

## TITLE XIII.

## Regulation of Industry.

## CHAPTER 101.

## INDUSTRIAL COMMISSION.

101.01	Definitions of terms used.	101.21	Depositions.
101.02	Commission created; appointments.	101.22	Record of proceedings.
101.03	Quorum; joint powers.	101.23	Special agents; delegation of inquisitorial powers.
101.04	Office at capitol; supplies; extramural sessions.	101.24	Attorney general, district attorney, special prosecutor.
101.05	Legal status; seal.	101.25	Technical omissions not fatal to orders.
101.06	Employer's duty to furnish safe employment and place.	101.26	Court review.
101.07	Same; employes not to meddle with safeguards.	101.28	Penalty for violations.
101.08	Employers to furnish information; statistics; inspection by commission.	101.29	Fire inspection.
101.085	Fallout shelter potential.	101.30	Boiler inspection, penalties.
101.09	Supervisory jurisdiction and powers of commission over employments and places of employment.	101.305	Public building requirements; approvals.
101.10	Other powers, duties and jurisdiction of commission.	101.306	Safeguards for the physically handicapped.
101.103	Mine excavations; application; permit; inspections.	101.31	Architects and professional engineers.
101.104	Mines, tunnels, quarries, pits; operation in violation of safety aids.	101.315	Land surveyors.
101.105	Liquefied petroleum gas.	101.33	Acceptance of federal emergency relief; validating executive acts.
101.11	Complaints and investigation as to safety of employments; hearing and order.	101.34	Acceptance of acts of congress for economic recovery.
101.13	Orders of commission declared lawful.	101.345	Acceptance of federal benefits by governor.
101.14	Orders, when effective.	101.35	Power to convey or encumber state-owned lands.
101.15	Petition and hearing on reasonableness of orders.	101.37	Acceptance of federal act relating to public employment offices.
101.16	General orders; local orders.	101.40	Public works, unemployment.
101.17	Condition precedent to action to review order.	101.41	Industrial commission, unemployment.
101.18	Per diem unit of violations.	101.42	Department of public welfare, expenditures to relieve depression.
101.185	Noncompliance with orders a defense to action on contract.	101.43	Industrial commission, depression, labor lists, employment.
101.19	Testimonial powers of commission.	101.55	Executive agreements to control sources of radiation.
101.20	Witness fees.	101.60	Equal opportunities.

101.01 Definitions of terms used. The following terms as used in sections 101.01 to 101.29 of the statutes, shall be construed as follows:

(1) The phrase "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in (a) private domestic service which does not involve the use of mechanical power or (b) farming. The term "farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or his employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production.

(2) The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in subsection (1).

(3) The term "employer" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employe.

(4) The term "employee" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(5) The term "frequenter" shall mean and include every person, other than an employe, who may go in or be in a place of employment or public building under circumstances which render him other than a trespasser.

(6) The term "deputy" shall mean and include any person employed by the industrial commission designated as such deputy by the commission, who shall possess special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the industrial commission, and who may be engaged in the performance of duties under the direction of the commission, calling for the exercise of such abilities or qualities.

(7) The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission, or any other determination arrived at or decision made by such commission.

(8) The term "general order" shall mean and include such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments, or places of employment or public buildings of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders.

(9) The term "local order" shall mean and include any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees, or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the industrial commission has jurisdiction.

(10) The term "welfare" shall mean and include comfort, decency and moral well-being.

(11) The term "safe" or "safety" as applied to an employment or a place of employment or a public building, shall mean such freedom from danger to the life, health, safety or welfare of employes or frequenters, or the public, or tenants, or firemen, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(12) The term "public building" as used in ss. 101.01 to 101.29 means and includes any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants.

(13) The term "owner" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. Said sections 101.01 to 101.29, inclusive, shall apply, so far as consistent, to all architects and builders.

**History:** 1961 c. 337.

Allegations in the instant safe-place complaint against a city for injuries sustained by the plaintiff in diving into shallow water at a public bathing beach, to the effect that a bathhouse, concession building, pier, and lifeguard stands were connected in the form of an integral physical unit, sufficiently alleged that these facilities constituted a "public building" or "structure" within the definition in (12) so as to withstand attack by general demurrer by the city. *Rogers v. Oconomowoc*, 16 W (2d) 621, 115 NW (2d) 635.

In a safe-place action against a city for injuries sustained in diving into shallow water at a public bathing beach operated and maintained by the city as part of a

public park and bathing area, the park and beach facilities consisting of a bathhouse, concession building, seawall dividing the land from the adjacent water, an attached pier, a floating pier, lifeguard stands, and artificial beaches on each side of the wall, did not constitute a "place of employment," within the definition in (1). *Rogers v. Oconomowoc*, 16 W (2d) 621, 115 NW (2d) 635.

The statutory definition of a place of employment requires not only the conduct of a trade or business but also the employment of one person by another. *Schoenfeldt v. Babcock*, 26 W (2d) 569, 133 NW (2d) 262.

**101.02 Commission created; appointments.** There is hereby created a board which shall be known as the "Industrial Commission of Wisconsin." The governor, by and with the advice and consent of the senate, shall appoint the members of the industrial commission and at the time of making appointments shall designate a chairman who shall serve as such for a period of 2 years and until his successor is designated. The term of office of

each member of the industrial commission, holding office on September 1, 1963, shall expire on said date. Thereupon appointment shall be made of 3 successor members for terms commencing on the date of appointment, one term to end October 1, 1963, one term to end June 1, 1967, and one term to end June 1, 1965. Thereafter each member shall be appointed and confirmed for terms of 6 years each. Each member of the board shall take and file the official oath. A majority of the board shall constitute a quorum for the exercise of the powers or authority conferred upon it. In case of a vacancy the remaining 2 members of the board shall exercise all the powers and authority of the board until such vacancy is filled.

**History:** 1963 c. 225.

**101.03 Quorum; joint powers.** A majority of said commissioners shall constitute a quorum to transact business. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission.

**101.04 Office at capitol; supplies; extramural sessions.** The commission shall keep its office at the capitol and shall be provided by the department of administration with suitable rooms, necessary furniture, stationery, books, periodicals, maps, instruments and other necessary supplies. The commission may, however, hold sessions at any place other than the capitol when the convenience of the commission and the parties interested so requires.

**101.05 Legal status; seal.** The commission shall be known collectively as the "Industrial Commission of Wisconsin" and in that name may sue and be sued. It shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words "Industrial Commission—Wisconsin—Seal."

**101.06 Employer's duty to furnish safe employment and place.** Every employer shall furnish employment which shall be safe for the employes therein and shall furnish a place of employment which shall be safe for employes therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employes and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

A corporation organized to own, operate and lease real estate, which leased a building to a city for governmental purposes, was engaged in business and the building, so far as the corporation is concerned, was a place of employment. The corporation was liable under 101.06 for failure to provide safety devices for window washers. *Gupton v. Wauwatosa*, 9 W (2d) 217, 101 NW (2d) 104.

See note to 102.57, citing *Eau Claire Electric Co-op. v. Industrial Comm.* 10 W (2d) 209, 102 NW (2d) 274.

Where an operator of a leased filling station allowed an inexperienced person to inflate a tire by using a hose without a pressure regulator, and the tire blew up, the lessor-owner was not liable, since it could not reasonably expect the operator to allow the equipment to be used by inexperienced persons. *Tryba v. Petcoff*, 10 W (2d) 308, 103 NW (2d) 14.

The supreme court cannot say as a matter of law that the placing of a weighing scale in the defendant's store with a platform 2 feet long and 6 to 8 inches above the floor and leaving a clearance of 2½ feet to 3 feet in front of the greeting-card section where customers expected to go was maintaining the premises in as safe a condition as the nature of the defendant's business would reasonably permit; hence a jury question was presented thereon. *Zehren v. F. W. Woolworth Co.* 11 W (2d) 539, 105 NW (2d) 563.

Where an advertising sign was constructed with a portion jutting out, attached to the rest of the sign only by struts, the jutting portion was not a platform although a painter was injured while standing on it. The sign being safe structurally, the duty of providing safe employment was that of the painter's employer, not the owner's. *Asen v. Jos. Schlitz Brewing Co.*

11 W (2d) 594, 106 NW (2d) 269.

Defendant violated the safe-place statute in not lighting a high platform within a building where an electrician was expected lay a cable without warning him that the platform did not extend all the way to a wall. *Burmek v. Miller Brewing Co.* 12 W (2d) 405, 107 NW (2d) 533.

See note to 263.06, citing *Thiel v. Bahr Construction Co.* 13 W (2d) 196, 108 NW (2d) 573.

Under the safe-place statute the duty of the owner of a public building to maintain the building in a safe condition extends only to such portions as are used or held out to be used by the public or tenants in common or to such other portions of the building as are under his control; but where a defect is structural in character rather than a condition resulting from want of repair or maintenance, even though it exists in a portion of the building not put to public use, the owner may be liable under the safe-place statute for injuries resulting from the structural defect. *Frion v. Coren*, 13 W (2d) 300, 108 NW (2d) 563.

The fact that a janitor used an outside balcony in cleaning windows would not make it a place of employment as to the plaintiff resident of the building. *Frion v. Coren*, 13 W (2d) 300, 108 NW (2d) 563.

