given year for nonresident pupils who have pursued high school work shall be determined as follows: From the sum total of money expended by the school district for interest and in operating and maintaining grades 9 through 12, including either the sum of \$15 per nonresident pupil to be deposited and expended as provided in s. 40.22 (17) or an item for building and equipment costs equal to 2 per cent of the original expenditures by the districts prior to January 1, 1945, and 5 per cent for original expenditures on and after

January 1, 1945, for buildings and equipment thereof as certified by the state superintendent of public instruction, such charge not to apply for a greater period of time than 50 years in the case of a building built prior to January 1, 1945, and 20 years in the case of a building built since January 1, 1945, or for the unexpired portion of 50 years or 20 years of the life of an old building, excluding land costs, *such sinking fund or indebtedness charge to be deposited and expended as provided in s. 40.22 (17) or applied in lieu of taxes authorized by irrevocable tax levies for payment of principal and interest on indebtedness for capital outlay*, there shall be subtracted an amount equal to the sums of federal aids, county aids and the cost of transportation, and the difference so determined shall be divided by the average daily attendance for the given year. From this amount shall be subtracted the state aid received per nonresident pupil in average daily attendance. The amount so determined shall be the amount per pupil chargeable as non-resident high school tuition.

SECTION 15. 41.36 of the statutes, as amended by chapter 146, laws of 1955, is amended to read:

41.36 Any county within which no state college *operating an elementary department* is located may appropriate money for the organization, equipment and maintenance of a teachers college, to be known as a "County Teachers College" for teachers of common schools, and for the erection of suitable school buildings and dormitories, or for purchasing and remodeling suitable buildings therefor.

SECTION 16. 41.43 of the statutes, as amended by chapter 146, laws of 1955, and 41.50 are amended by substituting "state department of taxation" for "state board of assessment".

SECTION 17. 41.71 (6) (e) of the statutes, as amended by chapter 204, laws of 1955, is amended to read:

41.71 (6) (e) Procure and furnish at cost to handicapped persons artificial limbs and other orthopedic and prosthetic appliances, to be paid for in instalments, when such appliances cannot be otherwise provided. The * * * *instalment payments* of the sale thereof shall be paid to the state treasurer and shall be held by him in a special account in the general fund for the purpose of this paragraph. Payments from this account shall be made at the direction of the board.

SECTION 18. 45.37 (3m) (c) of the statutes, as created by chapter 251, laws of 1955, is amended by substituting "278" for "270" in the reference to "foreclosure of mortgages under ch. 270".

SECTION 19. The amendments made to 49.19 (4) (d) of the statutes by chapter 160, laws of 1955, are not repealed by chapter 257, laws of 1955. Both amendments stand.

SECTION 20. 59.965 (5) (d) (2d sentence), as repealed and recreated by chapter 574, laws of 1955, is amended to read:

59.965 (5) (d) (2d sentence) The commission may purchase or accept donation of remnants of tracts or parcels of land remaining at the time or after it has acquired by condemnation or after or coincident with its acquisition by purchase or donation portions of such tracts or parcels * * * for expressway purposes where in the judgment of the commission such action would assist in rendering just compensation to a land owner, a part of whose lands are required for expressway purposes, and would serve to minimize the over-all cost of such necessary taking by the public.

SECTION 21. 62.06 (3) of the statutes, as amended by chapter 103, laws of 1955, is amended to read:

62.06 (3) At the next regular meeting, and in any event no later than 30 days after the filing of the said petition, the trustees of such village or the town board of such town shall by resolution provide for a referendum to the electors of the said district. Such resolution shall determine the number and boundaries of wards of the proposed city, whether there shall be one alderman or 2 aldermen from each ward, the time of voting, which shall not be earlier than 6 weeks thereafter, and the voting place for electors in adjacent territory, if any, and may direct a census in the manner provided in s. 61.02.

SECTION 22. 66.03 (5) of the statutes, as amended by chapter 521, laws of 1955, is amended by inserting "or" between "interested municipalities" and "an order of the circuit court" in the third sentence.

SECTION 23. 66.435 (2) of the statutes, as created by chapter 485, laws of 1955, is amended by substituting "section" for "act".

SECTION 24. The form in 70.49 (1) of the statutes, as repealed and recreated by chapter 111, laws of 1955, is amended by substituting "of" for the first "in" in the phrase "assessors for the ----- in ----- in said county".

