

CHAPTER 39.

SCHOOL ADMINISTRATION.

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

Revision Committee Note, 1953: The meaning of the 1951 statutes revised by this bill (ch. 90, Laws 1953) is not intended to be changed unless the new language shows clearly an intent to make a change. (See 370.001 (7), Stats.) (Bill 1-S)

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

History: 1953 c. 90.

39.02 State superintendent; duties. The state superintendent shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The condition of all schools under his supervision.

(b) An abstract of the public school reports made to him.

(c) His visits to educational institutions.

(d) The work done by the assistants, inspectors and others in the performance of the duties of his office.

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

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

(g) Such other matters as he deems expedient.

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

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

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

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

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

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

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

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

History: 1953 c. 90, 251, 540, 611.

Revision Committee Note, 1953: Wisconsin Constitution, art. X, sec. 1, provides that supervision of public instruction shall be vested in the state superintendent. To make clear that the constitutional mandate is being followed and to harmonize words used in ch. 39 with new definition s. 40.01, the term "public schools" has been uniformly substituted for other expressions in this section. (Bill 1-S)

State superintendent of public instruction is the "state educational agency" as defined in s. 210 (13), P. L. 815, 81st Cong., and as such has authority and the sole authority to carry out a survey of school buildings with the proceeds of a federal grant made pursuant to that law. 40 Atty. Gen. 372.

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

(1) The state superintendent shall set standards to determine the amount to be granted. The grant to any one student shall not exceed \$600 in any one academic year. No student shall be eligible for a second or subsequent scholarship unless he has completed the prior

year's work satisfactorily, and no student shall be eligible for more than 4 years. The moneys shall be paid to the college upon the certificate of the state superintendent. If the course of study is less than 36 weeks per year, the scholarship shall be prorated.

(2) An eligible Indian student is:

- (a) Any student who has one-fourth or more Indian blood; and
- (b) Is a resident of Wisconsin; and
- (c) Has the capacity to profit from appropriate college work.

History: 1957 c. 450, 672.

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

(2) **COMMITTEE.** (a) *Composition.* To carry out the purposes of this section, there is created a co-ordinating committee of 15 members, 4 from the regents of the university of Wisconsin, 4 from the board of regents of state colleges, 4 citizens, the president of the board of regents of the university of Wisconsin, the president of the board of regents of state colleges, and the state superintendent of public instruction. The appointive regent members of the committee shall be selected by a majority vote of the board of which they are members and shall be selected each year at the annual meeting of the board. The first selection shall be made by the respective boards within 90 days after October 16, 1955, and notice of such appointment to the committee shall be given forthwith to the state superintendent of public instruction, who shall call the first meeting of the committee within 30 days of certification of appointment of the appointive members. The citizen members shall be appointed by the governor with the advice and consent of the senate. The governor shall first appoint one each for 2, 4, 6 and 8 years, within 90 days from October 16, 1955 and thereafter for 8 years.

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

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

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

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

(b) *Physical plant.* The committee shall adopt a co-ordinated plan for the integration and most efficient use of existing facilities and personnel, and an order of priority for the construction of new facilities at all institutions under its jurisdiction.

(c) *Budget requests.* The committee shall review the separate budget requests of the university and the state colleges and shall recommend a single, consolidated, biennial budget request to the governor for the support of all institutions under its jurisdiction, retaining the identity of the appropriation sections contained in ch. 20 relating to said institutions.

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

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

(f) *Personnel.* The committee is authorized to use the services of the administrative and technical staffs of the institutions of higher learning to aid in the studies and activities of this committee as authorized by s. 20.904, and the compensation for such

services shall be paid by the respective board or institution regularly employing such personnel.

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

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

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

History: 1955 c. 619.

See note to sec. 1, art. X, citing 44 Atty. Gen. 120.

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

History: 1953 c. 90.

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

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

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

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

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

History: 1953 c. 90.

Revision Committee Note, 1953: "Inspectors" have been called "supervisors of schools" for many years. (Bill 1-S)

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

History: 1951 c. 570; 1953 c. 90.

39.05 County superintendent; eligibility and disqualification. (1) **ELIGIBILITY.** To be eligible to the office of county superintendent of schools a person must be a resident of the county; must have taught 2 years in a rural public school or in a graded elementary school; must be the holder of any degree from any college or university and must hold a life certificate. Qualification requirements provided by the 1951 amendment shall not apply to any person holding the office of county superintendent on June 15, 1951.

(1m) **EXCEPTION.** None of the qualifications specified in sub. (1) shall apply to any person holding the office of county superintendent on January 1, 1953.