A semicircular driveway open at both ends to the street, located on land owned by the city between the public sidewalk and the curb line of the street in front of a hotel and used and maintained by the hotel company and a cab company but not used for general vehicular or pedestrian traffic nor maintained by the city, was a "place of employment" of both the hotel company and the cab company within the meaning of the safe-place statute, so that both defendants could be subject to liability for injuries

sustained by a woman who came across the street in front of the hotel to take a cab parked in the driveway, and who tripped on a rutted accumulation of snow and ice in the driveway. Schwenn v. Loraine Hotel Co. 14 W (2d) 601, 111 NW (2d) 495.

The safe-place statute does not, by its terms, require an employer to own the premises in order to maintain a place of employment, and control and custody of the premises need not be exclusive, nor is it necessary to have control for all purposes, as a requisite of liability for injuries sustained by employes or frequenters. Schwenn v. Loraine Hotel Co. 14 W (2d) 601, 111 NW (2d) 495.

It is not necessary that 3 or more tenants must actually use or have the right to use part of a building where an accident happens in order to constitute that location a public building. Several prior cases analyzed and distinguished. Lealiou v. Quatsoe, 15 W (2d) 128, 112 NW (2d) 193.

A private walk from a building to the public walk is a place of employment. Filipiak v. Plombon, 15 W (2d) 484, 113 NW (2d) 365.

Where a glass door was broken when run into by a child, and the evidence showed that 98 per cent of such doors in the area were of ordinary plate glass, the safe place statute was not violated as a matter of law. The fact that the owner subsequently installed shatter-proof glass is not controlling. Raim v. Ventura, 16 W (2d) 67, 113 NW (2d) 827.

Defendant is not liable under the safe-place statute where plaintiff fell on an apron leading to defendant's parking lot where the apron was entirely within the street and did not appear to be constructed for pedestrian use. Hansen v. Schmidman Properties, 16 W (2d) 639, 115 NW (2d) 495.

Employer's liability to babysitter burned using an electric stove discussed. Szep v. Robinson, 20 W (2d) 284, 121 NW (2d) 753.

Duty of an owner of a parking lot to make it safe under icy conditions discussed. Zernia v. Capitol Court Corp. 21 W (2d) 164, 124 NW (2d) 86.

An employe of a contractor, injured when the rung of a ladder broke, cannot recover against the owner of the premises under this section in the absence of evidence that the latter owned or controlled the ladder or knew of the defect. Nor can he recover against a contractor other than his employer, assuming that contractor was responsible for the ladder, in the absence of evidence that the defect was obvious and the contractor should have discovered it. Sposito v. Zeitz, 23 W (2d) 159, 127 NW (2d) 43.

A school gymnasium, not being operated in whole or in part for profit, is not a place of employment and a frequenter cannot recover for injuries caused by a condition not associated with the structure. Haerter v. West Allis, 23 W (2d) 567, 127

NW (2d) 768.

A pupil at a public school is not a frequenter and a classroom is not a place of employment. Niedfelt v. Joint School Dist. 23 W (2d) 641, 127 NW (2d) 800.

A public swimming and beach area along the shore of a lake do not constitute a "structure" nor a "public building" even though artificially developed by constructing a retaining wall at the water's edge and by dumping sand behind the wall and on the lake bottom in front of it. To constitute a place of employment the place must be operated for profit. Rogers v. Oconomowoc, 24 W (2d) 308, 128 NW (2d) 640.

A place is not unsafe simply because protruding beams from an existing wall extend over a scaffolding where a bricklayer is laying a new wall. Paaske v. Ferrex Corp. 24 W (2d) 485, 129 NW (2d) 198.

It is a jury question whether a place is safe when a "view panel" in a swinging library door broke when a student pushed on the panel rather than on the push plate on the door. Anderson v. Joint School Dist. 24 W (2d) 580, 129 NW (2d) 545, 130 NW (2d) 105.

The standard of care required by a frequenter is not that of the highest degree of caution, for all that is required is the exercise of ordinary care. While an employer has no duty to furnish devices to insure the safety of a frequenter, a jury may determine whether the employer might not have supplied devices that would have made the place as safe as its nature would reasonably permit. Presti v. O'Donahue, 25 W (2d) 594, 131 NW (2d) 273.

Where there is a place of employment to which the safe-place statute applies, a duty is placed upon the employer to make timely and adequate periodic inspections of any safety devices to ascertain whether they are properly functioning, and this duty under the statutes inures to the benefit of frequenters as well as employes. Karis v. Kroger Co. 26 W (2d) 277, 132 NW (2d) 595.

Where contractor's employe was injured when a garage door was opened while he was on a ladder inside it, the owner was liable for violating the safe-place statute where he refused to allow the employe to use his truck to barricade the door and assured him he would not be interfered with. Balchuck v. Sears, Roebuck & Co. 324 F (2d) 142.

A curved handrail on exterior stairway does not render building unsafe. Failure of handrail to extend to bottom step violated statute but was not a cause of injury where plaintiff was not near enough to it to reach it when he fell. Bean v. United States, 219 F Supp. 3.

A survey of the safe-place doctrine. McKinnon, 46 MLR 130.

Non-third party safe-place cases. Goldberg, 46 MLR 154.

**101.07 Same; employes not to meddle with safeguards.** (1) No employer shall require, permit or suffer any employe to go or be in any employment or place of employment which is not safe, and no such employers shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(2) No employe shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employe interfere with the use of any method or process adopted for the protection of any employe in such employment or place of employment or frequenter of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes or frequenters.

**101.08 Employers to furnish information; statistics; inspection by commission.**

(1) Every employer and every owner shall furnish to the commission all information required by it to carry into effect the provisions of sections 101.01 to 101.29, inclusive, and shall make specific answers to all questions submitted by the commission relative thereto.

(2) Any employer receiving from the commission any blanks calling for information required by it to carry into effect the provisions of sections 101.01 to 101.29, inclusive, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and returned to the commission at its office within the period fixed by the commission.

(3) Any commissioner or deputy of the commission may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employes, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the commission, and any failure on the part of such employer or owner to comply therewith. No employer or owner shall refuse to admit any commissioner or deputy of the commission to his place of employment or public building.

**101.085 Fallout shelter potential.** Every architect and every engineer submitting plans for the construction of any structure using public funds shall, prior to the letting of final bids on such structures, submit a written report, indicating whether such structure meets or does not meet federal fallout shelter engineering standards, to the contracting agency.

**History:** 1963 c. 460.

**101.09 Supervisory jurisdiction and powers of commission over employments and places of employment.** The industrial commission is vested with the power and jurisdiction to have such supervision of every employment, place of employment and public building in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employe in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building; provided, however, that the provisions of this section shall not apply to rural school buildings.

**101.10 Other powers, duties and jurisdiction of commission.** It shall also be the duty of the industrial commission, and it shall have power, jurisdiction and authority:

(1) To employ, promote and remove deputies, clerks and other assistants as needed, to fix their compensation, and to assign to them their duties; and to appoint advisors who shall, without compensation, assist the industrial commission in the execution of its duties.

(1a) The commission, or any member thereof, or any examiner appointed thereby, may hold hearings and take testimony.

(2) To administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to child labor, laundries, stores, employment of females, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, wood-sawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employes in employments and places of employment and frequenters of places of employment.

(3) To investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employes of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders, and to establish and maintain museums of safety and hygiene in which shall be exhibited safety devices, safeguards and other means and methods for the protection of life, health, safety and welfare of employes.

(4) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employes in employments and places of employment or frequenters of places of employment.

(5) To ascertain, fix and order such reasonable standards, rules or regulations for

the construction, repair and maintenance of places of employment and public buildings, as shall render them safe.

(5a) To make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering firemen in case of fire.

(5b) The industrial commission and its deputies shall have the right at all reasonable hours to enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire.

(5c) The industrial commission is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(5d) The industrial commission is hereby empowered and directed to prepare and provide suitable forms for distribution to the school systems in the state through the office of the state department of public instruction, for the purpose of providing uniform reports on fire drills conducted during the year in accordance with s. 40.47 (3) of the statutes.

(5f) To require a suitable space in which lunches may be eaten in any place of employment if found by the commission to be reasonably necessary for the protection of the life, health, safety and welfare of employes therein.

(6) To investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of sections 101.01 to 101.29, inclusive.

(7) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

(8) To do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employes, and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment. In pursuance of this duty it may appoint temporary boards of arbitration, provide necessary expenses of such boards, order reasonable compensation not exceeding five dollars per day for each member engaged in such arbitration, prescribe rules of procedure for such arbitration boards, conduct investigations and hearings, publish reports and advertisements, and may do all other things convenient and necessary to accomplish the purposes directed in sections 101.01 to 101.29, inclusive. The commission shall designate a deputy to be known as chief mediator and may detail other deputies from time to time to act as his assistants, for the purpose of executing these provisions. Deputies may act on temporary boards without extra compensation.