SECTION 25. 70.51 (1a) (2d sentence) of the statutes, as amended by chapter 399, laws of 1955, is amended to read:

70.51 (1a) (2d sentence) Notwithstanding any other provision of the statutes, if the board of review shall not have completed its review of the assessment roll by the date on which the treasurer is required to make his return of delinquent taxes any corrections in the assessment roll by the board of review made after such date which result in raising the assessment shall be reflected by the assessor in the following year in the manner provided by s. 70.43, and if such corrections result in decreasing the assessment, in the absence of a review by the court from such correction, if the tax has been paid, that portion of the tax predicated on the portion decreased may be refunded by the governing body of the city and the county at any time upon application of the taxpayer within 3 years * * * after such correction is made by the board of review.

SECTION 26. 71.035 (1) (g) of the statutes is amended to read:

71.035 (1) (g) *Nonapplication of other provisions.* If an exchange or distribution made in obedience to an order of the securities and exchange commission is within any of the provisions of this section and may also be considered to be within any of the provisions of * * * ss. 71.301 to 71.373, then the provisions of this section only shall apply.

SECTION 27. 71.05 (13) (e) and 71.09 (2m) (a) 4 of the statutes are repealed.

SECTION 28. 71.09 (2m) (d) 3 of the statutes, as amended by ch. 22, Laws 1955, is amended to read:

71.09 (2m) (d) 3. The third column shall show the amount of the tax payable for each bracket before the allowance of any deduction for personal exemptions or exemptions for dependents. Said tax shall be computed at the rates provided in ch. 71 for * * * *normal income taxes* * * * on net income of persons other than corporations, which rate shall be applied to the amount of income at the middle of each bracket after deducting from such amount 9 per cent thereof. The amount of tax for each bracket shall be computed only to the nearest 10 cents.

SECTION 29. 74.03 (8) (f) of the statutes, as amended by chapter 249, laws of 1955, is amended by substituting "pars. (b), (c) and (d)" for "pars. (b), (c), (d) and (e)" in the third sentence.

SECTION 30. The amendment made to 78.49 (3) of the statutes by chapter 287, laws of 1955, is not repealed by chapter 336, laws of 1955. Both amendments stand.

SECTION 31. 85.01 (4) (an) of the statutes, as amended by chapter 319, laws of 1955, is amended to read:

85.01 (4) (an) Upon application for registration of an automobile by an owner who holds a valid registration not yet expired for another automobile of which he has disposed, the commissioner shall register the automobile which is the subject of the application for the unexpired portion of the registration period for which applicant holds a license. When the automobile which is the subject of the application for registration for remainder of unexpired period is of the same fee class as the automobile for which the license was originally issued no further registration fee shall be required. When such automobile is in a * * * *higher fee* class for which a greater fee is prescribed applicant shall pay a pro rata portion of the difference in fees. When the automobile is in a lower fee class for which a lesser registration fee is prescribed applicant shall not be entitled to a refund of the difference.

SECTION 32. 85.01 (4) (cd) 13 of the statutes, as created by chapter 331, laws of 1955, is amended to read:

85.01 (4) (cd) 13. Any trailer as defined in s. * * * 85.10 (11), designed to be hauled by a motor vehicle other than a truck tractor, which is used principally off the highway and which is operated only across a highway, no fee.

SECTION 33. The amendment made to 85.01 (4) (g) of the statutes by chapter 316, laws of 1955, is not repealed by chapter 528, laws of 1955. Both amendments stand.

SECTION 34. 85.91 (1) of the statutes, as amended by chapter 513, laws of 1955, is amended by inserting "85.40 (6)" before the reference to "85.44".

SECTION 35. 92.06 (first sentence) of the statutes is amended to read:

92.06 (first sentence) When a county has been declared a soil conservation district, the special committee on agriculture, created pursuant to s. 59.87 (9), shall be the supervisors of said district * * *.

SECTION 36. 93.05 (2) of the statutes is repealed.

SECTION 37. 93.06 (7) (last sentence) of the statutes is amended to read:

93.06 (7) (last sentence) Rehearing and judicial review shall be as provided in * * * s. 93.19 and * * * *ch. 227*.