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

(3) **DISQUALIFICATIONS.** No county superintendent shall teach or engage in any business, profession, occupation, pursuit or other activity which will interfere with the proper discharge of his duties. Violation of this subsection shall subject the superintendent to removal from office and loss of salary during the time of such violation.

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

History: 1951 c. 334, 695; 1953 c. 1, 90, 540, 611.

Revision Committee Note, 1953: (3) was old 39.01 (4). The confinement to county, if strictly construed, would lead to absurd results. The addition of "other activity" is to make clear that the superintendent is not to do anything which will interfere with his job. On the other hand, he is now free to carry on activities elsewhere, such as attending summer schools, if they do not interfere. (Bill 815-A)

A person elected after July 1, 1944, must have had the specified teaching experience as well as the specified certificate. Unlicensed, and unauthorized teaching is not considered in the qualifications of the teacher for an office which has a teaching prerequisite. State ex rel. Schmidt v. Krull, 257 W 184, 43 NW (2d) 241.

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

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

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

(4) CITIES WITH SCHOOL SUPERINTENDENT. Cities which have a city superintendent of schools and the territory of any school districts that include a city or cities within their boundaries and operate both elementary and high school grades and employ a superintendent to supervise and manage its schools shall form no part of the county superintendent's district; shall bear no part of the expense connected with the office of county superintendent of schools; and shall have no part in the determination of any question or matter connected with or arising out of said office, nor shall any elector or supervisor of such city have any voice therein. This provision shall not apply to cities with a population of less than 700.

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

(6) SALARY. The county board, at its annual meeting next preceding the election of the county superintendent, shall fix his salary and when so fixed, it shall continue to be his salary until changed by the board or by operation of law. The salary of the county superintendent as fixed by the county board shall be not less than \$3,000 a year but in counties or county superintendent districts which contain 70 or more teachers under such superintendent's jurisdiction, the salary shall be not less than \$4,000 per year. Additional compensation may be provided the county superintendent by the county board both for the performance of his regular duties and for his work as secretary of the county school committee. Compensation for additional duties may be authorized by the county board at any time during his term of office. Such minimum salary shall apply to salaries paid to the county superintendents after July 2, 1952. The county superintendent shall be allowed his reasonable, actual and necessary expenses for travel, including travel outside the county when necessary to the performance of his duties, meals and room rent while on travel, stationery, mimeographing, postage and printing incurred in or necessary for the proper discharge of the duties of the office. The county board may authorize the county superintendent to travel outside the state at county expense. The county superintendent shall present itemized monthly statements of his expense to the county clerk. The county board shall make provision for the monthly payment of the county superintendent's salary and expenses.

History: 1951 c. 691, 695; 1953 c. 90, 343.

See note to 40.815, citing 39 Atty. Gen. 356.

Ch. 561, Laws 1949, authorizes county board to grant additional compensation to county school superintendent, effective during the current term. 39 Atty. Gen. 529.

If a joint school district embraces all the territory of a city, even though the city has never organized a city school system and the district employs a superintendent to supervise and manage the school under the direction of the employing board, then the property therein is not to be taxed for the compensation and allowances of the county superintendent of schools. 39 Atty. Gen. 542.

Only territory in a city (including outside territory attached to it for school purposes) that is operating under a city school plan is exempt under (4) from taxation to pay expense of office of county superintendent. 41 Atty. Gen. 343.

Property lying within a city which operates elementary schools under the city school plan and has a city superintendent, is exempted by 39.06 (4) from the tax imposed to support the office of county superintendent of schools, even though the entire city is within a union high school district. 45 Atty. Gen. 218.

39.10 County superintendent; duties. The county superintendent shall:

- (1) Provide educational leadership.
- (2) Visit the schools under his administration whenever necessary.

(3) Inquire into matters relating to the course of study, records, modes of instruction, textbooks and discipline of the schools.

(4) Keep informed upon new techniques and procedures of instruction.

(5) Advise school boards and teachers as to their powers and duties.

(6) Make all reports and investigations requested by the state superintendent.

(7) Certify to joint district clerks the full valuations of the various parts of a joint school district as provided in s. 40.35 (8).

(8) Perform such services as the boards of education and superintendents of cities operating under the city school plan in ss. 40.80 to 40.827 and school districts that include a city or cities within their boundaries and which employ a superintendent under the provisions of s. 40.92 (1) may request on a contract basis.

(9) Direct the school board to make any alterations and repairs which, in his opinion, are necessary to the health, comfort or progress of the pupils; and to abate any nuisance upon the school premises, provided the same can be done for \$50.