(9) To establish and conduct free employment agencies, to license and supervise the work of private employment offices, to do all in its power to bring together employers seeking employes and working people seeking employment, to make known the opportunities for self-employment in this state, to aid in procuring employment for the blind adults of the state, to aid in inducing minors to undertake promising skilled employments, to provide industrial or agricultural training for vagrants and other persons unsuited for ordinary employments, and to encourage wage earners to insure themselves against distress from unemployment. It shall investigate the extent and causes of unemployment in the state of Wisconsin and the remedies therefor in this and other countries, and it shall devise and adopt the most efficient means within its power to avoid unemployment, to provide employment, and to prevent distress from involuntary idleness.

(9a) Any county, city, town or village may enter into an agreement with the Wisconsin industrial commission for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and it shall be lawful for any county, city, town or village to appropriate and expend the necessary money and to permit the use of public property for the joint establishment and maintenance of such offices as may be agreed upon, or in counties containing 250,000 inhabitants or more in any city, town or village therein to purchase a site and construct necessary buildings. Provided, that in any county, city, village or town therein, wherein there is a citizens' committee on unemployment, such committee shall have the power to rent, lease, purchase or

construct necessary buildings for the joint establishment and maintenance of such free employment office, subject to the approval of such plans by the industrial commission. The industrial commission may establish such free employment offices as it may deem necessary to carry out the purposes of ch. 108. All expenses of such offices, or all expenses not defrayed by the county, city, town or village in which an office is located, shall be charged to the appropriation to the industrial commission provided in s. 20.440 (1) (u) and (v).

(10) To collect, collate and publish statistical and other information relating to the work under its jurisdiction and to make public reports in its judgment necessary.

(11) To rent, furnish and equip, except as provided in subsection (9a) of this section, such offices as may be needed in cities for the conduct of its affairs. All payments arising under this section shall be charged against the proper appropriation for the industrial commission.

(12) (a) To fix and collect fees for the required inspection of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbwaiters.

(b) To fix and collect fees for and to issue and record required certificates of inspection or of registration for said equipment.

(c) To fix and revise when necessary all fees provided for in this subsection and sub. (13), with the advice of a committee appointed by the commission, at rates which will approximate the commission's cost of performing said services and to publish the fees as a fee schedule in the administrative code.

(d) To require the submittal of essential drawings, design calculations, and specifications for places of employment, public buildings, and the mechanical components of said places and buildings including industrial exhaust, heating, ventilation and structural systems, elevators, escalators, power dumbwaiters and fire escapes; and to fix and collect fees for the examination and approval of the same.

(e) The requirements of this subsection shall not apply to vessels classed as petroleum, liquefied petroleum gas or anhydrous ammonia tanks, or containers.

(f) Fees fixed under this subsection shall not apply to buildings of state and local governments.

(13) (a) To determine and certify the competency of insurance company inspectors of said equipment, and to fix and collect a fee for determining and certifying such competency.

(b) To accept inspections at no cost performed by insurance company inspectors for whom evidence of competency has been furnished to the commission.

(c) To approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(d) Accept inspections performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(e) To accept inspections at no cost when performed by qualified and authorized inspectors in the employ of cities of the first class for inspections of equipment located within the corporate limits of such cities.

(f) To accept the approval of drawings, design calculations and specifications for the following when such approvals are granted by cities of the first class provided the same are examined in a manner approved by the commission:

1. Places of employment and public buildings;
2. Structures;
3. Heating, ventilation and air conditioning systems;
4. Elevators, escalators and power dumbwaiters;
5. Stadiums, grandstands and bleachers;
6. Fire escapes.

(g) To require all local officers, not authorized by the commission to grant approvals, as provided in par. (f), to deny permits or licenses for the construction or use of places of employment or public buildings until the required drawings, design calculations and specifications have been approved by the commission.

(14) To investigate and attempt equitably to adjust controversies between employers and employes as to alleged wage claims and to enforce the provisions of section 103.39. In pursuance of this duty, it may take an assignment in trust for the assigning employe of any wage claim deemed to be valid in the opinion of the commission and not exceeding \$200, such assignment to run to the industrial commission. The commission may sue the employer on any wage claim so assigned and the provisions of subsection (3) of section 103.39 shall apply. The commission may join in a single proceeding any number of wage claims against the same employer, but the court may order separate trials or hearings. In such cases the taxable costs recovered shall be paid into the general fund.

(15) To conduct such investigations, hold such public meetings and attend or be repre-

mented at such meetings, conferences and conventions inside or outside of the state as may, in its judgment, tend to better the execution of its functions.

(16) To ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

(17) To co-operate with the federal veterans administration in the performance of functions prescribed in U. S. Public Law 679 and any acts amendatory thereof or supplementary thereto. The commission is authorized with the approval of the governor to take all necessary steps in the making of leases or other contracts with the federal government in the adoption and execution of plans, methods, and agreements to effectuate said Public Law 679.

**History:** 1963 c. 6; 1965 c. 433 s. 121.

Under 20.904 the employment relations board may mediate a work stoppage situation at the request of the industrial commission. 49 Atty. Gen. 144.

The industrial commission may delegate to its deputies authority to obtain enforcement of 101.104 through district attorneys

under 101.24 (2) and 101.28. If an individual signs a complaint in good faith and without malice, believing that there is probable cause to believe that a crime has been committed and that the accused is the person involved, no liability would attach to the individual. 51 Atty. Gen. 28.

**101.103 Mine excavations; application; permit; inspections.** (1) For the purpose of this section:

(a) "Shaft" means an opening made for mining minerals, for hoisting and lowering men or material, or for ventilating underground workings.

(b) "Mineral" means a product recognized by standard authorities as mineral, whether metalliferous or nonmetalliferous.

(c) "Excavation" or "workings" means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

(2) No excavation of a shaft shall be commenced unless a permit is first issued therefor by the industrial commission. Permits for such excavation shall be issued without cost upon application filed with the commission, if the commission is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the industrial commission and applicable thereto. Application shall be made upon forms prescribed by the industrial commission and shall be furnished upon request.

(3) The provisions of subsection (2) do not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.

(4) The industrial commission is empowered:

(a) To employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree of mining engineering.

(b) To cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.

(5) The commission shall require all mine operators to conform with all general orders as are promulgated relating to the safety of mines, explosives, quarries and the like.

(6) (a) The commission shall cause the inspections of mines and similar establishments at least once every 2 months. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employes of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The commission shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employes.

(b) The commission may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court shall subject such party or parties to criminal contempt proceedings.

**101.104 Mines, tunnels, quarries, pits; operation in violation of safety aids.** If any shaft or workings of a mine, or any tunnel, trench, caisson, quarry, or gravel or sand pit is being operated or used in violation of the safety orders of the industrial commission applicable thereto, the owner or operator upon receiving notice of such violation from the commission shall immediately cease such operation or use. The operation or use of such shaft or workings of a mine, or of such tunnel, trench, caisson, quarry or gravel or sand pit, shall not be resumed until such safety orders have been complied with.

**101.105 Liquefied petroleum gas.** (1) The term "liquefied petroleum gas" as used in this section, shall mean and include any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes, normal butane or isobutane and butylenes.

(2) The industrial commission shall ascertain, fix and order such reasonable standards, rules or regulations for the design, construction, location, installation, operation, repair and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe. The promulgation, effect and review of standards, rules and regulations adopted under this section shall be controlled by the provisions of this chapter. The industrial commission shall appoint an advisory committee to assist in the promulgation of such standards.

(3) No person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

(4) Every person, firm, association or corporation actually performing the work of installing, on and after the effective date of regulations promulgated by the industrial commission pursuant to this section, equipment utilizing liquefied petroleum gas for fuel purposes, shall furnish the customer or user of said equipment, a statement, the form of which shall be prescribed by the industrial commission, showing that the design, construction, location and installation of said equipment conforms with the rules and regulations adopted by the industrial commission pursuant to this section.

(5) Any person, firm, association or corporation violating any of the provisions of this section, or any standard, rule or regulation adopted by the industrial commission pursuant to the provisions of this section, or issuing a false statement under subsection (4), shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not less than 30 days nor more than 6 months.

(6) The provisions of this section shall not apply to railroads engaged in interstate commerce or to equipment used by them.

This section authorizes the commission private trailers or residences. 49 Atty. to regulate all installations of liquefied Gen. 16. petroleum gas for fuel purposes even in

**101.11 Complaints and investigation as to safety of employments; hearing and order.** (1) Upon petition, after January 1, 1912, by any person that any employment or place of employment or public building is not safe, the commission shall proceed with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(2) After such hearing as may be necessary, the commission may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(3) Whenever the commission shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

**101.13 Orders of commission declared lawful.** All orders of the industrial commission in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to chapter 227 or until altered or revoked by the commission.

**101.14 Orders, when effective.** (1) All general orders shall take effect as provided in s. 227.026. Special orders shall take effect as therein directed.

(2) The commission shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(3) Any person may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

**101.15 Petition and hearing on reasonableness of orders.** (1) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the commission in the manner provided in sections 101.01 to 101.29, inclusive.

(2) Such petition for hearing shall be by verified petition filed with the commission, setting out specifically and in full detail the order upon which a hearing is desired and

every reason why such order is unreasonable, and every issue to be considered by the commission on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the petition. All hearings of the commission shall be open to the public.

(3) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the commission shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the commission shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the commission may find directly interested in such decision.