SECTION 38. 94.60 (1) (d) of the statutes, as repealed and recreated by chapter 168, laws of 1955, is amended to read:

94.60 (1) (d) "Dealer" applies to any * * * person other than a nurseryman who sells, offers to sell, solicits orders for or otherwise traffics in nursery stock.

SECTION 39. 97.08 (4) (last sentence) of the statutes is amended to read:

97.08 (4) (last sentence) Rehearing and judicial review shall be as provided in * * * s. 93.19 and * * * *ch. 227*.

SECTION 40. 108.02 (4) (d) of the statutes, as amended by chapter 527, laws of 1955, is amended to read:

(d) Any other employer, who has employed as many as 4 individuals in "employment" on each of some 20 days during the taxable year, each day being in a different calendar week, *counting* the total number of individuals who were employed by him in employment for some portion of the day (whether or not at the same moment of time), effective after December 31, 1955, shall become an "employer" subject hereto as of the start of that calendar year in which such employment occurred. If an employer's records for a given calendar year do not permit accurate determination of his status on the foregoing basis, and the aggregate "wages" paid or payable for "employment" by him equalled or exceeded \$6,000 for such year, he shall become an "employer" subject hereto as of the start of such year.

SECTION 41. The third sentence of 147.23 (2) of the statutes, as amended by chapter 382, laws of 1955, is repealed.

SECTION 42. 149.12 (1) of the statutes, as amended by chapter 290 and renumbered by chapter 333, laws of 1955, is amended to read:

149.12 (1) Any person violating this chapter * * * *may be fined not more than \$250 or imprisoned not more than one year in county jail.*

SECTION 43. 168.05 (2) and (4) of the statutes are amended to read:

168.05 (2) If such petroleum product is received on a regular business day between the hours of * * * 7:45 a.m. and * * * 4:30 p.m., such notice shall be given forthwith upon receipt of such petroleum product. If received at any other time, such notice shall be given between the next succeeding hours of * * * 7:45 a.m. and 10 a.m. of a regular business day. Provided, that if any petroleum product is received on Saturday * * *, Sunday or any legal holiday, designated in s. 256.17, such notice shall be given on the next following regular business day between the hours of * * * 7:45 a.m. and 10 a.m.

(4) For the purpose of this section, the following shall constitute a reasonable length of time in which an inspector shall take the sample herein required: If notice is properly given to an inspector before the hour of * * * 11:45 a.m., he shall take such sample before the hour of * * * 4:30 p.m. of the day; * * * if notice is properly given between the hours of * * * 11:45 a.m. and * * * 4:30 p.m., such sample shall be taken before the hour of * * * 11:45 a.m. of the next following regular business day. Saturdays * * *, Sundays and legal holidays, designated in s. 256.17, shall not be considered regular business days.

SECTION 44. 168.12 (1) (2d sentence) of the statutes, as amended by chapter 221, laws of 1955, is amended to read:

168.12 (1) (2d sentence) Such fees shall be a lien on the products so inspected, and when collected shall be paid within 2 weeks after receipt into the general fund * * *.

SECTION 45. 184.05 (4) of the statutes is amended to read:

184.05 (4) CLASSES PROPORTIONATE. The amount of securities of each class which any public service corporation may issue shall bear a reasonable proportion to each other and to the value of the property, due consideration being given to the nature of the business of the corporation, its credit and prospects, the possibility that the value of the property may change from time to time, the effect which such issue will have upon the management and operation of the corporation by reason of the relative amount of financial interest which the various classes of

stockholders will have in the corporation, and other considerations deemed relevant by the commission. The provisions of this subsection shall not apply to common stock issued by a public service corporation * * * *which has issued or proposes to issue its notes, bonds or other evidences of indebtedness to the United States of America in connection with loans for rural telephone facilities made pursuant to the rural electrification act of 1936, as amended.*

SECTION 46. 185.01 (2) (c) of the statutes, as created by chapter 368, laws of 1955, is amended to read:

185.01 (2) (c) The foreign co-operative distributes its proceeds according to either s. 185.45 or the law of *the state of* the foreign co-operative's incorporation.