(10) Report annually to the county board the condition of the schools under his supervision.

(11) Name each rural schoolhouse in his district, and notify the district clerk thereof

History: 1951 c. 695; 1953 c. 90, 343, 599, 611.

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

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

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

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

(4) In counties other than those containing a city of the first class the county superintendent shall organize and contract, subject to the approval of the county handicapped children's education board, for the transportation of all handicapped children who are included under the definition in s. 41.01 (4) for all school districts within his jurisdiction when the county board of supervisors approves. When such authority has been given to the county superintendent of schools it will supersede the responsibility placed upon school boards by s. 40.53 (2). The county superintendent shall, with approval of the county handicapped children's education board promulgate a plan for the transportation

of handicapped children which plan, upon approval by the state superintendent of public instruction, shall govern the transportation of such children included in s. 41.01 (4). The county board of supervisors may direct that the superintendent proceed under sub. (3) or provide that the jurisdictional area of the county superintendent of schools shall bear the cost of transportation of all handicapped children resident of the jurisdictional area of the county superintendent transported to special schools or instructional centers, and the county superintendent shall make application for state reimbursement as provided in ss. 40.56 (3) and 41.03 and shall receive the same in the name of the county. The county treasurer shall deposit all state transportation aids to the account of the county superintendent for transportation of handicapped children.

History: 1953 c. 503, 631; 1957 c. 298.

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

History: 1953 c. 90.

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

History: 1951 c. 277; 1953 c. 90; 1955 c. 229.

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

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

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

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

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

History: 1953 c. 90, 599.

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

History: 1953 c. 90, 599.

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

History: 1953 c. 23, 90, 540.

39.20 Supervising teachers. (1) **EMPLOYMENT.** (a) The county superintendent in the name of the county shall employ a supervising teacher, and, if there are more than

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

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

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

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

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

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

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

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

(7) STATE REIMBURSE COUNTY. If it appears from an actual inspection by direction of the state superintendent that the work of such supervising teacher has been efficient, and that she has devoted her time exclusively to the duties of the position, the state superintendent shall certify, in favor of the county which employed her, the amount of the salary paid but not to exceed an amount to which such teacher is entitled under a salary schedule for supervising teachers to be adopted and promulgated by him which shall provide for a salary range of from \$3,800 to \$6,000 per year, varying with length of service and professional training. The county shall also be entitled to reimbursement for the actual and necessary expenses paid to her in the year preceding; the statement

shall be filed with the director of budget and accounts, whereupon he shall draw his warrant for the proper amount in favor of the proper county treasurer.

History: 1951 c. 477; 1953 c. 90, 367; 1955 c. 419.

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

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

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

(4) Persons shall be removed from said roster forthwith upon death or ceasing to reside in the state or when regularly employed as a teacher in any school, and may be removed therefrom for just cause in the manner provided herein. Upon the failure or refusal of any person upon said roster to act as substitute teacher or for other educational services in a public school of this state when requested so to do by any official charged with the obtaining of substitute teachers in said school, such official shall report the same to the board or body having the control and management of such school if such official deems that such failure or refusal was unreasonable. If such board or body deems such failure or refusal to be unreasonable, it may file with the state superintendent a written complaint, in duplicate, setting forth the circumstances thereof. The state superintendent shall send one copy thereof by registered mail to the person against whom such complaint is filed, addressed to the last address of said person upon said roster. The state superintendent shall conduct such investigations as he may deem advisable in order to ascertain the facts relative thereto, and is authorized, but not required, to hold hearings thereon. If the state superintendent finds that such failure or refusal was without

just cause, he shall remove the name of said person from said roster of substitute teachers and shall notify such person thereof by registered mail, addressed to the last address thereof upon said roster. The making of application for registration upon said roster shall constitute agreement by such applicant to accept and abide by all determinations of the state superintendent in respect to such applicant's removal from or re-instatement upon said roster.

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

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

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

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

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

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

(11) "Public schools" as used herein means all schools supported wholly or in part by public funds, and under the control and management of this state, or any subdivision thereof, empowered by law to employ teachers, except schools in cities of the first class included under s. 38.24.

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

(13) (a) This section shall be continued in effect until June 30, 1959, for persons who on June 30, 1957, are included on the roster and who are required to make contributions under the federal insurance contributions act as a result of compensation paid under this section.

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

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

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

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

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

History: 1953 c. 434; 1955 c. 204, 289; 1957 c. 12, 78, 376.

This section held constitutional. *State ex rel. Thomson v. Giessel*, 265 W 558, 61 NW (2d) 908.