(4) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the commission shall substitute therefor such other order as shall be just and reasonable.

(5) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the commission, the commission shall grant such time as may be reasonably necessary for such compliance.

**101.16 General orders; local orders.** (1) Nothing contained in sections 101.01 to 101.29, inclusive, shall be construed to deprive the common council, the board of aldermen, the board of trustees or the village board of any village or city, or the board of health of any municipality of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the industrial commission shall, by an order, fix a standard of safety or any hygienic condition for employments or places of employment or public buildings, such order shall, upon the filing by the commission of a copy thereof with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by said order. Thereafter no local officer shall make or enforce any order contrary thereto.

(2) Any person affected by any local order in conflict with an order of the commission, may in the manner provided in section 101.15 of the statutes, petition the industrial commission for a hearing on the ground that such local order is unreasonable and in conflict with the order of the commission. The petition for such hearing shall conform to the requirements set forth for a petition in said section 101.15 of the statutes.

(3) Upon receipt of such petition the commission shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the commission may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the commission, the commission may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.

**101.17 Condition precedent to action to review order.** (1) No action, proceeding or suit to set aside, vacate or amend any order of the commission or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the commission for a hearing thereon at the time and as provided in section 101.15 of the statutes, and in the petition therefor shall have raised every issue raised in such action.

(2) Every order of the commission shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in chapter 227.

**101.18 Per diem unit of violations.** Every day during which any person, persons, corporation or any officer, agent or employe thereof, shall fail to observe and comply with any order of the commission or to perform any duty enjoined by sections 101.01 to 101.29, inclusive, shall constitute a separate and distinct violation of such order, or of said sections as the case may be.

**101.185 Noncompliance with orders a defense to action on contract.** Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the industrial commission promulgated

under the provisions of section 101.10 shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advancements paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. The provisions of this section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

**101.19 Testimonial powers of commission.** Each of the commissioners shall have power to certify to official acts, and take testimony.

**101.20 Witness fees.** Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the chairman of the commission, and charged to the proper appropriation for the industrial commission. But no witness subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated.

**101.21 Depositions.** The commission or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the industrial commission.

**101.22 Record of proceedings.** A full and complete record shall be kept of all proceedings had before the commission on any investigation and all testimony shall be taken down by the stenographer appointed by the commission.

**101.23 Special agents; delegation of inquisitorial powers.** (1) For the purpose of making any investigation with regard to any employment or place of employment or public building, the commission shall have power to appoint, by an order in writing, any member of the commission, any deputy who is a citizen of the state, or any other competent person as an agent whose duties shall be prescribed in such order.

(2) In the discharge of his duties such agent shall have every power whatsoever of an inquisitorial nature granted in this act to the commission, and the same powers as a court commissioner with regard to the taking of depositions; and all powers granted by law to a court commissioner relative to depositions are hereby granted to such agent.

(3) The commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the commission shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the commission so order nor further investigation.

**101.24 Attorney general, district attorney, special prosecutor.** (1) The commission shall have authority to direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(2) Upon the request of the commission, the attorney-general or district attorney of the county in which any investigation, hearing or trial had under the provisions of sections 101.01 to 101.29, inclusive, is pending, shall aid therein and prosecute under the supervision of the commission, all necessary actions or proceedings for the enforcement of said sections and all other laws of this state relating to the protection of life, health, safety and welfare, and for the punishment of all violations thereof.

**101.25 Technical omissions not fatal to orders.** A substantial compliance with the requirements of sections 101.01 to 101.29, inclusive, shall be sufficient to give effect to the orders of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

**101.26 Court review.** Orders of the commission under sections 101.01 to 101.25 shall be subject to review in the manner provided in chapter 227.

**101.28 Penalty for violations.** If any employer, employe, owner, or other person shall violate any provisions of sections 101.01 to 101.13, inclusive, of the statutes, or shall

do any act prohibited in sections 101.01 to 101.29, inclusive, or shall fail or refuse to perform any duty lawfully enjoined, within the time prescribed by the commission, for which no penalty has been specifically provided, or shall fail, neglect or refuse to obey any lawful order given or made by the commission, or any judgment or decree made by any court in connection with the provisions of sections 101.01 to 101.29, inclusive, for each such violation, failure or refusal, such employer, employe, owner or other person shall forfeit and pay into the state treasury a sum not less than ten dollars nor more than one hundred dollars for each such offense. It shall be the duty of all officers of the state, the counties and municipalities, upon request of the industrial commission, to enforce in their respective departments, all lawful orders of the industrial commission, insofar as the same may be applicable and consistent with the general duties of such officers.

**101.29 Fire inspection.** (1) The chief of the fire department in every city, village or town, except cities of the first class, is hereby constituted a deputy of the industrial commission, subject to the right of the commission to relieve any such chief from his duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy of the industrial commission. The commission may, in its discretion, appoint either the chief of the fire department or the building inspector as its deputy in cities of the first class.

(2) Such chief of the fire department is required, by himself or by officers or members of his fire department designated by him for that purpose, to inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires.

(3) Such inspection, except in cities of the 1st class, shall be made at least once in 6 months in all of the territory served by such fire department, and not less than once in 3 months in such territory as the common council has designated or thereafter designates as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department orders. Each 6-month period shall begin on January 1 and July 1, and each 3-month period on January 1, April 1, July 1 and October 1 of each year. In cities of the 1st class such inspection shall be made not less than once in 4 months in each year throughout the entire city, and oftener as the chief of the fire department orders. Each such 4-month period shall begin on January 1, May 1 and September 1 of each year.

(4) The chiefs of fire departments in every city of the first, second and third classes shall designate a sufficient number of men as inspectors to carry out the provisions of this section.

(5) Written reports of inspection shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the industrial commission.

(6) Such inspection shall be subject to the supervision and direction of the industrial commission, which shall upon examination certify to the commissioner of insurance after the expiration of each calendar year each such city, village or town where the inspections for such year have been made, and records thereof have been made and kept on file as required by law.

(7) A copy of any report showing a change in the hazard from the survey, or any violation of law or ordinance relating to the fire hazard upon any risk shall be given by the industrial commission to any inspection bureau making written request therefor.

**History:** 1965 c. 399.

**101.30 Boiler inspection, penalties.** No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employes and frequenters in places of employment and public buildings and with the orders of the industrial commission adopted and published in conformity with sections 101.01 to 101.28, inclusive, of the statutes. Any person, firm, or corporation, violating the provisions of this act shall be subject to the forfeitures provided in sections 101.18 and 101.28 of the statutes.

**101.305 Public building requirements; approvals.** (1) Any public building, including state-owned buildings or public housing projects, the construction of which is commenced after January 1, 1964, with the exception of: apartment houses with less than 20 units; row houses; rooming houses; convents and monasteries; jails or other places of detention; garages; hangers; boathouses; all buildings classified as hazardous occupancies; state buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings and warehouses; and mercantile buildings shall be so designed and constructed as to provide reasonable means of ingress and egress by physically handicapped persons. This may be accomplished by at

least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the industrial commission or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the industrial commission building code. If any ground or street level entrance or exit is not so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheel chair service.

(2) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

**History:** 1963 c. 139.

**101.306 Safeguards for the physically handicapped.** The industrial commission shall by rule, provide minimum requirements to facilitate the use of public buildings by physically handicapped persons where traffic might reasonably be expected by such persons; the commission to hold its first public hearings under this section within 60 days after July 4, 1963.

**History:** 1963 c. 138, 429.

**101.31 Architects and professional engineers.** (1) **PRACTICE REQUIREMENTS, REGISTRATION.** (a) Any person practicing or offering to practice the profession of architecture or the profession of professional engineering in this state shall comply with the provisions of this section.

(b) It is unlawful for any person to practice the profession of architecture or the profession of professional engineering in this state unless such person has been duly registered, is exempt under the provisions of subsection (9) or has in effect a permit under subsection (11) (d).

(c) It is unlawful for any person to offer to practice the profession of architecture or the profession of professional engineering or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is an architect or professional engineer or to advertise to furnish architectural or professional engineering services unless such person has been duly registered or has in effect a permit under subsection (11) (d).

(2) **DEFINITIONS.** (a) The term "architect" as used in this section means a person who is legally qualified to practice the profession of architecture.

(b) The practice of architecture within the meaning and intent of this section includes any professional service, such as consultation, investigation, evaluation, planning, aesthetic and structural design, or responsible supervision of construction, in connection with the construction of any private or public buildings, structures, projects, or the equipment thereof, or addition to or alteration thereof, wherein the safeguarding of life, health or property is concerned or involved.

(c) The term "professional engineer" as used in this section means a person who by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.

(d) The practice of professional engineering within the meaning and intent of this section includes any professional service, requiring the application of engineering principles and data, wherein the public welfare or the safeguarding of life, health or property is concerned and involved, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction, alteration, or operation, in connection with any public or private utilities, structures, projects, bridges, plants and buildings, machines, equipment, processes and works. A person shall be deemed to offer to practice professional engineering, within the meaning and intent of this section, who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who through the use of some other title implies that he is a professional engineer; or who holds himself out as able to practice professional engineering.