SECTION 47. 194.04 (3) (c) 1 of the statutes, created by chapter 526, laws of 1955, is amended to read:

194.04 (3) (c) 1. Any individual, copartnership or corporation whose principal business is leasing of motor vehicles, including trailers and semitrailers as described in s. 194.44, without drivers for compensation, *may*, upon payment of an additional annual permit fee of \$20 for each such leased motor vehicle, trailer or semitrailer, lease the same to common and contract motor carriers. Such lessor shall not be considered to obtain the privileges or be subject to the obligations of s. 194.23 or 194.34 nor shall either of said sections apply to such lessor.

SECTION 48. 194.41 (1) (d) of the statutes, as amended by chapter 316, laws of 1955, is amended to read:

194.41 (1) (d) \$10,000 to *or for* any one person or \$150,000 for any one accident for each motor vehicle having a seating capacity of 25 passengers or more.

SECTION 49. 194.41 (5) of the statutes, as created by chapter 35, laws of 1955, is repealed; and 194.41 (5), as created by chapter 316, laws of 1955, is reenacted.

SECTION 50. 220.04 (6) (b) of the statutes, as amended by chapter 221, laws of 1955, is amended by substituting "mutual savings bank" for "savings bank".

SECTION 51. 236.15 (2) of the statutes, as created by chapter 570, laws of 1955, is amended to read:

236.15 (2) The survey shall be performed by a qualified surveyor or professional engineer and if the error in the latitude and departure closure of the survey * * * *is* greater than the ratio of one in 3,000 the plat may be rejected.

SECTION 52. 236.45 (3) of the statutes, as created by chapter 570, laws of 1955, is amended by substituting "2" for "a." in the reference to "236.10 (1) (b) a."

SECTION 53. 251.21 (4) and (7) of the statutes are amended to read:

251.21 (4) To furnish to the reporter copies of all opinions required by him * * *.

(7) To give certificates to attorneys on their admission to practice in the court, on receiving * * * *the* fees therefor; but the fee for a certificate of admission of any graduate of the law department of the University of Wisconsin *or Marquette university at Milwaukee* shall not exceed \$1.

SECTION 54. 252.09 of the statutes, as amended by chapter 577, laws of 1955, is repealed; and 252.09, as repealed and recreated by order of the supreme court effective September 1, 1954, is reenacted.

SECTION 55. 253.075 of the statutes, as created by chapter 494, laws of 1955, is renumbered 252.075.

SECTION 56. 270.12 (1) of the statutes, as amended by chapter 577, laws of 1955, is repealed; 270.12 (1), as created by order of the supreme court effective September 1, 1954, is reenacted, and 270.12 (1) (c) as so created is renumbered 270.12 (1m) and amended to read:

270.12 (1m) Criminal cases *and prosecution for violations of municipal ordinances* shall be placed on the calendar of the current term.

SECTION 57. 270.12 (4), as renumbered and amended by order of the supreme court effective September 1, 1954, is amended to read:

270.12 (4) The clerk shall prepare a calendar for each term of the circuit court of all actions which are for trial as shown by the notices filed including those covered by sub. (3), containing the title of each action, and the names of the attorneys, and arranged as follows: (a) criminal cases in the order of filing, (ab) *prosecutions for violations of municipal ordinances and appeals thereof from inferior, municipal and justice courts to the circuit courts*, (b) civil jury issues, (c) issues of fact for court, and (d) issues of law in the order in which notice of trial was filed. The calendar shall be disposed of in the above order unless for convenience of parties, the dispatch of business, or the prevention of injustice, the presiding judge shall otherwise direct.

SECTION 58. 276.53 (2) of the statutes is amended to read:

276.53 (2) If the place of trial of such action * * * *is* changed and a judgment * * * *is* rendered in any county other than that in which the water power is situate and the judgment roll therein or a certified copy thereof * * * *is* afterwards transmitted to the clerk of the circuit court of the county wherein such water power is situate, * * * all subsequent proceedings in the action may be had in the circuit court of the county wherein such water power is situate.

SECTION 59. 343.442 (2) of the statutes is amended by substituting "s. 94.60" for "the provisions of section 94.59".

SECTION 60. 348.386 (3) of the statutes is amended by substituting "s. 94.60" for "the provisions of subsection (2) of section 94.59".

SECTION 61. Section 5 of chapter 570, laws of 1955, is amended to read:

SECTION 5. This act shall take effect upon July 1, 1956, provided that any plat recorded prior to * * * *December 31, 1956*, may be approved and recorded in accordance with the provisions of this act or of chapter 236, Stats. 1953.

Approved November 18, 1955.