(e) The term "board" as used in this section shall mean the state registration board of architects and professional engineers, as provided for by this section.

(f) The term "engineer-in-training" as used in this section means a person who is a graduate in an engineering curriculum of 4 years or more from a school or college approved by the board as of satisfactory standing, or a person who has had 4 years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering sub-

jects prior to the completion of the requisite years in engineering work, as provided in subsection (6), and who has received from the board a certificate of record stating that he has successfully passed this portion of the professional examinations.

(3) REGISTRATION BOARD, MEMBERSHIP, TERM, ELIGIBILITY, PAY, REMOVALS, VACANCIES.

(a) The board shall consist of 9 members: The state architect, who shall be the highest ranking registered architect under the classified service in the department of administration, the state engineer, who shall be the highest ranking registered engineer under the classified service in the department of administration, the dean of the college of engineering of the state university, or their representatives, 3 architects and 3 professional engineers. The 3 architects and 3 professional engineer members of the board shall be appointed by the industrial commission from lists consisting of 2 or more names for each position to be filled, submitted by the architectural and engineering societies of the state. Every member of the board shall receive a certificate of his appointment from the industrial commission and before beginning his term of office shall file with the secretary of state his written oath for the faithful discharge of his official duty. On the expiration of the terms of architect and engineer members of the board, the industrial commission shall each year, from lists consisting of 2 or more names for each vacancy to be filled, appoint new members for a term of 3 years, as follows: One registered architect and one registered professional engineer, from the nominating lists to be submitted from the membership lists of registered architects and registered professional engineers by the architectural and engineering societies of the state. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor has been duly appointed and qualified.

(b) Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least one year and shall have been engaged in the practice of the profession of architect or of professional engineer for at least 10 years, and shall have been in responsible charge of architectural or professional engineering work for at least 5 years.

(c) No member of the board shall be entitled to any compensation for his or her services, but shall, however, be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out the provisions of this section.

(d) The industrial commission may upon request of two-thirds of the membership of the interested division of the board remove any architect or professional engineer member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient proven cause. Vacancies in the membership of the board shall be filled by appointment by the industrial commission for the unexpired term.

(4) BOARD SECTIONS; MEETINGS; JURISDICTIONS; RULES; SEAL; TESTIMONY. (a) The board in operation shall be divided into 2 divisions, one division shall consist of the dean of the college of engineering, the state architect and the architect members. The other division shall consist of the dean of the college of engineering, the state engineer and the engineering members.

(b) The board shall hold joint meetings within 30 days after its members are first appointed and thereafter shall hold at least one joint meeting each year. In addition, the architectural and engineering division shall each hold at least 2 regular meetings each year. Special meetings shall be held at such times as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect annually from its architectural members a chairman and a vice chairman for the architectural division and from its engineering members a chairman and a vice chairman for the engineering division.

(c) All matters pertaining to the passing upon the qualifications of applicants for and the granting or revocation of registration, also all other matters of interest to either the architectural or to the engineering division shall be acted upon solely by the interested division. All matters of joint interest shall be considered by joint meetings of both architectural and engineering divisions of the board. At such joint meetings the dean of the college of engineering shall preside as chairman and the state architect and the state engineer shall cast the vote of their respective divisions, and the dean of the college of engineering shall cast the deciding vote.

(d) The board may make all bylaws and rules, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt an official seal. In carrying into effect the provisions of this section, the board or its divisions may take testimony in any case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths to witnesses.

(5) SECRETARY, BOND, SALARY, CLERKS; RECORDS, REPORTS, ROSTER. (a) The secretary

of the board shall give a surety bond to this state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary of the board may receive such salary as the board determines. The board may employ such other clerical help or assistants as are necessary for the proper performances of its work, or may make expenditure of this fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties. Under no circumstances, however, shall the total amount of warrants issued by the state auditor in payment of the expenses of the board exceed the amount of the examination and registration fees collected and appropriated as herein provided.

(b) The board shall keep a record of its proceedings and a register of all applications for registration together with a record of all other information pertaining thereto as may be deemed necessary by the board. The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(c) The board shall annually submit to the industrial commission a report of its transactions of the preceding year, and shall also transmit to the industrial commission a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

(d) A roster showing the names and places of business of all registered architects and professional engineers shall be prepared annually by the secretary of the board. A copy of this roster shall be obtainable by each person so registered and a copy shall be placed on file with the secretary of state.

(e) A list showing the names and addresses of all engineers-in-training certified by the board during the period from July 1 to June 30, inclusive, shall be prepared each year by the secretary of the board. A copy of such list shall be obtainable by each person whose name appears upon it and by each person registered as a professional engineer. A copy of such list shall be placed on file with the secretary of state.

(6) REGISTRATION REQUIREMENTS. (a) An applicant for registration as an "architect" shall submit satisfactory evidence to the board as follows:

1. That he or she has acquired a thorough knowledge of sound construction, building hygiene, architectural design and mathematics.

2. A diploma of graduation, or a certificate, from an architectural school or college approved by the board as of satisfactory standing, together with at least 3 years' practical experience of a character satisfactory to the board in the design and construction of buildings; or

3. A specific record of 7 or more years of experience in architectural work of a character satisfactory to the board in the design and construction of buildings;

4. Graduation in architecture from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience, and the completion satisfactory to the board of each year of work in architecture in such school or college without graduation shall be considered equivalent to one year of experience. Graduation in a course other than architecture from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(b) An applicant for registration as a "professional engineer" shall submit satisfactory evidence to the board as follows:

1. A diploma of graduation, or a certificate, from an engineering school or college approved by the board as of satisfactory standing in an engineering course of not less than 4 years, together with an additional 4 years of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

2. A specific record of 8 or more years of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

3. A specific record by an applicant not less than 35 years of age of 12 years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering.

4. Graduation in engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience, and the completion satisfactory to the board of each year of work in engineering in such school or college without graduation shall be considered as equivalent to one year of experience. Graduation in a course other than engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experi-

ence. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(c) An applicant for certification as an engineer-in-training shall submit satisfactory evidence to the board as follows:

1. A diploma of graduation in engineering or a certificate in engineering from a school or college approved by the board as of satisfactory standing, or

2. A specific record of 4 years or more of experience in engineering work of a character satisfactory to the board.

3. Graduation in engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience and the completion satisfactory to the board of each year of work in engineering in such school or college without graduation shall be considered as equivalent to one year of experience. Graduation in a course other than engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(d) In considering the qualifications of applicants, responsible charge of architectural or engineering teaching may be construed as experience.

(e) No person shall be eligible for registration as an architect or a professional engineer, or certification as engineer-in-training who is not of good character and repute.

(g) Written examinations will be required of every applicant for certification as engineer-in-training.

(i) Written or written and oral examinations will be required of every applicant for registration as an architect or a professional engineer except an applicant who meets the requirements of par. (b) 3.

(j) Written or written and oral examinations shall be held at such time and place as the board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise architectural or engineering work, which shall insure the safety of life, health and property. A candidate failing an examination may, upon application and payment of the required reexamination fee, be examined again by the board.

(7) PARTNERSHIP OR CORPORATION. (a) A firm, or a copartnership, or a corporation, or a joint stock association may engage in the practice of architecture or professional engineering in this state only provided such practice is carried on under the responsible direction of one or more registered architects or professional engineers. Any and all plans, sheets of design and specifications shall carry the signature of the registered architect or registered professional engineer who is in responsible charge.

(b) No such firm, or copartnership, corporation, or joint stock association shall offer to practice the profession of architecture or the profession of professional engineering in this state, or to use in connection with its name or otherwise assume, use or advertise any title or description tending to convey the impression that it is engaged in the practice of the profession of architecture or the profession of professional engineering, nor shall it advertise to furnish architectural or professional engineering services, unless firm members or copartners owning a majority of the capital interest in such firm or copartnership, or unless the executive director and the holders of the majority of stock of such corporation or joint stock association are duly registered under the provisions of this section.

(8) CHANGE OF NAME. No person shall practice the profession of architecture or the profession of professional engineering in this state under any other Christian or given name or any other surname than that under which he was originally licensed or registered to practice in this or any other state, in any instance in which Wisconsin registration board of architects and professional engineers shall, after a hearing, find that practicing under such changed name operates to unfairly compete with another practitioner or to mislead the public as to identity or to otherwise result in detriment to the profession or the public. This subsection does not apply to a change of name resulting from marriage or divorce.

(9) EXEMPT PERSONS. The following persons, while practicing within the scope of their exemption, shall be exempt from registration under the provisions of this section, to wit:

(a) An employe of a person holding a certificate of registration in this state who is engaged in the practice of the profession of architecture or of professional engineering and an employe of a person temporarily exempted from registration; provided, such practice does not include responsible charge of architecture or professional engineering practice as defined in this section.

(b) Officers and employes of the government of the United States while engaged within

this state in the practice of the profession of architecture or of professional engineering for said government.

(c) A person who practices the profession of professional engineering as a regular employe of a public service company by rendering to such company professional engineering services in connection with its facilities which are subject to regulation, supervision and control by a commission of the state of Wisconsin.

(d) Any person who practices the profession of architecture or professional engineering, exclusively as a regular employe of a private company or corporation, by rendering to such company architectural or professional engineering services in connection with its operations, so long as such person is thus actually and exclusively employed and no longer; provided, that such company shall have at least one architect or professional engineer, registered under the provisions of this section, in responsible charge of such company's architectural or professional engineering work in this state.

(10) EXEMPT BUILDINGS. (a) Nothing contained in this section shall prevent persons from advertising and performing services such as consultation, investigation, evaluation, in connection with and making plans and specifications for, or supervising the erection, enlargement or alterations of any of the following buildings:

1. Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages.

2. Apartment buildings used exclusively as the residence of not more than 2 families.

3. Buildings used exclusively for agricultural purposes.

4. Temporary buildings or sheds used exclusively for construction purposes, not exceeding 2 stories in height, and not used for living quarters.

(b) Nothing contained in this section shall prevent persons, firms or corporations from making plans and specifications for or supervising the erection, enlargement or alteration of any new building containing less than 50,000 cubic feet total volume or addition to a building which by reason of such addition results in a building containing less than 50,000 cubic feet total volume or structural alteration to a building containing less than 50,000 cubic feet total volume. Nor shall anything contained in this section prevent persons, firms or corporations from making repairs or interior alterations to buildings which do not affect health or safety.

(c) Any multiple family building having a common roof and party walls shall be deemed a single building for purposes of this section.

(d) This section shall not apply to inspection and service work done by employes of insurance rating bureaus, insurance service bureaus, insurance companies or insurance agents.

(11) CERTIFICATE OF REGISTRATION OR RECORD; PERMIT; RECIPROCITY PROVISIONS. (a) The board may, upon application therefor, and the payment of the required fee, issue a certificate of registration as an architect, or as a professional engineer to any person who holds an unexpired certificate of similar registration issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the registration of architects, or of professional engineers are of a standard not lower than specified in this section.

(b) The board may, upon application therefor and payment of the required fee, issue a certificate of registration as an architect, or as a professional engineer to any person who holds an unrevoked card or certificate of national reciprocal registration, issued by any state, province or country in conformity with the regulations of the national council of state board of architectural, or engineering examiners, and who complies with the regulations of this board, except as to qualifications and registration fee.

(c) The board may, upon application therefor, and the payment of the required fee, issue a certificate-of-record as engineer-in-training to any person who holds an unexpired certificate of similar certification issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the certification of engineers-in-training are of a standard not lower than specified in this section.

(d) The board may, upon application therefor, issue a permit to practice or to offer to practice the profession of architecture or professional engineering to a person who is not a resident of and has no established place of business in this state, or who has recently become a resident thereof, if he has filed with the board an application for a certificate of registration and has paid the required fee, provided, that such person holds an unexpired certificate of similar registration issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the registration of architects or professional engineers are of a standard not lower than specified in this section.

(12) APPLICATIONS FOR REGISTRATION, FEES, CONTENTS OF CERTIFICATION, EXPIRATION.

(a) Applications for registration or for a certificate of record shall be on forms prescribed and furnished by the board and shall contain statements made under oath showing the applicant's education and detail summary of his technical work and not less than 5 references, of whom 3 or more shall have personal knowledge of his architectural or engineering experience in the case of an application for registration or of his technical education or engineering work in the case of an application for a certificate of record.

(b) The registration fee for architects or professional engineers who do not hold a certificate of record as engineer-in-training shall be \$20, one-half of which shall accompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(c) The certificate of record fee for engineers-in-training shall be \$10 and said fee shall accompany the application. If the board denies the application, said amount shall be retained by the board as an examination fee.

(d) The registration fee for applicants for registration as professional engineer who hold a certificate of record as engineer-in-training shall be \$10, one-half of which shall accompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(e) The registration fee for architects and for professional engineers who hold an unexpired certificate of registration, or similar authority, issued by the proper authority in any country, state or territory outside of this state shall be \$20, one-half of which shall accompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(f) The certificate of record fee for engineers-in-training who hold an unexpired certificate of record, or similar certification issued by the proper authority in any country, state or territory outside of this state shall be \$5 and said fee shall accompany the application. If the board denies the application, said amount shall be retained by the board as an examination fee.

(g) The fee for the issuance of a new certificate to replace any certificate revoked, lost, destroyed or mutilated shall be \$3.

(h) The board shall issue a certificate of registration upon payment of registration fee to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this section. The certificate shall authorize the practice of "architecture" or of "professional engineering." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board.

(i) The issuance of a certificate of registration by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect or a registered professional engineer under the classification stated on his certificate, while said certificate remains unrevoked or unexpired.

(j) Certificates of registration shall expire on the last day of the month of July of the second year following their issuance or renewal and shall become invalid on that date unless renewed. It is the duty of the secretary of the board to notify every person registered under this section of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 2 years; such notice shall be mailed at least one month in advance of the date of expiration of said certificate. Renewal may be effected at any time during the month of July by the payment of a fee of \$20. The failure on the part of any registrant to renew his certificate every second year in the month of July as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of July shall be increased 5 per cent for each month or fraction of a month that payment of renewal is delayed but the maximum fee for delayed renewal shall not exceed \$30.

(k) The board shall issue a certificate of record as engineer-in-training to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this section pertaining to engineers-in-training. The certificate of record shall show the full name of the engineer-in-training, shall have a serial number, and shall be signed by the chairman and secretary of the board under the seal of the board.

(l) A certificate of record as engineer-in-training is evidence that the engineer-in-training to whom it is issued has successfully passed the portion of the examinations in the fundamental engineering subjects required of an applicant for registration as a professional engineer.

(m) Certificates of record as engineers-in-training shall expire on the last day of the month of July of the tenth year after their issuance unless extended by the board. An

application for extension shall contain evidence satisfactory to the board that the applicant's professional experience has been delayed.

(n) The re-examination fee for an applicant for registration as an architect or professional engineer is \$10.

(o) The re-examination fee for an applicant for a certificate of record as engineer-in-training is \$5.

(13) REVOCATION OF REGISTRATION. The board has the power to revoke the certificate of registration of any registrant, and the certificate of record of any engineer-in-training, who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration or a certificate of record;

(b) Any gross negligence, incompetency or misconduct in the practice of architecture or as a registered architect or of professional engineering as a registered professional engineer, or in the professional activity of a holder of a certificate of record as engineer-in-training.

(c) Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant or holder of a certificate of record as engineer-in-training. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board. Also, the board may on its own motion make such charges. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the division of the board interested, within 3 months after the date on which they shall have been preferred.

(d) The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing shall be personally served on or mailed to the last known address of such registrant or holder of a certificate of record, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant or holder of a certificate of record shall have the right to appear personally and by counsel, to cross examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(e) If, after such hearing, 4 members of the division of the board holding the hearing vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered architect or registered professional engineer or the certificate of record of such holder.

(f) The action of the board shall be subject to review in the manner provided in chapter 227.

(g) The board, for reasons the interested division may deem sufficient, may reissue a certificate of registration or a certificate of record to any person whose certificate has been revoked, providing 4 members of the architectural division or 4 members of the engineering division of the board vote in favor of such reissuance. A new certificate of registration or certificate of record, to replace any certificate revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board and the payment of the required fee.

(14) PENALTIES, LAW ENFORCEMENT. (a) Any person who practices or offers to practice architecture or the profession of professional engineering in this state, or who uses the word "architect" or the term "professional engineer" as part of his business name or title or in any way represents himself as an architect or a professional engineer unless he is registered or exempted in accordance with this section, or unless he is the holder of an unexpired permit issued under sub. (11) (d), or any person presenting or attempting to use as his own the certificate of registration of another, or any person who gives any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who falsely impersonates any other registrant of like or different name, or any person who attempts to use an expired or revoked certificate of registration, or violates any of the provisions of this section, shall be fined not less than \$100 nor more than \$500, or imprisoned for not more than 3 months, or both.

(b) It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this section and to prosecute any persons violating same. The attorney general of the state or his assistant shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out the provisions of this section.

(15) INJUNCTION. If it appears upon complaint to the board by any person, or is known to the board that any person who is neither registered nor exempt under this section nor the holder of an unexpired permit under subsection (11) (d) is practicing or offering to practice, or is about to practice or to offer to practice, the profession of architecture or the profession of professional engineering in this state the board or the at-

torney-general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name and on behalf of the state of Wisconsin against any such person to enjoin such person from practicing or offering to practice architecture or professional engineering.

This section does not prohibit a non-stock, nonprofit corporation from entering into a contract to furnish architectural services to be rendered by a licensed architect. Madison v. Frank Lloyd Wright Foundation, 20 W (2d) 361, 122 NW (2d) 409.

Board has duty to see that proper investigation is made and to institute criminal proceedings in proper cases. No personal liability would occur if proper action was taken. 49 Atty. Gen. 43.

Discussion of interpretation of (2) (b) and (d) regarding professional services and

licensing. 50 Atty. Gen. 69.

An architect or professional engineer who has held a registration subsequent to 1931, which has expired, may have it renewed by paying required fee and penalty and need not qualify as new applicant. 52 Atty. Gen. 268.

This section discussed in relation to violations or possible violations by a corporation which uses the word "engineering" or "engineer" in its corporate name without complying with (7) (b). 53 Atty. Gen. 81.

**101.315 Land surveyors. (1) PRACTICE REQUIREMENTS, REGISTRATION, DEFINITIONS.**

(a) No person shall, after January 31, 1956, practice land surveying in this state or use or advertise any title or description tending to convey the impression that he is a land surveyor unless he has been issued a certificate of registration or granted a permit to practice as provided by this section.

(b) The term "land surveying" within the meaning and intent of this section means any service comprising the determination of the location of land boundaries and land boundary corners; the preparation of maps showing the shape and area of tracts of land and their subdivisions into smaller tracts; the preparation of maps showing the layout of roads, streets and rights of way of same to give access to smaller tracts; and the preparation of official plats, or maps, of said land in this state.

(c) Authorizations to practice land surveying by registration or permit to practice shall be granted as hereinafter provided by the engineering division of the state registration board of architects and professional engineers, referred to in this section as the division and board, respectively. The secretary of the board, referred to in this section as the secretary, shall be the secretary of the division and the laws relating to his duties as secretary of such board shall apply to his duties under this section.

(d) The division may make such rules as are reasonably necessary for the performance of its duties under this section, and shall adopt an official land surveyor's seal. In the conduct of proceedings any member may administer oaths.

(2) REGISTRATION, APPLICATION, QUALIFYING EXPERIENCE. (a) Application for registration as a land surveyor or a permit to practice shall be made to the division under oath, on forms provided by it, which shall require the applicant to submit such information as the division deems necessary. The division may require applicants to pass written or oral examinations or both, to be held at such times and places as it shall designate. Applicants who are of good character and repute shall be entitled to be registered or issued permit to practice as land surveyors when satisfactory evidence is submitted that the applicant has met one or more of the requirements of sub. (3).

(b) Each year, but not more than 2 years, of work or training completed in a curriculum in land surveying approved by the division, or responsible charge of land surveying teaching may be considered as equivalent to one year of qualifying experience in land surveying work, and each year, but not more than 4 years completed in a curriculum other than land surveying approved by the division, may be considered as equivalent to one-half year of qualifying experience.

(3) REQUIREMENTS; CERTIFICATE OF REGISTRATION. (a) The division may issue a certificate of registration as a land surveyor to any person who has submitted to it an application and the required fees, and:

1. A record of completion of a course in land surveying of not less than 2 years' duration approved by the division together with 2 years of practice in land surveying work of satisfactory character which indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination; or

2. A record of 6 years of practice in land surveying of satisfactory character, which indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination; or

3. A record of 20 years of practice in land surveying of satisfactory character, which indicates that the applicant is competent to be placed in responsible charge of such work, if the applicant is not less than 45 years of age; or

4. An unexpired certificate of registration as a land surveyor issued to him by the proper authority in any state or territory or possession of the United States or in any other country whose requirements meet or exceed the requirement for registration in this paragraph.

5. A record of satisfactory completion of an apprenticeship training course in land surveying prescribed by the industrial commission, of satisfactory character which indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination.

(4) PERMIT TO PRACTICE. The secretary may issue a permit to practice land surveying during the time his application is pending to a person who is not registered in this state, if he has filed an application for registration as a land surveyor and paid the required fee, if such person holds an unexpired certificate which in the opinion of the secretary meets the requirements of sub. (3) (a). Such permit shall be revocable by the division at its pleasure.

(5) EXEMPTIONS. The following persons doing surveying work are exempt from the provisions of this section:

(a) An employe of a land surveyor registered in this state or authorized to practice under a permit, while working under the supervision of the employer. Such exempt employe shall not be in responsible charge of land surveying.

(b) Officers and employes of the United States while engaged in land surveying for the United States.

(c) Employes of the state of Wisconsin while engaged in land surveying for the state.

(d) Employes of public utilities regulated by the public service commission of Wisconsin in land surveying for such utilities.

(6) FEES; RENEWALS. (a) Application for registration as a land surveyor shall be accompanied by a fee of \$10 which shall be retained by the division. Such application shall entitle the applicant to undergo the oral or written examinations for land surveyors the first time such examinations are held after such application is made, or subsequent examinations, and to a certificate of registration if the requirements of this section are met.

(b) The division shall issue a certificate of registration as a land surveyor to any applicant who has met the requirements of this section. Such certificate shall expire on the second January 31 after the date of its issuance unless renewed. Such certificate may be renewed for a period of 2 years during the month of January in which it expires by the payment of a fee of \$20.

(c) An expired certificate of registration may be renewed within 10 months, effective to the second January 31 after renewal, on payment of a fee of \$20 plus \$1 for each month or fraction of a month after its expiration. If the certificate has expired for longer than 10 months, it may be renewed to the second January 31 after renewal, by payment of a fee of \$30.

(d) The secretary shall notify every registered land surveyor of the date of the expiration of his certificate and the fee required for its renewal, by mail at least one month in advance of such expiration.

(e) The fee for re-examination of an applicant for registration shall be \$10.

(f) The fee for the issuance of a new certificate to replace any certificate lost, destroyed, mutilated or reinstated, shall be \$3.

(7) ROSTER. A roster showing the names and mailing addresses of all registered surveyors shall be prepared annually by the secretary and made available to each registrant or permittee at request, and a copy shall be placed on file with the secretary of state.

(8) REVOCATION OF CERTIFICATE. (a) The division shall have the power to revoke the certificate of registration of any land surveyor for the practice of any fraud or deceit in obtaining the certificate, or any gross negligence, incompetence or misconduct in the practice of land surveying.

(b) Charges of fraud, deceit, gross negligence, incompetence or misconduct may be made against any surveyor by the division or any person. Such charges may be made on information and belief but shall be in writing, stating the specific acts, be signed by the complainant, and filed with the secretary. All such charges, unless dismissed by the division as trivial, shall be heard by it within 3 months after their filing.

(c) The time and place for such hearing shall be fixed by the division, and a copy of the charges, together with a notice of the time and place of hearing shall be given by personal service or by registered letter with return receipt requested, mailed to the last known address of such land surveyor, at least 30 days before the hearing. The land surveyor so charged shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(d) If, after such hearing, 4 members vote in favor of revocation, the division shall revoke the certificate of registration of such land surveyor and notify him to that effect. The surveyor shall return his certificate to the secretary immediately on receipt of such notice. The action of the division may be reviewed under ch. 227.

(e) The division, for reasons it deems sufficient, may reinstate a certificate of registration that has been revoked, if 4 members vote in favor of such reinstatement.

(9) **PENALTIES; LAW ENFORCEMENT.** Any person who violates this section shall be fined not more than \$500, or imprisoned not more than 3 months, or both.

(10) **INJUNCTION.** If it appears upon complaint or is known to the division that any person who is not authorized is practicing or offering to practice land surveying in this state, the division, the attorney general or the district attorney of the proper county may, in addition to other remedies, bring action in the name and on behalf of the state to enjoin such person from practicing or offering to practice land surveying.

(11) **INTENT.** It is the intent of this section that registration of land surveyors shall be a duty of the division and its secretary to the same extent as their duties under s. 101.31; that the moneys derived from fees collected under this section shall be merged with those collected under s. 101.31.

(12) **EXCEPTION.** A license shall not be required for an owner to survey his own land for purposes other than for sale.

**History:** 1963 c. 6; 1965 c. 198.

A land surveyor, previously registered and whose registration has expired for more than 2 years, may renew his registration by paying a fee of \$30 and does not have to qualify as a new applicant. 52 Atty. Gen. 271.

A corporation or partnership can practice or offer to practice land surveying through persons duly registered with the board, even though such corporation or partnership cannot be registered. 53 Atty. Gen. 35.

**101.33 Acceptance of federal emergency relief; validating executive acts.** (1) The legislature hereby accepts the provisions of an act of congress, approved July 21, 1932, entitled "An act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public works program," cited as the "Emergency Relief and Construction Act of 1932."

(2) The legislature hereby approves, ratifies and confirms all past acts of the governor in accepting funds for the state pursuant to the provisions of said "Emergency Relief and Construction Act of 1932."

(3) The governor is authorized to accept for the state at all times when the legislature is not in session the provisions of any act of congress whereby funds are made available to the state for unemployment or other emergency relief or public works to be undertaken to relieve unemployment.

(4) All moneys and credits now in the hands of trustees appointed by the governor pursuant to the "Emergency Relief and Construction Act of 1932" shall upon the taking effect of this section be paid into the general fund of the state treasury and all moneys hereafter paid to the state by the federal government pursuant to this section shall immediately upon receipt be paid into the general fund.

**101.34 Acceptance of acts of congress for economic recovery.** (1) The governor is authorized to accept for the state the provisions of any act of congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor may deem such provisions to be in the public interest; and to this end the governor may take or cause to be taken all necessary acts including (without limitation because of enumeration) the making of leases or other contracts with the federal government; the preparation, adoption and execution of plans, methods, and agreements, and the designation of state, municipal or other agencies to perform specific duties.

(2) The Wisconsin Rural Rehabilitation Corporation is authorized to waive, transfer, dispose, assign, convey or release to the Farm Security Administration, any and all property, real, personal and mixed of whatsoever kind, nature or character which the state of Wisconsin may have in the assets, property, real, personal or mixed, of the Wisconsin Rural Rehabilitation Corporation for the purpose of facilitating and expediting the execution and carrying out of the Federal Rural Rehabilitation and Resettlement Program pursuant to acts of congress.

**101.345 Acceptance of federal benefits by governor.** The governor is authorized to accept for the state at all times the provisions of any act of congress whereby funds are made available to the state for any purpose whatsoever, including the school health program under the social security act, and to perform all other acts necessary to comply with and otherwise obtain, facilitate, expedite, and carry out the required provisions of such acts of congress.

**101.35 Power to convey or encumber state-owned lands.** Any state board or agency having charge of any state-owned land is authorized, subject to the approval of the board on government operations, to deed, mortgage, lease or otherwise encumber such lands to the federal government or to any of its agencies for the purpose of taking advantage of the provisions of the National Recovery Act (Public Act 67, 73d Congress)

or any other act of the first session of the Seventy-third Congress. It is the intent of this section to make available to this state the benefits offered by the provisions of such federal acts relating, among others, to the erection of buildings and structures by the federal government, and to this end said state boards and agencies, subject to the approval of the board on government operations, are authorized to take or cause to be taken all necessary acts, including (without limitation because of enumeration) the preparation, adoption and execution of plans, methods and agreements and the designation of state, municipal or other agencies to perform specific duties.

**101.37 Acceptance of federal act relating to public employment offices.** (1) The legislature hereby accepts the provisions of an act of congress, approved June 6, 1933, entitled "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes."

(2) The industrial commission of Wisconsin is hereby authorized and directed to co-operate with the United States employment service in the administration of said act and in carrying out all agreements made thereunder.

(3) All funds made available to this state under said act shall, upon receipt thereof, be paid into the unemployment administration fund created by s. 108.20.

**History:** 1965 c. 433.

**101.40 Public works, unemployment.** The state department of public welfare shall ascertain from the various departments and state institutions tentative plans for such extension of public works of the state as shall be best adapted to supply increased opportunities for advantageous public labor during periods of temporary unemployment, together with estimates of the amount, character and duration of such employment, and the number of employes that could profitably be used therein, and the rates of wages and such other information as the department of public welfare deems necessary.

**101.41 Industrial commission, unemployment.** In co-operation with the state department of agriculture, the industrial commission shall keep constantly advised of industrial conditions affecting the employment of labor in this state; and whenever it is represented to the industrial commission by the governor, or the commission shall otherwise have reason to believe, that a period of extraordinary unemployment caused by industrial depression exists in the state, the commission shall immediately inquire into the facts relating thereto, and find and report to the governor whether in fact such condition does exist.

**101.42 Department of public welfare, expenditures to relieve depression.** In the event that the industrial commission reports to the governor that a condition of extraordinary unemployment caused by industrial depression exists in the state, the department of public welfare may make such disposition of funds to be used for said purposes among the several institutions and departments for such extension of the public works of the state under the charge or direction thereof, including the purchase of materials and supplies necessary therefor, as shall, in the judgment and discretion of the department of public welfare, be best adapted to advance the public interest by providing the maximum of public employment, in relief for the existing conditions of extraordinary unemployment, consistent with the most useful, permanent and economic extension of the works aforesaid.

**101.43 Industrial commission, depression, labor lists, employment.** Immediately upon publication of a finding that a period of extraordinary unemployment due to industrial depression exists throughout the state, the industrial commission shall cause to be prepared by the various institutions and departments approved lists of applicants for public employment and secure from such applicants full information as to their industrial qualifications and submit the same to the state department of public welfare. Preference for employments under the provisions of sections 101.40 to 101.43 shall be extended first to citizens of this state, second to other citizens of the United States at the time of making application, and last to aliens who are residents of this state at the time of making such application.

**101.55 Executive agreements to control sources of radiation.** When the legislative council determines that it is in the interest of the state to enter into agreement with the government of the United States to provide for the discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state pursuant to authority granted by P.L. 86-373, it shall convey its determination to the governor together with its estimate of the initial and ultimate cost of the assumption of this responsibility by the state and the governor, on behalf of the state, may, after a finding by both him and the U.S. atomic energy commis-

sion as to the adequacy of the state's program of regulation, enter into such an agreement.

**History:** 1963 c. 264.

**101.60 Equal opportunities.** (1) **DEFINITIONS.** In this section unless the context requires otherwise:

(a) "Housing" means any improved property, including any mobile home as defined in s. 66.058, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence, but does not include:

1. Any building or structure containing living quarters occupied or intended to be occupied by no more than one family and which is used by or was last used by the owner thereof as a bona fide residence for himself and any members of his family forming his household.

2. Any building occupied by the owner as his residence, in which single rooms are rented out for occupancy by 4 or less individuals, not members of the owner's family.

3. Any building located on a lot which does not exceed 60 feet by 120 feet in size, on which lot is situated a building or structure occupied by the owner thereof as his residence, provided the total number of family housing units on said lot does not exceed 4.

4. Any building consisting of 4 or less dwelling units, all in one structure, in which at least one of such dwelling units is occupied by the owner of such building as his residence.

(b) "Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person unequally only because of race, color, religion, national origin or ancestry. It is intended that the factors set forth herein shall be the sole bases for prohibiting discrimination.

(c) "Unimproved residential lot" means any residential lot upon which no permanent building or structure containing living quarters has been constructed.

(2) **DISCRIMINATION PROHIBITED.** It is unlawful for any person to discriminate:

(a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.

(b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.

(3) **INDUSTRIAL COMMISSION TO ADMINISTER.** This section shall be administered by the industrial commission through its equal opportunities division. The commission may promulgate such rules as are necessary to carry out this section. The commission shall at the end of every year make a report in writing to the governor and legislature, stating in detail the work it has done and its recommendations, if any. No publicity shall be given a complaint in those cases where the commission obtains compliance with this section or the commission finds that the complaint is without foundation.

(4) **COMMISSION POWERS.** (a) The commission may receive and investigate complaints charging violations of this section. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.

(b) In carrying out this section the commission and its duly authorized agents are empowered to hold hearings, subpoena witnesses, take testimony and make investigations as provided in this chapter.

(c) If the commission finds probable cause to believe that any discrimination has been or is being committed in violation of this section, it shall immediately endeavor to eliminate such discrimination by conference, conciliation and persuasion. If the commission determines that such conference, conciliation and persuasion has not eliminated the alleged discrimination, the commission shall issue and serve a written notice of hearing, specifying the nature and acts of discrimination which appear to have been committed, and requiring the person named, hereinafter called the "respondent" to answer the complaint at a hearing before the commission. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing within the county in which the act of discrimination is alleged to have occurred. The testimony at the hearing shall be recorded by the commission. In all hearings, except those for determining probable cause, before the commission the burden of proof shall be on the party alleging discrimination. If, after the hearing, the commission finds by a fair preponderance of the evidence that the respondent has engaged in discrimination in violation of this section, the commission shall make written findings and recommend such action by the respondent as will effectuate the purpose of this section and shall

serve a certified copy of its findings and recommendations on the respondent and complainant together with an order requiring the respondent to comply with the recommendations, the order to have the same force as other orders of the commission and be enforced as provided in this section except that the enforcement of such order shall automatically be stayed upon the filing of a petition for review with the circuit court for the county in which the alleged discrimination took place. If the commission finds that the respondent has not engaged in discrimination as alleged in the complaint, it shall serve a certified copy of its findings on the complainant and the respondent together with an order dismissing the complaint. Where the complaint is dismissed, costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be assessed against the industrial commission in the discretion of the commission.

(4m) TESTING PROHIBITED. It is unlawful for any person not having any bona fide intention to avail himself of any rights under this section to solicit offers, to buy or lease from property owners or lessees or their agents, to demand the services or facilities of any place of public accommodation, to demand facilities or to demand any employment for the sole purpose of securing evidence of a discriminatory practice. Any person found by the commission under the hearing procedure provided in sub. (4) (c) to have violated this subsection shall be subject to the penalties prescribed under sub. (6), together with costs and disbursements as provided in sub. (4) (c). Such finding is subject to judicial review as provided in sub. (5).

(4n) REQUIRING REFERENCES. Nothing in this section shall be deemed to prohibit an owner, or his agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning his family, marital, financial and business status but not concerning race, color or creed.

(5) JUDICIAL REVIEW. Within 30 days after service upon all parties of any order under this section the respondent or complainant may appeal the order to the circuit court for the county in which the alleged discrimination took place by the filing of a petition for review. The respondent or complainant shall receive a trial de novo on all issues relating to any alleged discrimination and a further right to a trial by jury, if so desired. The attorney general shall represent the commission. In any such trial the burden shall be to prove discrimination by a fair preponderance of the evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be taxed to the prevailing party on the appeal.

(6) PENALTY. Any person who wilfully violates this section or any lawful order issued hereunder shall, for each such violation, forfeit not less than \$10 nor more than \$200. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal under sub. (5).

**History:** 1965 c. 439.

**Note:** Chapter 439, laws of 1965, contained the following provision:

"Section 9. If any provision of section 101.60 (1) of the statutes is declared invalid, such invalidity shall affect and render invalid all other provisions of this act."